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Home Relief

HOME RELIEF

N.Y. CONST. art. XVII, § 1:

The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine.

COURT OF APPEALS

Minino v. Perales[727]
(decided February 18, 1992)

Plaintiffs, legal aliens, admitted into the United States upon sponsoring affidavits,[728] brought suit against New York City and New York State, challenging that the denial of Home Relief benefits violated article XVII section 1 of the New York Constitution.[729] On appeal to the appellate division,[730] defendants asserted that the denial of Home Relief was proper because the denial was based on Social Services Law section 131-k(3)[731] provision. The provision considers sponsor's

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727. 79 N.Y.2d 883, 589 N.E.2d 385, 581 N.Y.S.2d 162 (1992).

728. *Id.* at 884, 589 N.E.2d at 385, 581 N.Y.S.2d at 163; *see generally* 8 U.S.C. § 1182 (1988 & Supp 1991).

729. *Minino*, 79 N.Y.2d at 884, 589 N.E.2d at 386, 581 N.Y.S.2d at 163.

730. Minino v. Perales, 168 A.D.2d 289, 289, 562 N.Y.S.2d 626, 627 (1st Dep't 1990), *appeal denied*, 78 N.Y.2d 942, 578 N.E.2d 439, 573 N.Y.S.2d 641 (1991), *aff'd*, 79 N.Y.2d 883, 589 N.E.2d 385, 581 N.Y.S.2d 162 (1992); N.Y. CONST. art. XVII, § 1.

731. N.Y. SOC. SERV. LAW § 131-k(3) (McKinney 1992). Section 131-k(3) states in relevant part:

> To the extent provided by federal law . . . , the income and resources of a sponsor of an alien lawfully admitted for permanent residence . . . in the United States . . . shall be deemed available to such alien for a period of three years after such alien's entry into the United States for purposes of determining the eligibility of such alien for benefits provided under the home relief . . . .

Id.; *see also* N.Y. COMP. CODES R. & REGS. tit. 18, §§ 349.3(b), 352.33(a) (1992) (providing that income of alien's sponsor shall be deemed available to

income to be available to the alien for three years for the purpose of determining his eligibility for home relief benefits,[732] and that such provision was modeled after a federal statute[733] designed to prevent unqualified immigration.[734] Defendant argued that since immigration law is preempted by federal legislation, the state could not provide benefits to sponsored aliens within the three year limit[735] despite the violation of New York Constitution, article XVII, section 1.[736] The court of appeals dissagreed and held that "[f]ederal preemption in the field of immigration [does not] mandat[e]" that the sponsor's income be deemed available to the sponsored alien for the purpose of determining eligibility for home relief benefits.[737]

Plaintiffs were legal aliens who entered the United States with the aid of "sponsoring affidavits, pursuant to 8 U.S.C. § 1182."[738] Less than three years after their entry, plaintiffs applied for public assistance in the form of Home Relief.[739] Defendants, New York City and New York State,[740] denied plaintiffs such assistance because of the "deeming" provision of the Social Services Law section 131-k(3),[741] Furthermore, according to the State Department of Social Services administrative directive, 81 ADM-55, aliens have to obtain their sponsor's cooperation in providing the required sponsor income

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the alien for purposes of determining alien's eligibility for Home Relief for first three years after alien's entry into United States).

732. N.Y. SOC. SERV. LAW § 131-k(3) (McKinney 1992).

733. 42 U.S.C. § 615 (1989).

734. *Minino,* 168 A.D.2d at 289, 562 N.Y.S.2d at 627.

735. *Id.*

736. N.Y. CONST. art. XVII, § 1.

737. *Minino,* 79 N.Y.2d at 885, 589 N.E.2d at 386-87, 581 N.Y.S.2d at 163-64.

738. *Id.* at 884, 589 N.E.2d at 386, 581 N.Y.S.2d at 163; 8 U.S.C. § 1182 (1988 & Supp 1991) (listing excludable aliens and various requirements for admission of aliens).

739. *Minino,* 79 N.Y.2d at 884 , 589 N.E.2d at 386, 581 N.Y.S.2d at 163.

740. Defendant New York City was granted a motion to dismiss at the appellate division and was not a part of the subsequent appeal. Minino v. Perales, 168 A.D.2d at 289, 562 N.Y.S.2d at 627.

