Touro Law Review

Volume 9 | Number 3 Article 39

1993

Public Relief

PUBLIC 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

Lovelace v. Gross[995]
(decided November 24, 1992)

Plaintiffs, who were a "putative class of infant children of minor mothers residing with the mothers' parents,"[996] claimed that the New York Social Services Law section 131-c(2)[997] was unconstitutional in requiring that a part of "the grandparents' income be deemed available to the infants in determining their eligibility for Home Relief[998] payments."[999] Plaintiffs also contended that Social Services Law section 131-c(2), "as applied to Home Relief,"[1000] violates both the state[1001] and federal[1002]

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995. 80 N.Y.2d 419, 605 N.E.2d 339, 590 N.Y.S.2d 852 (1992).

996. *Id.* at 420, 605 N.E.2d at 340, 590 N.Y.S.2d at 853.

997. N.Y. SOC. SERV. LAW § 131-c(2) (McKinney 1992). Section 131-c(2) states in relevant part:

> For the purposes of determining eligibility for the and amount of assistance payable, the social services district shall deem available to any minor whose parent or legal guardian is a minor, any income of the parent or legal guardian of such minor parent or legal guardian residing in the same dwelling unit, ...

Id.

998. N.Y. SOC. SERV. LAW §§ 157-166 (McKinney 1992).

999. *Lovelace*, 80 N.Y.2d at 422, 605 N.E.2d at 340, 590 N.Y.S.2d at 853.

1000. *Id.* at 426, 605 N.E.2d at 590, 590 N.Y.S.2d at 856.

1001. N.Y. CONST. art. I, § 6 ("No person shall be deprived of . . . liberty or property without due process of law."); N.Y. CONST. art. I, § 11 ("No person shall be denied the equal protection of the laws of this state or any subdivision thereof.").

Equal Protection and Due Process Clauses, by distinguishing between "minor mothers under 18 and minor mothers over 18" in presuming the grandparents' income to be available to the infants for determining their qualification for Home Relief.[1003] The court of appeals held that Social Services Law section 131-c(2) does not violate either the state constitution's provision requiring the state to provide aid to the needy,[1004] nor the comparable state and federal provisions for equal protection and due process.[1005]

Plaintiff Lovelace brought this suit in the Supreme Court, Queens County.[1006] Nine other persons similarly situated were allowed to intervene in the action.[1007] The supreme court dismissed the complaint, finding no violation of either the state or federal constitutions.[1008] The appellate division affirmed.[1009]

Before attacking the particular problem in this case, the court of appeals reviewed the eligibility standards for the public assistance programs, such as the "cooperatively funded Federal-State program . . . Aid to Families with Dependent Children (AFDC),"[1010] and the New York funded Home Relief pro-

1002. U.S. CONST. amend. XIV, § 1. The Fourteenth Amendment states in pertinent part: "[N]or shall any State deprive any person of . . . liberty or property, without due process of law; nor deny to any person protection of the laws." *Id.*

1003. *Lovelace*, 80 N.Y.2d at 426, 605 N.E.2d at 343, 590 N.Y.S.2d at 856.

1004. N.Y. CONST. art. XVII, § 1.

1005. *Id.* at 427, 605 N.E.2d at 343-44, 590 N.Y.S.2d at 856.

1006. Lovelace v. Gross, 142 Misc. 2d 605, 537 N.Y.S.2d 783 (Queens County, Sup. Ct. 1989).

1007. *Lovelace*, 80 N.Y.2d at 423, 605 N.E.2d at 341, 590 N.Y.S.2d at 854, n.1.

1008. *Id.* at 422, 605 N.E.2d at 340, 590 N.Y.S.2d at 853.

1009. *Id.*

1010. 42 U.S.C. §§ 601-603 (1991). Section 601 states in relevant part:

> For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance . . . there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for aid and services to needy families with children.

gram.[1011] Under the AFDC program, the state gives cash payments to needy children under 18 and the relatives who care for them, and as long as all federal requirements are met, the state is reimbursed for at least 50% of its layout. In addition to the AFDC assistance, New York also provides a totally state-funded program — Home Relief[1012] — which "furnishes aid to needy persons not receiving assistance under other programs."[1013]

A recipient's eligibility for Home Relief and AFDC is determined by examining the "countable income and resources of an individual or family against the State's defined standard of need."[1014] This standard is meant to provide what the state views as "'essential needs, such as food, clothing, and shelter for a hypothetical family having the same composition as the family in question.'"[1015] Those applicants with an income below the state

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Id.; N.Y. SOC. SERV. LAW § 349 (McKinney 1992) (outlining eligibility standards for receipt of aid to dependent children assistance).

