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Williams Vs. Arkansas

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Court : US Supreme Court

Decided On : Apr-04-1910

Appeal No. : 217 U.S. 79

Appellant : Williams

Respondent : Arkansas

Judgement :

Williams v. Arkansas - 217 U.S. 79 (1910)
U.S. Supreme Court Williams v. Arkansas, 217 U.S. 79 (1910)

Williams v. Arkansas

No. 138

Submitted March 11, 1910

Decided April 4, 1910

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ERROR TO THE SUPREME COURT

OF THE STATE OF ARKANSAS

SYLLABUS

State legislation which, in carrying out a public purpose, is limited in its application is not a denial of equal protection of the laws within the meaning of the Fourteenth Amendment if, within the sphere of its operation, it affects alike all persons similarly situated. *Barbier v. Connolly,* 113 U. S. 27 .

When a state legislature has declared that, in its opinion, the policy of the state requires a certain measure, its action should not be disturbed by the courts under the Fourteenth Amendment unless they can clearly see that there is no reason why the law should not be extended to classes left untouched. *Missouri, Kansas & Texas Railway Co. v. May,* 194 U. S. 267 .

A classification in a state statute prohibiting drumming or soliciting on trains for business for any "hotels, lodging houses, eating houses, bath houses, physicians, masseurs, surgeon or other medical practitioner" will not be held by this Court to be unreasonable and amounting to denial of equal protection of the laws after it has been sustained by the state court as meeting an existing condition which was required to be met, and so *held* that the anti-drumming or soliciting law of Arkansas of 1907 is not unconstitutional because it relates to the above classes alone, and does not prohibit drumming and soliciting for other purposes.

5 Ark. 470 affirmed.

The facts, which involve the constitutionality of the anti-drumming law of Arkansas of 1907, are stated in the opinion.

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MR. CHIEF JUSTICE FULLER delivered the opinion of the Court.

Plaintiff in error was convicted for violating a statute of the State of Arkansas entitled

"An Act for the Protection of Passengers, and for the Suppression of Drumming and Soliciting upon Railroad Trains and upon the Premises of Common

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Carriers,"

approved April 30, 1907.

The first and second sections of that act are as follows:

"SEC. 1. That it shall be unlawful for any person or persons, except as hereinafter provided in section 2 of this act, to drum or solicit business or patronage for any hotel, lodging house, eating house, bath house, physician, masseur, surgeon, or other medical practitioner on the trains, cars, depots of any railroad or common carrier operating or running within the State of Arkansas."

"Any person or persons plying or attempting to ply said vocation of drumming or soliciting, except as provided in section 2 of this act, upon the trains, cars, depots of said railroads or common carriers shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty ($50) nor more than one hundred dollars ($100) for each offense."

"SEC. 2. That it shall be unlawful for any railroad or common carrier operating a line within the State of Arkansas knowingly to permit its trains, cars, or depots within the state to be used by any person or persons for drumming or soliciting business or patronage for any hotel, lodging house, eating house, bath house, physician, masseur, surgeon, or other medical practitioner, or drumming or soliciting for any business or profession whatsoever, except that it may be lawful for railroads or common carriers to permit agents of transfer companies on their trains to check baggage or provide transfers for passengers, or for persons or corporations to sell periodicals and such other articles as are usually sold by news agencies for the convenience and accommodation of said passengers."

"And it shall be the duty of the conductor or person in charge of the train of any railroad or common carrier to report to the prosecuting attorney any person or

persons found violating any of the provisions of this act, and upon a willful failure or neglect to report any such person or persons known to be violating the provisions of this act by drumming

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or soliciting, said conductor or other person in charge of such train shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty nor more than one hundred dollars."

The case was tried upon the following agreed statement of facts:

"The defendant has for six years been keeping a boarding house in the city of Hot Springs, and was keeping the same on the 10th day of December, 1907, when he entered a train of the Little Rock & Hot Springs Western Railway Company, while running in the County of Garland and State of Arkansas, and solicited and drummed the passengers on said train to induce them to come to his said boarding house to board during their sojourn in said city, and said defendant was so engaged in drumming and soliciting upon said train when he was arrested. He had paid has fare as a passenger on said train, and was riding as such passenger while engaged in drumming and soliciting."

Plaintiff in error challenged the act as unconstitutional on the grounds that it deprived him of liberty and property without due process of law, and also of the equal protection of the law guaranteed by the Fourteenth Amendment.

