

Hill Vs. Garner.

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Court : US Supreme Court

Decided On : 1977

Appeal No. : 434 U.S. 989

Appellant : Hill

Respondent : Garner.

Judgement :

HILL v. GARNER. - 434 U.S. 989 (1977)

U.S. Supreme Court HILL v. GARNER. , 434 U.S. 989 (1977)

434 U.S. 989

Sharon HILL

v.

David Max GARNER

No. 77-132

Supreme Court of the United States

December 12, 1977

The appeal is dismissed for want of a substantial federal question.

Mr. Justice WHITE, with whom Mr. Justice BRENNAN joins, dissenting.

In 1929 this Court held that Connecticut's guest statute did not violate the Equal Protection Clause, because it could not be said that "no grounds exist[ed] for the distinction" between gratuitous passengers in automobiles and those in other classes of vehicles. *Silver v. Silver*, [280 U.S. 117, 123](#) (1929). While that decision for a while foreclosed federal equal protection challenges to the guest statutes of the various States, in recent years the issue of the constitutional validity of these statutes has been frequently litigated in state courts with conflicting results. Since 1971 the highest courts of no fewer than 6 States have concluded that their guest statutes violated the Equal Protection Clause of the Fourteenth Amendment,² while during the same period similar statutes

have been upheld against federal constitutional attack in 10 States. [[Footnote 3](#)] Typical of those decisions striking down the guest statutes is *Brown v. Merlo*, 8 Cal.3d 855, 106 Cal.Rptr. 388, 506 P.2d 212 (1973), in which the California Supreme Court concluded that the classifications created by the challenged statute between those denied and those permitted recovery for negligently inflicted injuries did not bear a substantial and rational relation to the statute's purposes of protecting the hospitality of the host driver and of preventing collusive lawsuits. *Silver v. Silver* was expressly distinguished as involving different equal protection considerations. In contrast,, the Oregon Supreme Court, among others, has held that the hospitality rationale does support the distinctions drawn by the State's guest statute. *Duerst v. Limbocker*, *supra*.

As could be expected from the frequency of the consideration of this question by the state courts and from the contradictory results, the issue has been presented here several

times in recent years. In each of the last three Terms, we have been asked to consider whether a state or federal court had correctly determined that a state

guest statute did not violate the Equal Protection Clause, and on each occasion we declined to grant plenary consideration of the question. *Sidle v. Majors*, [536 F.2d 1156](#) (CA7), cert. denied, 429 U.S. 945 (1976); *White v. Hughes*, 257 Ark. 627, 519 S.W.2d 70, appeal dismissed for want of substantial federal question, 423 U.S. 805 (1975); *Cannon v. Oviatt*, 520 P. 2d 883 (Utah), appeal dismissed for want of substantial federal question, 419 U.S. 810 (1974).

It is significant that on two of these occasions the issue was presented here by means of appeal and that the constitutional grounds urged for invalidity were similar to those relied upon by those courts that have invalidated state guest statutes. We nevertheless dismissed in these two instances for want of a substantial federal question, thus ruling on the merits of the equal protection issue, *Hicks v. Miranda*, [422 U.S. 332](#) (1975), and rejecting the challenge to the statutes.

Such dismissals, however, may not serve their intended purpose, for on at least three occasions since our decision in *Cannon v. Oviatt*, *supra*, state courts have invalidated guest statutes on the same or very similar equal protection grounds found to be insubstantial in *Cannon*. Because the significant division among state courts persists despite *Silver v. Silver*, *supra*, and despite our more recent relevant dismissals, I would note probable jurisdiction and set this case for oral argument.

Footnotes

[Footnote 1](#) Section 30.115 reads as follows:

"No person transported by the owner or operator of a motor vehicle, an aircraft, a watercraft, or other means of conveyance, as his guest without payment for such transportation, shall have a cause of action for damages against the owner or operator for injury, death or loss, in case of accident, unless the accident was intentional on the part of the owner or operator or caused by his gross negligence or intoxication. As used in this section:

"(1) 'Payment' means a substantial benefit in a material or business sense conferred upon the owner or operator of the conveyance and which is a

substantial motivating factor for the transportation, and it does not include a mere gratuity or social amenity.

"(2) 'Gross negligence' refers to negligence which is materially greater than the mere absence of reasonable care under the circumstances, and which is characterized by conscious indifference to or reckless disregard of the rights of others."

[Footnote 2](#) In the following cases guest statutes were declared invalid on federal constitutional grounds: *McGeehan v. Bunch*, 88 N.M. 308, 540 P.2d 238 (1975); *Laakonen v. Eighth Judicial District Court*, 91 Nev. 506, 538 P.2d 574 (1975); *Primes v. Tyler*, 43 Ohio St.2d 195, 331 N.E.2d 723 (1975); *Thompson v. Hagan*, 96 Idaho 19, 523 P.2d 1365 (1974); *Henry v. Bauder*, 213 Kan. 751, 518 P.2d 362 (1974); *Brown v. Merlo*, 8 Cal.3d 855, 106 Cal. Rptr. 388, 506 P.2d 212 (1973). In each of these cases, the statute was also invalidated on state constitutional grounds, but it is apparent that various equal protection cases in this Court, such as *Jimenez v. Weinberger*, [417 U.S. 628](#) (1974); *Reed v. Reed*, [404 U.S. 71](#) (1971); *Glonn v. American Guarantee & Liability Ins. Co.*, [391 U.S. 73](#) (1968), were read as requiring a different federal constitutional result from that announced in *Silver v. Silver* and were influential factors in arriving at the state-law conclusion.

Additionally, in two cases guest statutes were invalidated on state constitutional grounds: *Manistee Bank & Trust Co. v. McGowan*, 394 Mich. 655, 232 N.W.2d 636 (1975); *Johnson v. Hassett*, 217 N.W.2d 771 (N.D.1974).

[Footnote 3](#) In the following cases guest statutes were upheld: *Sidle v. Majors*, [536 F.2d 1156](#) (CA7), cert. denied, 429 U.S. 945 (1976); *Behrns v. Burke*, 89 S.D. 96, 229 N.W.2d 86 (1975); *White v. Hughes*, 257 Ark. 627, 519 S.W.2d 70, appeal dismissed for want of substantial federal question, 423 U.S. 805 (1975); *Richardson v. Hansen*, 186 Colo. 346, 527 P.2d 536 (1974); *Duerst v. Limbocker*, 269 Or. 252, 525 P.2d 99 (1974); *Cannon v. Oviatt*, 520 P.2d 883 (Utah), appeal dismissed for want of substantial federal question, 419 U.S. 810 (1974); *Keasling*

v. Thompson, 217 N. W.2d 687 (Iowa 1974); Justice v. Gatchell, 325 A.2d 97 (Del.1974); Tisko v. Harrison, 500 S.W.2d 565 (Tex.Civ.App.1973); Delany v. Badame, 49 Ill. 2d 168, 74 N.E.2d 353 (1971).

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