1011. N.Y. SOC. SERV. LAW §§ 157-166 (McKinney 1992).

1012. *Lovelace*, 80 N.Y.2d at 422, 605 N.E.2d at 340, 590 N.Y.S.2d at 853; 42 U.S.C. § 602 (a) (1991) (providing for a state plan for aid to the needy families with children, what type of aid will be given and how the state will keep records of aid given); 42 U.S.C. § 603 (1991) (providing for the computation of reimbursement of states by federal government for layouts of aid to families with children); N.Y. SOC. SERV. LAW § 153-153(c) (McKinney 1992) (providing for state reimbursement for expenditures on public assistance by "social services districts, cities and towns").

1013. *Lovelace*, 80 N.Y.2d at 422, 605 N.E.2d at 340, 590 N.Y.S.2d at 853; *see also* Lee v. Smith, 43 N.Y.2d 453, 458, 373 N.E.2d 247, 249, 402 N.Y.S.2d 351, 353-54 (1977) (discussing the different standards of need that exist and how the amounts are computed).

1014. *Lovelace*, 80 N.Y.2d at 422, 605 N.E.2d at 340, 590 N.Y.S.2d at 853.

1015. *Id.* (quoting Ram v. Blum, 533 F. Supp. 933, 937 (S.D.N.Y. 1982)).

> [T]he determination of an applicant family's eligibility for AFDC be made by reference to the family's income and resources, and that the calculation of the amount of an eligible family's monthly AFDC grant be made by comparing the income of the family, after certain deductions, to the dollar figure . . . that reflects the state's view of the amount necessary to provide for the essential needs, such as food, clothing and shelter, of a hypothetical family having the same composition as the family in question."

Id.

standard, are "'categorically needy'" and so are "eligible for cash payments" to bring them up to the particular standard for which they qualify.[1016] Those that do not qualify for Home Relief and AFDC aid, may nevertheless qualify for other public aid such as food stamps and Medicaid.[1017]

Additional requirements for AFDC eligibility were set by the 1984 Federal Deficit Reduction Act (DEFRA).[1018] DEFRA provides a "grandparent-deeming" clause which provides that a portion of the grandparent's income is deemed available for calculating the infant's eligibility for AFDC assistance when that grandparent lives in the same household as the grandchild and minor parent under the age of eighteen.[1019] According to the court, New York enacted Social Services Law section 131-c(2), "mirroring the Federal statute—to conform to DEFRA and assure continued Federal participation in New York's AFDC program."[1020] The court declared it beneficial to apply the same grandparent deeming rule to Home Relief, as is applied to AFDC, in order to avoid "risk to reimbursement, inequalities in treatment among program participants, and increased administrative costs."[1021]

According to the court, in calculating how much of the grandparent's income should be deemed available to the infant, certain amounts of the income are excluded, such as: 1)"the first $75 of gross earned income," 2) the "amount equal to the standard of need" for the grandparent and other household dependents, 3) grandparent's alimony and child support obligations 4) amounts paid by grandparent to dependents outside the home.[1022]

1016. *Id.* at 422, 605 N.E.2d at 340, 590 N.Y.S.2d at 853.

1017. *Id.* at 422-23, 605 N.E.2d at 340, 590 N.Y.S.2d at 853.

1018. *Id.* at 423, 605 N.E.2d at 340, 590 N.Y.S.2d at 853; 42 U.S.C. § 602 (1991).

1019. *Lovelace*, 80 N.Y.2d at 423, 605 N.E.2d at 340-41, 590 N.Y.S.2d at 853-54; 42 U.S.C. § 602(a)(39) (1991).

1020. *Lovelace*, 80 N.Y.2d at 423, 605 N.E.2d at 341, 590 N.Y.S.2d at 854 (citing 1985 N.Y. Laws 2952).

1021. *Id.* at 425, 605 N.E.2d at 342, 590 N.Y.S.2d at 855.

