

LEGAL SERVICES CORPORATION V. VELAZQUEZ

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SECOND CIRCUIT

[February 28, 2001]

Justice Kennedy delivered the opinion of the Court.

In 1974, Congress enacted the Legal Services Corporation Act, 88 Stat. 378, 42 U.S.C. § 2996 *et seq.* The Act establishes the Legal Services Corporation (LSC) as a District of Columbia nonprofit corporation. LSC's mission is to distribute funds appropriated by Congress to eligible local grantee organizations "for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance."

LSC grantees consist of hundreds of local organizations governed, in the typical case, by local boards of directors. In many instances the grantees are funded by a combination of LSC funds and other public or private sources. The grantee organizations hire and supervise lawyers to provide free legal assistance to indigent clients. Each year LSC appropriates funds to grantees or recipients that hire and supervise lawyers for various professional activities, including representation of indigent clients seeking welfare benefits.

This suit requires us to decide whether one of the conditions imposed by Congress on the use of LSC funds violates the First Amendment rights of LSC grantees and their clients. For purposes of our decision, the restriction, to be quoted in further detail, prohibits legal representation funded by recipients of LSC moneys if the representation involves an effort to amend or otherwise challenge existing welfare law. As interpreted by the LSC and by the Government, the restriction prevents an attorney from arguing to a court that a state statute conflicts with a federal statute or that either a state or federal statute by its terms or in its application is violative of the United States Constitution.

Lawyers employed by New York City LSC grantees, together with private LSC contributors, LSC indigent clients, and various state and local public officials whose governments contribute to LSC grantees, brought suit in the United States District Court for the Southern District of New York to declare the restriction, among other provisions of the Act, invalid. The United States Court of Appeals for the Second Circuit approved an injunction against enforcement of the provision as an impermissible viewpoint-based discrimination in violation of the First Amendment. We granted certiorari. We agree that the restriction violates the First Amendment, and we affirm the judgment of the Court of Appeals.

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From the inception of the LSC, Congress has placed restrictions on its use of funds. For instance, the LSC Act prohibits recipients from making available LSC funds, program personnel, or equipment to any political party, to any political campaign, or for use in "advocating or opposing any ballot measures." The Act further proscribes use of funds in most criminal proceedings and in litigation involving nontherapeutic abortions, secondary school desegregation, military desertion, or violations of the Selective Service statute. Fund recipients are barred from bringing class-action suits unless express approval is obtained from LSC.

The restrictions at issue were part of a compromise set of restrictions enacted in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 and continued in each subsequent annual appropriations Act. The relevant portion of §504(a)(16) prohibits funding of any organization