741. N.Y. SOC. SERV. LAW § 131-k(3) (McKinney 1992).

information.[742] Since the sponsors refused to provide the required information, plaintiffs were found ineligible for Home Relief benefits.[743] Plaintiffs brought suit, alleging wrongful denial of home relief assistance.[744] The Supreme Court, New York County granted summary judgment in favor of plaintiffs and defendants appealed.[745] The appellate division dismissed the action against the City because the City was simply following state regulations in administering the State Home Relief Program, and affirmed the remainder of the supreme court's decision.[746]

Defendants did not challenge the lower court holdings that the "deeming" provision violated the New York Constitution, article XVII, section 1.[747] Instead, defendants argued that this case involved immigration law,[748] that federal immigration law preempts state law,[749] and that Congress intended the federal deeming policy of 42 U.S.C. section 615[750] to serve the

742. *Minino*, 79 N.Y.2d at 884, 589 N.E.2d at 386, 581 N.Y.S.2d at 163 (citing 81 A.D.M.-55); *see also* N.Y. COMP. CODES R. & REGS. tit. 18, § 349.3(b) (1992) (providing that sponsored aliens applying for public assistance, must provide their district with information on sponsor's income, and are responsible for obtaining sponsor's cooperation in providing such income).

743. *Minino*, 79 N.Y.2d at 885, 589 N.E.2d at 386, 581 N.Y.S.2d at 163.

744. *Minino v. Perales*, 168 A.D.2d 289, 289, 562 N.Y.S.2d 626, 627 (1st Dep't 1990).

745. *Id.*

746. *Id.*

747. *Id.* at 885, 589 N.E.2d at 386, 581 N.Y.S.2d at 163; N.Y. CONST. art. XVII, § 1 states: "The aid, care and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine." *Id.*

748. *Minino*, 79 N.Y.2d at 885, 589 N.E.2d at 386-87, 581 N.Y.S.2d at 163-64.

749. *Id.*; U.S. CONST. art. VI, cl. 2. The Supremacy Clause states: "This Constitution, and the laws of the United States . . . shall be the supreme Law of the land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or laws of any State to the Contrary notwithstanding." *Id.*

750. 42 U.S.C. § 615 (1989). Section 615(a) states in relevant part:

> For purposes of determining eligibility for . . . benefits under a State plan approved under this part for an . . . alien . . . , the income of any person who . . . executed an affidavit of support . . . with respect to

important dual function of "discouraging unqualified immigration into the United States"[751] and reducing the cost of the federally funded public assistance programs such as Aid to Families with Dependent Children (AFDC).[752] Based on this premise, defendants argued that the court of appeals must uphold the deeming provision of Social Services law section 131-k(3) in order to avoid a conflict of state and federal law.[753]

Agreeing with the lower courts, the court of appeals rejected defendants' claim that Congress intended the federal deeming policy to preempt state-based assistance for aliens on the basis of immigration policy.[754] The court reasoned that just because an alien's eligibility for state public assistance is at issue in this case, does not mean that striking down the current state deeming policy will "constitute [the] regulation of immigration" that would be preempted by federal law.[755]

The court stressed the fact that the federal deeming statute[756] and the federal immigration statute[757] are not one and the same.[758] The court declared that the deeming clause "was an amendment to the Federal AFDC statute, and not to the federal immigration statute."[759] According to the court, Congress had rejected adding the deeming clause to the federal immigration statute, choosing instead to add it to the AFDC statute, further showing "that the federal deeming provision was *not* an immigration regulation."[760]

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such individual . . . , shall be deemed to be the unearned income . . . of such individual . . . for a period of three years after the individual's entry into the United States . . . .

. *Id.*

751. *Minino*, 79 N.Y.2d at 885, 589 N.E.2d at 386, 581 N.Y.S.2d at 163.
752. *Id.* at 886, 589 N.E.2d at 387, 581 N.Y.S.2d at 164.
753. *Id.* at 885, 589 N.E.2d at 387, 581 N.Y.S.2d at 164.
754. *Id.*
755. *Id.*
756. 42 U.S.C. § 615 (1989).
757. 8 U.S.C. § 1182 (1988 & Supp 1991).
758. *Minino*, 79 N.Y.2d at 885, 589 N.E.2d at 387, 581 N.Y.S.2d at 164.
759. *Id.*
760. *Id.* (emphasis added).