1022. *Id.* at 423-24, 605 N.E.2d at 341, 590 N.Y.S.2d at 854; N.Y. SOC. SERV. LAW § 131-c(2) (McKinney 1992); 18 N.Y. COMP. CODES R. & REGS. tit. 18 § 352.30(c) (1992). Section 352.30(c) states in relevant part:

Therefore, not all of the grandparent's income is available to the infant for Home Relief determination.[1023]

Next, the court of appeals addressed the plaintiffs' claim that Social Services Law section 131-c(2) violated the New York constitutional mandate that "'the aid, care, and support of the needy are public concerns and shall be provided by the state . . . .'"[1024] Since both the plaintiffs and the defendants relied on *Tucker v. Toia*[1025] for their arguments, the court of appeals carefully analyzed the case. In *Tucker*, the statute required that even those applicants under the age of 21 who qualified as "needy" for public assistance and did not reside with their parents to "commence a support proceeding against any such parent of relative."[1026] The statute further provided that without a disposition of the proceeding, no Home Relief would be given.[1027] The *Lovelace* court found the *Tucker* decision to stand not only for the proposition that the New York Constitution guarantees aid to the needy, but also for giving the state discretion to set the amount of aid and to classify recipients according to its definition of "neediness."[1028]

The plaintiffs claimed that the grandparent-deeming provision of Social Services Law section 131-c(2) was a complete "avoidance of the Legislature's constitutional responsibility" to provide aid to the needy.[1029] The court of appeals disagreed.[1030]

> With respect to an applying dependent child whose parent is under age 18 and living with the child, the dependent child and such minor parent are considered members of the same public assistance household. The local district must deem any income of the minor parent's own nonapplying parent(s) to be available to such public assistance household when they reside together in the same dwelling unit . . . .

Id.

1023. *Lovelace*, 80 N.Y.2d at 424, 605 N.E.2d at 341, 590 N.Y.S.2d at 854.

1024. *Id.* (citing N.Y. CONST. art. XVII, § 1).

1025. 43 N.Y.2d 1, 371 N.E.2d 449, 400 N.Y.S.2d 728 (1977).

1026. *Lovelace*, 80 N.Y.2d at 424, 605 N.E.2d at 341, 590 N.Y.S.2d at 854; *Tucker*, 43 N.Y.2d at 9, 371 N.E.2d at 452, 400 N.Y.S.2d at 731.

1027. *Tucker*, 43 N.Y.2d at 5, 371 N.E.2d at 450, 400 N.Y.S.2d at 729.

1028. *Lovelace*, 80 N.Y.2d at 424, 605 N.E.2d at 342, 590 N.Y.S.2d at 855.

1029. *Id.* at 425, 605 N.E.2d at 342, 590 N.Y.S.2d at 855.

The court's analysis of the problem in *Lovelace* began with the declaration that "mere conformance with Federal law" is not sufficient due to New York's constitutional commitment to aiding its needy.[1031] The court held that a given case must be calculated to insure that this constitutional duty was being met.[1032] Therefore, mere conformance with the federal law is not enough to end the court's investigation in a case where the constitutionality of grandparent-deeming rule is challenged.[1033]

The court held that section 131-c(2) was constitutional because it had as a basis for its enactment more reasons than mere conformance with federal law.[1034] Among the several persuasive justifications for the grandparent-deeming provision that the court found is the fact that it is not unreasonable of the legislature to assume that those individuals living together in one household will have reduced "per capita" expenses since they will be sharing "rent, food, fuel," and other living costs.[1035] The court of appeals found it likewise reasonable to assume that those grandparents living with their minor children will share their income with the minor children and grandchildren, even if "not

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1030. *Id.*

1031. *Id.*; *see also* Lee v. Smith, 43 N.Y.2d 453,462, 373 N.E.2d 247, 251, 402 N.Y.S.2d 351, 356 (1977)(declaring that "while the State may have a legitimate interest in reducing the costs of administering the home relief program, it may not accomplish this result by arbitrarily denying one class of persons access to public funds available to all others.").

1032. *Id.*

1033. *Lovelace*, 80 N.Y.2d at 425, 605 N.E.2d at 342, 590 N.Y.S.2d at 855.

1034. *Id.* at 425-26, 605 N.E.2d at 342, 590 N.Y.S.2d at 855.

