

BRENNAN CENTER FOR JUSTICE

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Velazquez v. Legal Services Corporation: The Supreme Court Ruling

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Velazquez v. Legal Services Corporation: The Supreme Court Ruling

In October 2000 the Brennan Center argued before the United States Supreme Court, on behalf of a coalition of lawyers, indigent clients and New York City officeholders, that Congress violated the First Amendment when it authorized lawyers funded by the Legal Services Corporation (LSC) to represent the poor in welfare benefits cases but then barred them from challenging welfare reform laws.

Q: What is the problem?

A: In 1996, Congress prohibited lawyers receiving any funding from the LSC from participating in litigation involving efforts either "to reform a Federal or State welfare system" or "to amend or otherwise challenge existing" welfare laws. LSC-funded lawyers could still represent individual clients seeking benefits from a welfare agency, but they were forbidden from challenging the constitutionality or statutory validity of existing welfare statutes or regulations.

Q: Why is the case important?

A: Congress's prohibition has had a dramatic impact on the ability of many low-income clients to find a lawyer able to make all of the legal arguments necessary to pursue a claim for welfare benefits. The case of Carmen Velazquez, a 56-year-old grandmother living in the Bronx and represented by an LSC-funded Bronx Legal Services attorney, is just one example. In connection with her claim that her public assistance benefits had been wrongfully terminated because of her failure to have participated in a local job search program, Ms. Velazquez had asserted that a New York State regulation was unlawful because it did not afford her a pre-termination opportunity to demonstrate that physical impairments prevented her from working. Since Ms. Velazquez was challenging, *inter alia*, a state welfare regulation, her legal services attorney was deemed barred from representing her, even with non-federal funds. Unfortunately, repeated efforts to locate substitute counsel failed, and Ms. Velazquez suffered the permanent loss of the benefits at issue.

Q: What were the legal arguments before the Supreme Court?

A: The Brennan Center argued that the congressional restriction at issue offends the First Amendment for multiple reasons. First, Congress may not selectively allocate speech subsidies in a viewpoint-discriminatory manner, especially when, as here, it is attempting to shield the government's own viewpoint from effective challenge. Second, once Congress fosters the establishment of a traditional lawyer-client relationship, it may not seek to control the judgment of a federally funded lawyer concerning whether to advance otherwise appropriate legal arguments on a client's behalf, even when the government subsidizes the relationship. And third, Congress may not

bar federally funded lawyers from using non-federal funds to advance such forbidden arguments.

Q: What is the status of the case?

A: On February 28, 2001, in a 5-4 decision authored by Justice Anthony Kennedy, the U.S. Supreme Court found the 1996 law unconstitutional in barring lawyers funded by the Legal Services Corporation ("LSC") from making any "effort to amend or otherwise challenge existing law" in welfare reform cases. Click here to see our "Analysis and Implications."

More Information:

- Analysis & Implications
- February 28, 2001 - Press Release
- February 28, 2001 - U.S. Supreme Court Decision
- October 4, 2000 - U.S. Supreme Court Oral Arguments
- September 27, 2000 - Press Release
- Plaintiffs' Supreme Court Brief

Links to Amicus Briefs

- April 6, 2000 - Press Release
- Second Circuit Decision
- January 8, 1999 - Press Release