

The Burger Court Opinion Writing Database

*New Jersey Welfare Rights Organization v.
Cahill*
411 U.S. 619 (1973)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

227
CHAMBERS OF
THE CHIEF JUSTICE

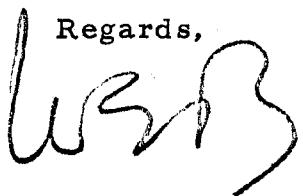
May 4, 1973

Re: No. 72-6258 - New Jersey Welfare Rights Organization
v. William T. Cahill

Dear Bill:

Please show me as "The Chief Justice concurs
in the result".

Regards,



Mr. Justice Brennan

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LAW (TITLE 17, U.S. CODE)

W.H.
1st DRAFT

SUPREME COURT OF THE UNITED STATES ✓

NEW JERSEY WELFARE RIGHTS ORGANIZATION ET AL. v. WILLIAM T. CAHILL, ETC., ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

No. 72-6258. Decided April —, 1973

PER CURIAM.

This case presents the question of the constitutionality under the Equal Protection Clause of the Fourteenth Amendment of the New Jersey "Assistance to Families of the Working Poor" program, N. J. S. 44: 13-1, *et seq.*, that allegedly discriminates against illegitimate children in the provision of financial assistance and other services. Specifically, appellants challenge that aspect of the program that limits benefits to only those otherwise qualified families "which consist of a household composed of two adults of the opposite sex ceremonially married to each other who have at least one minor child of both, the natural child of one and adopted by the other, or a child adopted by both. . . ." N. J. S. 44: 13-3 (a). Appellants argue that although the challenged classification turns upon the marital status of the parents, as well as upon the parent-child relationship, in practical effect it operates almost invariably to deny benefits to illegitimate children while granting benefits to those children who are legitimate. Although apparently conceding the correctness of this position, the United States District Court for the Northern District of New Jersey, sitting as a three-judge court,* upheld the statutory

*In prior proceedings in this case, a single judge of the United States District Court for the Northern District of New Jersey, in an unreported opinion, denied appellants' petition to convene a three-judge court on the ground that no substantial constitutional



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2nd DRAFT

M-11 SUPREME COURT OF THE UNITED STATES

NEW JERSEY WELFARE RIGHTS ORGANIZATION ET AL. v. WILLIAM T. CAHILL, ETC., ET AL.

4/19/73

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY

No. 72-6258. Decided April —, 1973

PER CURIAM.

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Appellants do not challenge the statute's "household" requirement. Rather, they argue that although the challenged classification turns upon the marital status of the parents, as well as upon the parent-child relationship, in practical effect it operates almost invariably to deny benefits to illegitimate children while granting benefits to those children who are legitimate. Although apparently conceding the correctness of this position, the United States District Court for the Northern District of New Jersey, sitting as a three-judge court,* upheld the statutory

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

NEW JERSEY WELFARE RIGHTS ORGANIZATION ET AL. v. WILLIAM T. CAHILL,
ETC., ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY

No. 72-6258. Decided April —, 1973

PER CURIAM.

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 20, 1973

Re: No. 72-6258 - New Jersey Welfare Rights
Organization v. Cahill

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

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Stanford, California 94301-6010



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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 19, 1973

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LAW (TITLE 17, U.S. CODE)

Re: No. 72-6258 - N. J. Welfare Rights v. Cahill

Dear Bill:

Please join me.

Sincerely,

T.M.

Mr. Justice Brennan

cc: Conference

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CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

Supreme Court of the United States
Washington, D. C. 20543

April 17, 1973

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LAW (TITLE 17, U.S. CODE)

Re: No. 72-6258 New Jersey Welfare Rights
Organization v. Cahill

Dear Bill:

Please join me in your per curiam.

Sincerely,

K. Brennan

Mr. Justice Brennan

cc: The Conference

To: Mr. Justice Blackmun
Mr. Justice Rehnquist
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell

1st DRAFT

From: Rehnquist, J.

SUPREME COURT OF THE UNITED STATES

Circulated 4/18

NEW JERSEY WELFARE RIGHTS ORGANIZATION ET AL. v. WILLIAM T. CAHILL, ETC., ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

No. 72-6258. Decided April —, 1973

MR. JUSTICE REHNQUIST, dissenting.

The New Jersey Legislature has enacted a statute entitled "Assistance to Families of the Working Poor," which is designed to provide grants to supplement the income of a discrete class of families with children when independent sources of income are inadequate to support the family unit. The program is completely financed by the State, and therefore need not conform to any of the strictures of the Social Security Act. The New Jersey program for assistance to the working poor does not provide financial grants to classes of children as such, as is the case under various federal plans. Instead, it provides grants to classes of *families as units*. The Court holds that because benefits are limited to families "which consists of a household composed of two adults of the opposite sex ceremonially married to each other who have at least one minor child of both, the natural child of one and adopted by the other, or a child adopted by both," the legislative scheme violates the Equal Protection Clause of the Fourteenth Amendment.

The Court relies on *Weber v. Aetna Cas. & Ins. Co.*, 406 U. S. 164, where a Louisiana statute that denied workmen's compensation benefits to an illegitimate child was invalidated. But the very language that the Court quotes from *Weber* shows how different this case is from that. There a disability was visited solely on an illegitimate child. Here the statute distinguishes among types

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