Additionally, the court held that Congress could not have intended to "create a comprehensive Federal benefits policy" geared specifically at sponsored aliens because it only amended the AFDC statute, but made no similar amendments to other federal public relief programs, such as Medicaid.[761] Consequently, since no comprehensive federal policy as to sponsored aliens and grant-in-aid benefits exists, the court was not obligated to uphold the unconstitutional restriction that the deeming clause places on the state's ability to aid and support its needy.[762]

Finally, the court addressed defendants' argument that the court should uphold the deeming clause because it helps fulfill the federal policy of reducing the cost of the federally funded public relief programs.[763] The court declared that the federal policy of reducing cost is specifically aimed at the *federally* funded AFDC program, and in no way encompassed a purely *state* funded public relief program such as New York's Home Relief.[764] Thus, New York's decision to spend its own funds in aiding its needy, as mandated by its constitution,[765] would not thwart the federal policy of cost-cutting.[766]

The court of appeals did not specifically address defendants' claim that striking down Social Services Law section 131-k(3) would have a detrimental effect on the federal policy of discouraging unqualified immigration into the United States.[767] However, in its discussion of the federal cost-reduction policy the court did stress the need to distinguish state funded programs and their goals, from the federal programs.[768] We are, therefore, left to analogize the court's reasoning as to cost reduction with that of discouraging "unqualified immigration."

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761. *Id.*

762. *Id.* at 886, 589 N.E.2d at 389, 581 N.Y.S.2d at 164.

763. *Id.* at 886, 589 N.E.2d at 387, 581 N.Y.S.2d at 164.

764. *Id.*; N.Y. COMP. CODES R. & REGS. tit. 18, § 352.3 (1991) (stating that each district must provide a shelter allowance).

765. N.Y. CONST. art. XVII, § 1.

766. *Minino*, 79 N.Y.2d at 886, 589 N.E.2d at 387, 581 N.Y.S.2d at 164.

767. *Id.* at 885-86, 589 N.E.2d at 386-87, 581 N.Y.S.2d at 163-64.

768. *Id.* at 886, 589 N.E.2d at 387, 581 N.Y.S.2d at 164.

Various aspects of the court of appeals' reasoning in *Minino* are supported by United States Supreme Court case law.[769] In declaring that New York's decision to spend its own funds to provide for its needy does not conflict with the cost-reducing policy of the federal AFDC program,[770] the New York Court of Appeals relied on the Supreme Court case, *Rosado v. Wyman*.[771] In *Rosado*, the Supreme Court found that a state has the duty to use *federal* funds allocated to the states "in consonance with the conditions that Congress has attached to their use."[772] The *Rosado* Court relied on Justice Cardozo's opinion in *Helvering v. Davis*,[773] where he stated that "[w]hen [federal] money is spent to promote the general welfare, the concept of welfare or the opposite is shaped by Congress, not the States . . . the locality must yield."[774] In *Rosado*, the Court declared that New York is not "prohibited from using only *state* funds according to whatever plan it chooses," as long as it does not violate the mandates of the United States Constitution.[775] This point was further supported in *New York State Department of Social Services v. Dublino*,[776] where the Supreme Court held that "New York's Home Relief program . . . a general state assistance plan for which there is no federal reimbursement . . . remains untouched by the court's preemption ruling," as applied to the federal AFDC program.[777]

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769. *See* De Canas v. Bica, 424 U.S. 351 (1976) (holding California statute which prohibited intentional employment of an alien was not an unconstituional regulation of immigration); New York State Dep't of Social Servs. v. Dublino, 413 U.S. 405 (1973) (holding New York State programs were not pre-empted by amendments to federal Social Security Act); *cf.* Rosado v. Wyman, 397 U.S. 397 (1970) (holding New York statute decreasing benefits to families violated 1967 Social Security Amendments).

770. *Minino*, 79 N.Y.2d at 886, 589 N.E.2d at 387, 581 N.Y.S.2d at 164.

771. 397 U.S. 397 (1970).

772. *Id.* at 423.

773. 301 U.S. 619 (1937) (holding Social Security tax constituional on challenge by taxpayer as to its validity).

774. *Id.* at 645.

