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Public Relief

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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 Constitution¹⁰⁵⁸ 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. Perales¹⁰⁶⁰
(decided January 21, 1992)

Gautam brought an Article 78 proceeding¹⁰⁶¹ against the New York City Human Resources Administration and the State Department of Social Services (DSS) claiming that his home relief grant¹⁰⁶² “pursuant to 18 N.Y.C.R.R. Part 352.3¹⁰⁶³ was

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

'insufficient to meet [his] reasonable housing costs.'"¹⁰⁶⁴ The trial court relied on *Jiggetts v. Grinker*,¹⁰⁶⁵ ruling that the DSS Commissioner's discretionary power in establishing home relief shelter programs was limited by a "'duty' to provide *adequate* aid."¹⁰⁶⁶ The appellate division, first department, in *Guatam*, disagreed and held that neither the statute nor its legislative history can be interpreted to restrict the DSS Commissioner's discretion to support levels for single adults.¹⁰⁶⁷ Moreover, the court held that notwithstanding the language in the state constitution,¹⁰⁶⁸ which imposes a on the state duty on to assist the needy, there is no requirement that the assistance be set at a certain level.¹⁰⁶⁹

The petitioner, Gautam, was a single male adult.¹⁰⁷⁰ In his Article 78 proceeding, he requested an increase in his home relief grant "by way of judicial relief."¹⁰⁷¹ The Supreme Court, New York County, held that the DSS Commissioner's discretionary power was limited,¹⁰⁷² and granted Gautam's petition to a

persons who constitute or are members of a family household who are determined to be eligible in accordance with standards of need established in subdivision two.

Id.; see also N.Y. SOC. SERV. LAW § 158(a) (McKinney 1992). Section 58(a) states in pertinent part: "Any person unable to provide for himself, or who is unable to secure support from a legally responsible relative . . . shall be eligible for home relief." *Id.*

1063. 18 N.Y.C.R.R. § 352.3 (a). Section 352.3(a) provides:

Each social services district must provide a monthly allowance for rent in the amount actually paid, but not in excess of the appropriate maximum of such district for each family size, in accordance with the following schedule[]

Id. A schedule of maximum shelter allowances follows the regulation.

1064. *Gautam*, 179 A.D.2d at 510, 579 N.Y.S.2d at 26.

1065. 75 N.Y.2d 411, 553 N.E.2d 570, 554 N.Y.S.2d 92 (1990).

1066. *Guatam*, 179 A.D.2d at 510, 579 N.Y.S.2d at 26.

1067. *Id.* at 511, 579 N.Y.S.2d at 27.

1068. N.Y. CONST. art. XVII, § 1.

1069. *Id.* at 510, 579 N.Y.S.2d at 27.

1070. *Id.* at 509, 579 N.Y.S.2d at 26.

1071. *Id.* at 510, 579 N.Y.S.2d at 26.

1072. *Id.* at 509-10, 579 N.Y.S.2d at 26.

limited extent, by directing a hearing on the sufficiency of the maximum shelter allowance as it pertained to him.¹⁰⁷³

The first department disagreed with the trial court's ruling that *Jiggetts* supported judicial review of "the sufficiency of adult shelter allowances."¹⁰⁷⁴ Unlike the present case, the plaintiffs, in *Jiggetts* were recipients of Aid to Families with Dependent Children, whose rent costs exceeded the maximum amount allowable under the Department of Social Services schedules. They challenged the allowance schedules as "arbitrary and capricious because they no longer bear a reasonable relation to the cost of housing in New York City."¹⁰⁷⁵ The Court of Appeals in *Jiggetts* held that Social Services Law, §§ 350(1)(a)¹⁰⁷⁶ and 350-j¹⁰⁷⁷ impose a duty on the Commissioner to establish rent allowances that reasonably correspond to the actual housing cost,¹⁰⁷⁸ because of the societal interest in keeping families together in a proper home, and of "ensur[ing] the health and well-being of children"¹⁰⁷⁹

In disagreeing with the trial court, the appellate division looked to the reasoning behind the *Jiggetts* decision.¹⁰⁸⁰ Since the *Jiggetts* court limited the Commissioner's discretion to setting reasonable rent allowances for *families with children*,¹⁰⁸¹ the first department did not agree with the trial court that the Commissioner's discretion as to rent allowances for *single adults* should likewise be limited.¹⁰⁸²

1073. *Id.* at 510, 579 N.Y.S.2d at 26.

1074. *Id.* at 510, 579 N.Y.S.2d at 27.

1075. *Jiggetts v. Grinker*, 75 N.Y.2d 411, 414, 553 N.E.2d 570, 571, 554 N.Y.S.2d 92, 93 (1990).

1076. N.Y. SOC. SERV. LAW § 350(1)(a) (McKinney 1992) (requiring that "allowances shall be adequate," "allowances shall provide").

1077. N.Y. SOC. SERV. LAW § 350-j (McKinney 1992) (stating that "social services . . . shall provide . . . assistance").

1078. *Gautam*, 179 A.D.2d at 510, 579 N.Y.S.2d at 27.

1079. *Jiggetts*, 75 N.Y.2d at 420, 553 N.E.2d at 575, 554 N.Y.S.2d at 97.

1080. *Gautam*, 179 A.D.2d at 510, 579 N.Y.S.2d at 27.

1081. *Id.*

1082. *Id.* at 510-11, 579 N.Y.S.2d at 27.