1035. *Id.*; Termini v. Califano, 611 F.2d 367, 370 (2d Cir. 1979) ("the commonsense proposition is that individuals living with others usually have reduced per capita costs because many of their expenses are shared. 'In a multiperson household the per capita cost of many items, since they are shared, will be less.'"(citation omitted)); *see also* Bowen v. Gilliard, 483 U.S. 587, 599-600 (referring to the "commonsense proposition" of *Termini v. Califano*, the Court declared it rational "for Congress to adjust the AFDC program to reflect the fact that support money generally provides significant benefits for entire family units.").

legally obligated to do so."[1036] This deeming rule is also not a bar to the minor parent and infant receiving other public assistance such as Medicaid and food stamps.[1037] Furthermore, the court stressed the fact that where the grandparent's income is insufficient to provide for the infant, the infant "remains eligible for assistance."[1038]

The court of appeals concluded that the facts in *Lovelace* were significantly different from those of *Tucker*, where the "impermissible burden" fell on those minors who had already been found to be needy by the state, and then had to prosecute lengthy legal proceedings against parents that did not reside with them before they could receive any of the aid due to them.[1039] Here, on the other hand, the minors and their infants had not been found needy by the state, and had simply challenged the legislative definition of "needy."[1040] While the definition of "needy" is within the legislature's discretion, such legislative definition may be found to violate the constitutional duty to aid those in need if, upon judicial review, it is found to be unreasonably defined.[1041] Since the court of appeals found "that the legislative indeed exercise[d] its discretion reasonably" in defining "needy," the court held section 131-c(2) constitutional.[1042]

The court of appeals next addressed the plaintiff's claim that by drawing a distinction between minor mother under eighteen and minor mothers over eighteen, for purposes of receiving Home Relief, by deeming the grandparent's income available to those minors under eighteen, but not those over eighteen, Social Services Law section 131-c(2) violates the equal protection and due process guarantees of the state and federal constitutions.[1043] The plaintiffs argued that the distinction between the classes of

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1036. *Lovelace*, 80 N.Y.2d at 425, 605 N.E.2d at 342, 590 N.Y.S.2d at 855.

1037. *Id.* at 426, 605 N.E.2d at 343, 590 N.Y.S.2d at 856.

1038. *Id.*

1039. *Id.*

1040. *Id.*

1041. *Id.*

1042. *Id.*

1043. *Id.*

minors, and the grandparent deeming clause "serve no important governmental objectives, are not substantially related to achievement of those objectives, and have no rational basis."[1044]

The plaintiffs claimed that the court should evaluate section 131-c(2) using the midlevel scrutiny because "the provision threatens our most vulnerable citizens — children of indigent teenage mothers — with arbitrary classification."[1045] The *Lovelace* court rejected this approach, choosing instead to apply the rational relation test, reasoning that the statute in question involved "economic and social welfare concerns," rather than "distinctions . . . based on suspect classifications."[1046] Under this test, a statute must have "a rational basis or relationship to a legitimate State interest" in order to be upheld.[1047] If a statute has such a reasonable basis, it will be upheld, even though it 'is not made with mathematical nicety or because in practice it results in some inequality.'"[1048]

The court had already found in the first part of its analysis, that it is reasonable for the legislature "to assume that grandparents will contribute to the support of infant grandchildren residing in their household, notwithstanding the absence of a legal obligation to do so."[1049] Furthermore, Social Services Law section 131-c(2) "parallels the reasonable assumption of Federal law" that the grandparent is less willing to help minor mothers over 18 years old to support their children, "and will instead ask that such mi-

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1044. *Id.*

1045. *Id.* at 427, 605 N.E.2d at 343, 590 N.Y.S.2d at 856.

1046. *Id.*; *see also In re* Davis' Estate, 57 N.Y.2d 382, 442 N.E.2d 1227, 456 N.Y.S.2d 716 (1982); Bernstein v. Toia, 43 N.Y.2d 437, 373 N.E.2d 238, 402 N.Y.S.2d 342 (1977).

1047. *Lovelace*, 80 N.Y.2d at 427, 605 N.E.2d at 343, 590 N.Y.S.2d at 856.

1048. *Id.* (quoting Dandridge v. Williams, 397 U.S. 471, 485 (1970) quoting Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61, 78 (1911)). "[I]f the classification has some 'reasonable basis,' it does not offend the Constitution simply because the classification 'is not made with mathematical nicety or because in practice it results in some inequality.'" *Dandridge*, 397 U.S. at 485. *See also* Bowen v. Gilliard, 483 U.S. 587 (1987); Lalli v. Lalli, 439 U.S. 259 (1978).

