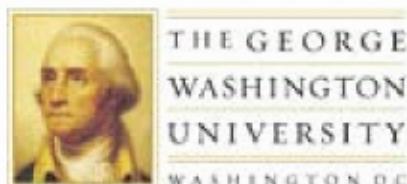


The Burger Court Opinion Writing Database

Califano v. Aznavorian

439 U.S. 170 (1978)

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

CHAMBERS OF
THE CHIEF JUSTICE

December 6, 1978

Re: 77-991 - Califano v. Aznavorian
77-5999 - Aznavorian v. Califano

Dear Potter:

I join.

Regards,

Mr. Justice Stewart

Copies to the Conference

PS
~~RECORDED~~

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart
Circulated: 29 NOV 1978

1st DRAFT

Recirculated:

SUPREME COURT OF THE UNITED STATES

Nos. 77-991 AND 77-5999

Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare, Appellant,

77-991 *v.*

Grace Aznavorian, Etc.

Grace Aznavorian, Etc., Appellant,

77-5999 *v.*

Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare.

On Appeals from the United States District Court for the Southern District of California.

[December —, 1978]

MR. JUSTICE STEWART delivered the opinion of the Court.

In 1972 Congress enacted the Supplemental Security Income program to aid the needy aged, blind, and disabled. The legislation creating the program provides that benefits are not to be paid for any month that the recipient spends entirely outside of the United States. The primary issue in the present case is whether this restriction is a constitutionally impermissible burden on the asserted right of international travel.

I

The 1972 Social Security Act Amendments repealed Titles I, X, and XIV of the Act, which had provided federal aid for state programs for the aged, blind, and disabled. The Amendments replaced those programs with a new Title XVI, the Supplemental Security Income (SSI) program. 84 Stat. 14, 42 U. S. C. § 1381 *et seq.* This program is administered by the

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

November 30, 1978

Re: No. 77-991 - Califano v. Aznavorian

&

No. 77-5999 - Aznavorian v. Califano

Dear Potter,

Please join me.

Sincerely yours,

Mr. Justice Stewart

Copies to the Conference

12/1/78

No. 77-991 & 77-5999

Califano v. Aznavorian

MR. JUSTICE MARSHALL and MR. JUSTICE BRENNAN, concurring in the result.

We concur in the Court's conclusion that § 1611 of the Social Security Act is constitutional. We do not, however, understand the Court to imply that welfare legislation not involving a fundamental interest or suspect classification is subject to a lesser standard of review than the traditional rational basis test. To sustain classifications in welfare legislation that are "arbitrary," ante at 5, so long as they are not "wholly irrational," ante at 8, would be inconsistent with the settled principle that the "standard by which [welfare] ... legislation must be judged is 'not a toothless one.'" Mathews v. DeCastro, 429 U.S. 181, 185 (1976), citing Mathews v. Lucas, 427 U.S. 495, 510 (1976).

4 DEC 1978

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 77-991 AND 77-5999

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 30, 1978

Re: No. 77-991 - Califano v. Aznavorian
No. 77-5999 - Aznavorian v. Califano

Dear Potter:

Please join me.

Sincerely,

Harry

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

November 30, 1978

No. 77-991 Califano v. Aznavorian
No. 77-5999 Aznavorian v. Califano

Dear Potter:

Please join me.

Sincerely,

Lewis

Mr. Justice Stewart

lfp/ss

cc: The Conference

✓
6
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

November 30, 1978

Re: Nos. 77-991 and 77-5999 Califano v. Aznavorian,
et al.

Dear Potter:

Please join me.

Sincerely,

✓

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

(J)

November 29, 1978

Re: 77-991 and 77-5999 - Califano v.
Aznavorian

Dear Potter:

Please join me.

Respectfully,

JPL

Mr. Justice Stewart
Copies to the Conference