775. *Rosado*, 397 U.S. at 420 (emphasis supplied).

776. 413 U.S. 405 (1973).

777. *Id.* at 412.

In holding Social Services Law section 131-k(3) unconstitutional the court of appeals also relied on *De Canas v. Bica.*[778] The Supreme Court in *De Canas* declared that "[s]tates possess broad authority under their police powers to regulate the welfare of the people within the state."[779] The Court held that not every state regulation which deals with aliens touches on immigration law, and is, therefore, preempted by Federal law.[780] In *De Canas*, the Court relied on the proposition stated in *Florida Lime & Avocado Growers v. Paul*,[781] that "federal regulation . . . should not be deemed preemptive of state regulatory power in the absence of persuasive reasons — either that the nature of the regulated subject matter permits no other conclusion, or that the Congress has unmistakably so ordained."[782]

On the state level, the *Minino* court's decision that state-funded Home Relief grants to aliens will not thwart the federal policy of cutting public relief costs was supported by *Enomoto v. Toia*[783], and its companion case *Cheng San Chen v. Toia.*[784] In *Enomoto,* aliens residing in the United States on student visas initially received medical assistance from the state, but were subsequently found ineligible for continued assistance because aliens were not "residents" within the statute providing for medical assistance to state residents.[785] In *Enomoto*, the court of appeals affirmed an appellate division decision holding that a state is prohibited by the

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778. 424 U.S. 351 (1976).

779. *Id.* at 356; *see also* Minino v. Perales, 168 A.D.2d 289, 562 N.Y.S.2d 626, 627 (1st Dep't 1990), *aff'd*, 79 N.Y.2d 883, 589 N.E.2d 385, 581 N.Y.S.2d 162 (1992).

780. *De Canas*, 424 U.S. at 355.

781. 373 U.S. 132, *reh'g denied*, 374 U.S. 858 (1963).

782. *De Canas*, 424 U.S. at 356; (citing Florida Lime & Avocado Growers, Inc. v. Paul, 373 U.S. 132 142(1963)).

783. 50 N.Y.2d 826, 407 N.E.2d 1346, 430 N.Y.S.2d 50 (1980), *aff'g* 67 A.D.2d 1087, 415 N.Y.S.2d 633 (4th Dep't 1979).

784. 50 N.Y.2d 826, 407 N.E.2d 1346, 430 N.Y.S.2d 50 (1980), *aff'g* 67 A.D.2d 1087, 415 N.Y.S.2d 633 (4th Dep't 1979).

785. *Cheng San Chen*, 67 A.D.2d at 1085, 415 N.Y.S.2d at 169-70 (appellate division's facts and reasoning in *Enomoto* are stated in *Cheng San Chen*).

Supremacy Clause from adopting programs more restrictive than those defined by federal regulations.[786] The court of appeals, however, concluded that a state *is* allowed to adopt programs that are *more* liberal than the federal regulations, and must "carry the costs of such programs without [f]ederal reimbursement."[787] In other words, in *Enomoto* and *Cheng San Chen*, the state did not violate federal regulations by providing medical assistance to legal alien students. If, by analogy, this reasoning is applied to the instant case, the state is likewise not in violation of federal rules when it provides Home Relief grants to legal, sponsored aliens.

No mandate to provide assistance to the needy exists in the United States Constitution. The federal public assistance programs are statutory in nature. Unlike the United States Constitution, the New York Constitution specifically requires the state legislature to aid the needy.[788] In *Minino*, the appellate division and the court of appeals, both held that the deeming provisions of the Social Services Law section 131-k(3) violated article XVII section 1 of the New York State Constitution.[789] Because home relief is a solely state-funded program, and is therefore in no way preempted by or connected to the policies of the federal deeming provision, the court of appeals held the state deeming provision unconstitutional.[790]

786. *Id.* at 1085, 415 N.Y.S.2d at 170.

787. *Id.* at 1086, 415 N.Y.S.2d at 170.

788. N.Y. CONST. art XVII, § 1.

789. *Minino*, 79 N.Y.2d at 885, 589 N.E.2d at 387, 581 N.Y.S.2d at 164, *aff'g* 168 A.D.2d at 289, 562 N.Y.S.2d at 627.

790. *Id.* at 885, 581 N.E.2d at 386, 581 N.Y.S.2d at 163.