1049. *Lovelace*, 80 N.Y.2d at 427, 605 N.E.2d at 343 590 N.Y.S.2d at 856.

nor mothers assume greater responsibility for their infants."[1050] In addition to the reasonable assumption behind Section 131-c(2), this statute helps to further the state's goal of using limited resources to aid the "neediest applicants" — a goal which the court held to be a legitimate state interest.[1051] And finally, the state's application of the DEFRA grandparent-deeming provision to New York's Home Relief programs, although not specifically required by DEFRA (which required application of this provision only to the AFDC program), is "rationally related to the State's interest in assuring consistency between the AFDC and Home Relief programs.[1052] Since the classification based on the age of the minor parent is rationally related to the state's goal of preventing Home Relief benefits from being greater than those benefits afforded under AFDC (thereby "completely eroding the AFDC program"),[1053] the court found that the plaintiffs had "failed to overcome the presumption of the validity of the statute." [1054]

The federal constitution has no comparable counterpart to New York Constitution's article XVII, section 1, and its provision for the aid, care, and support of the needy. The New York Constitution mandates that the state legislature provide aid for the needy,[1055] leaving the level of aid and the definition of "needy"

1050. *Id.*

1051. *Id.* (citing Jones v. Blum, 101 A.D.2d 330, 334, 476 N.Y.S.2d 214, 217 (3d Dep't 1984)).

1052. *Lovelace*, 80 N.Y.2d at 427, 605 N.E.2d at 344, 590 N.Y.S.2d at 857.

1053. *Id.* (quoting Lovelace v. Gross, 175 A.D.2d 914, 915, 573 N.Y.S.2d 752, 753 (2d Dep't 1991) citing 1985 N.Y. Laws 2953). *See also* Sutter v. Perales, 103 A.D.2d 1029, 1030, 478 N.Y.S.2d 420, 421 (4th Dep't 1984), (The court declared that "the purpose of the amendments was not only to conform the . . . [ADC] program to Federal requirements but also to assure general consistency between ADC and Home Relief in order to prevent a shifting of case loads and expenditures from ADC to Home Relief which would otherwise result when Federal program reductions were implemented . . . ."), *aff'd*, 64 N.Y.2d 1095, 479 N.E.2d 257, 489 N.Y.S.2d 906 (1985).

1054. *Lovelace*, 80 N.Y.2d at 428, 605 N.E.2d at 344, 590 N.Y.S.2d at 857.

1055. *See* N.Y CONST. art. XVII, § 1.

to legislative discretion.[1056] In contrast, on the federal level public assistance programs "are rooted in discretionary congressional decisions to provide such assistance," and not in a constitutional mandate.[1057]

Regarding the equal protection which every citizen is guaranteed by both the New York State Constitution[1058] and the Federal Constitution,[1059] the New York court of appeals agreed with the Supreme Court's decisions in such cases as *Dandridge* and *Lindsley* that the rational relation standard must be applied to legislation dealing with social and economic concerns.

SUPREME COURT, APPELLATE DIVISION

FIRST DEPARTMENT

Gautam v. Perales[1060]
(decided January 21, 1992)

Gautam brought an Article 78 proceeding[1061] against the New York City Human Resources Administration and the State Department of Social Services (DSS) claiming that his home relief grant[1062] "pursuant to 18 N.Y.C.R.R. Part 352.3[1063] was

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1056. *Lovelace,* 80 N.Y.2d at 424, 605 N.E.2d at 342, 590 N.Y.S.2d at 855.

1057. *See New York State Constitutional Decisions: 1991 Compilation,* 8 TOURO L. REV. 954, 956 (1992).

1058. *See* N.Y. CONST. art. I, § 11.

1059. *See* U.S. CONST. art. XIV, § 1.

1060. 179 A.D.2d 509, 579 N.Y.S.2d 26 (1st Dep't), *lv. denied,* 80 N.Y.2d 758, 589 N.Y.S.2d 309, 602 N.E.2d 1125 (1992).

1061. N.Y. CIV. PRAC. L. & R. 7801, cmt., 7801.6 (McKinney 1981) (maintaining that the proper way to proceed "when the claim is that a statute has been unconstitutionally applied by a state officer " to the petitioner is to bring an Article 78 proceeding in which "an appropriate factual record" can be reviewed).

1062. N.Y. SOC. SERV. LAW § 131-a (McKinney 1992). Section 131-a(1) states:

> Any inconsistent provision of this chapter or other law notwithstanding, social services officials shall . . . provide home relief . . . to needy