The principles that govern this case have been settled by very many adjudications of this Court. They were sufficiently set forth in *McLean v. Arkansas,* 211 U. S. 546 , in which a statute making it unlawful for mine owners employing ten or more men underground in mining coal and paying therefor by the ton mined, to screen the coal before it was weighed, was held valid, and also that it was not an unreasonable classification to divide coal mines into those where less than ten miners were employed and those where more than that number were employed, and that a state police regulation was not unconstitutional under the equal protection clause of the Fourteenth Amendment because only applicable to mines

where more than ten miners were employed. This Court in that case, discussing the police power, said:

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"In *Gundling v. Chicago,* 177 U. S. 183 , this Court summarized the doctrine as follows:"

" Regulations respecting the pursuit of a lawful trade or business are of very frequent occurrence in the various cities of the country, and what such regulations shall be, and to what particular trade, business, or occupation they shall apply, are questions for the state to determine, and their determination comes within the proper exercise of the police power by the state, and unless the regulations are so utterly unreasonable and extravagant in their nature and purpose that the property and personal rights of the citizen are unnecessarily, and in a manner wholly arbitrary, interfered with or destroyed, without due process of law, they do not extend beyond the power of the state to pass, and they form no subject for federal interference."

"In *Jacobson v. Massachusetts,* 197 U. S. 11 , this Court said:"

" But the liberty secured by the Constitution of the United States to every person within its jurisdiction does not import an absolute right in each person to be at all times, and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good."

"It is then the established doctrine of this Court that the liberty of contract is not universal, and is subject to restrictions passed by the legislative branch of the government in the exercise of its power to protect the safety, health, and welfare of the people. . . ."

"The legislature, being familiar with local conditions, is primarily the judge of the necessity of such enactments. The mere fact that a court may differ with the legislature in its views of public policy, or that judges may hold views inconsistent with the propriety of the legislation in question, affords no ground for judicial

interference unless the act in question is unmistakably and palpably in excess of legislative power."

" * * * *"

"It the law in controversy has a reasonable relation to the

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protection of the public health, safety, or welfare, it is not to be set aside because the judiciary may be of opinion that the act will fail of its purpose, or because it is thought to be an unwise exertion of the authority vested in the legislative branch of the government."

And see Donovan v. Pennsylvania Co., 199 U. S. 279 .

In the present case, the Supreme Court of Arkansas (*Williams v. State,* 85 Ark. 470) said:

"The legislature clearly has the power to make regulations for the convenience and comfort of travelers on railroads, and this appears to be a reasonable regulation for their benefit. It prevents annoyance from the importunities of drummers. It is suggested in argument that the statute was especially aimed at the protection of travelers to the City of Hot Springs. If this be so, we can readily see additional reason why the regulation is a wholesome one. A large percentage of those travelers are persons from distant states, who are mostly completely strangers here, and many are sick. Drummers who swarm through the trains soliciting for physicians, bath houses, hotels, etc., make existence a burden to those who are subjected to their repeated solicitations. It is true that the traveler may turn a deaf ear to these importunities, but this does not render it any the less unpleasant and annoying. The drummer may keep within the law against disorderly conduct and still render himself a source of annoyance to travelers by his much beseeching to be allowed to lead the way to a doctor or a hotel."

"It is also argued that the act, literally construed, would prevent any person of the classes named from carrying on a private conversation on a train concerning his

business. This is quite an extreme construction to place upon the statute, and one which the legislature manifestly did not intend. We have no such question, however, before us on the facts presented in the record."

"This statute is not an unreasonable restriction upon the privilege one should enjoy to solicit for his lawful business,

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which, it is rightly urged, is an incident to any business. It does not prevent anyone from advertising his business or from soliciting patronage except upon trains, etc. This privilege is denied him for the public good. It is a principle which underlies every reasonable exercise of the police power, that private rights must yield to the common welfare."

As to the objection that the act discriminated against plaintiff in error and denied him the equal protection of the law because forbidding the drumming or soliciting business or patronage of the trains for any "hotel, lodging house, eating house, bath house, physician, masseur, surgeon, or other medical practitioner," which, it was contended, was an unreasonable classification, the state supreme court said:

"The legislature, in framing this statute, met a condition which existed, and not an imaginary or improbable one. The class of drummers or solicitors mentioned in the act are doubtless the only ones who ply their vocation to any extent on railroad trains. It is rare that the commercial drummer finds opportunity to meet customers and solicit trade on trains; therefore the lawmakers deemed it unnecessary to legislate against an occasional act of that kind."

It is settled that legislation which,

"in carrying out a public purpose, is limited in its application if, within the sphere of its operation, it affects alike all persons similarly situated, is not within the Amendment."

Barbier v. Connolly, 113 U. S. 27 , and

"when a state legislature has declared that, in its opinion, policy requires a certain measure, its action should not be disturbed by the courts under the Fourteenth Amendment unless they can see clearly that there is no fair reason for the law that would not require with equal force its extension to others whom it leaves untouched."

Missouri, Kansas & Texas Ry. Co. v. May, 194 U. S. 267 .

Judgment affirmed.

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