The court conceded that the New York Constitution recognized a duty to help the needy;¹⁰⁸³ nevertheless it stressed that no state constitutional provision or Social Services law demanded rent allowances to be set at a particular level for home relief recipients.¹⁰⁸⁴ According to the court, the legislature only mandated that rent allowances be set administratively¹⁰⁸⁵ (i.e. by social services officials), based on local rent levels and the number of persons in the family, but such allowance is to be "subject to a fixed ceiling,"¹⁰⁸⁶ set by the legislature.

The first department found that the lack of legislative intent to limit the Commissioner's discretion in setting rent allowances in home relief cases, was also supported by case law.¹⁰⁸⁷ The first department also relied on *Matter of Bernstein v. Toia*,¹⁰⁸⁸ where the court of appeals held that 18 N.Y.C.R.R. section 352.3¹⁰⁸⁹ was in conformance with both the mandates of the New York Constitution¹⁰⁹⁰ and the Social Services Law, section 131-a.¹⁰⁹¹ The Court in *Bernstein*, reasoned that, were it to allow exceptions

1083. *Id.* at 511, 579 N.Y.S.2d at 27; *Tucker v. Toia*, 43 N.Y.2d 1, 7, 8, 371 N.E.2d 449, 451, 452, 400 N.Y.S.2d 728, 730, 731 (1977); N.Y. CONST. art. XVII, § 1.

1084. *Gautam*, 179 A.D.2d at 511, 579 N.Y.S.2d at 27.

1085. *Id.*

1086. *Id.*; N.Y. SOC. SERV. LAW § 131-a(2). Section 131-a(2) states:

The following schedule shall be the standard of monthly need for determining eligibility for all categories of assistance in and by all social services districts (followed by a schedule chart, depending on the number of persons in the household); see 18 N.Y.C.R.R. § 352.3(a).

Id.

1087. See *Matter of Bernstein v. Toia*, 43 N.Y.2d 437, 373 N.E.2d 238, 402 N.Y.S.2d 342 (1977); *Ram v. Blum*, 77 A.D.2d 278, 432 N.Y.S.2d 892 (1st Dep't 1980); *Weinhandler v. Blum*, 84 A.D.2d 716, 444 N.Y.S.2d 3 (1st Dep't 1981).

1088. 43 N.Y.2d 437, 373 N.E.2d 238, 402 N.Y.S.2d 342 (1977).

1089. 18 N.Y.C.R.R. § 352.3 (regulation fixes maximum shelter allowances for public assistance recipients without allowing for exception due to individual circumstances).

1090. N.Y. CONST. art. XVII, § 1.

1091. *Bernstein*, at 440, 373 N.E.2d 238, 402 N.Y.S.2d at 342; N.Y. CONST. art. XVII, § 1; N.Y. SOC. SERV. LAW § 131-a. (McKinney 1992) (requiring that social services officials provide home relief to needy persons who qualify for such assistance).

to the shelter-allowance formula, "every benefit provided by flat grant," as contained in Social Securities Law section 131-a, "would be open to adjustment in favor of individual applicants," making the flat grant system useless¹⁰⁹² In rejecting to allow exceptions, the first department found further support for its holding in this case, in *Ram v. Blum*,¹⁰⁹³ which interpreted the New York State Constitution Article XVII language¹⁰⁹⁴ to imply discretion rather than a duty on the part of the legislature in determining the amount of aid.¹⁰⁹⁵ Finally, the court also looked to *Weinhandler v. Blum*,¹⁰⁹⁶ where the first department refused to find the shelter allowance schedule invalid due to its failure to meet the steady increases in actual rents.¹⁰⁹⁷ The *Weinhandler* court even admitted that the steady increases in rents "undoubtedly imposes hardships on many welfare recipients,"¹⁰⁹⁸ but refused, despite these increases, to find that the "essential standard of constitutional and statutory validity set forth in *Bernstein* has been violated"¹⁰⁹⁹ by the shelter-allowance schedule.

The first department relied on the lack of statutory directive on the issue of home relief grants to unanimously reverse the trial court's determination that the Commissioner's discretion in establishing shelter payments is limited to providing "adequate aid,"¹¹⁰⁰ The court followed prior case law to distinguish the advantages of requiring reasonable shelter allowances in cases of

1092. *Bernstein*, 43 N.Y.2d at 443-44, 373 N.E.2d at 241, 402 N.Y.S.2d at 345.

1093. 77 A.D.2d 278, 432 N.Y.S.2d 892 (1st Dep't 1980).

1094. N.Y. CONST. art. XVII, § 1 (stating that the legislature is to aid the needy "in such manner and by such means, as the legislature may . . . determine").

1095. *Ram*, 77 A.D.2d 278, 280, 432 N.Y.S.2d 892, 894 (1st Dep't 1980); *Bernstein*, at 448-49, 373 N.E.2d at 244, 402 N.Y.S.2d at 348.

1096. 84 A.D.2d 716, 444 N.Y.S.2d 3 (1st Dep't 1981).

1097. *Weinhandler*, at 716-17, 444 N.Y.S.2d at 4.

1098. *Id.*

1099. *Id.*

1100. *Guatam v. Perales*, 179 A.D.2d 509, 510-11, 579 N.Y.S.2d 26, 27 (1st Dep't 1992).

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families with children, from the obvious lack of provision in the home relief for single adults.¹¹⁰¹

1101. *Id.* at 509-11, 579 N.Y.S.2d at 26-27 (1st Dep't 1992).

