

WOMEN AND THE CONSTITUTION: AN EQUAL PROTECTION TIMELINE

REED V. REED, 404 U.S. 71 (1971): Struck down as arbitrary and therefore unconstitutionally discriminatory a state statute providing that males must be preferred to equally qualified females in appointing executors of estates.

FRONTIERO V. RICHARDSON, 411 U.S. 677 (1973): Struck down a statute requiring female, but not male, members of the armed forces to prove their spouse's dependency when seeking a housing allowance and medical benefits for the spouse, reasoning that the Constitution prohibited laws that discriminate on the basis of sex solely for administrative convenience.

KAHN V. SHEVIN, 416 U.S. 351 (1974): Upheld a state law providing a tax exemption to widows, but not to widowers, on the ground that widows typically confront greater financial difficulties.

GEDULDIG V. AIELLO, 417 U.S. 484 (1974): Ruled a state disability insurance program's exclusion of benefits for disability accompanying normal pregnancy and childbirth did not discriminate on the basis of sex, finding that the distinction in the program was not between men and women, but between pregnant and non-pregnant persons.

SCHLESINGER V. BALLARD, 419 U.S. 498 (1975): Upheld a statutory scheme providing women in the military a longer tenure of commissioned service before discharge for lack of promotion than men, reasoning that women had fewer opportunities for combat and sea duty and thus it was harder for them to earn promotion, and that the longer tenure compensated for these fewer opportunities.

TAYLOR V. LOUISIANA, 419 U.S. 522 (1975): Overturned a state law excluding women from juries unless they affirmatively registered to serve, holding that there was no justification for treating men and women differently.

WEINBERGER V. WIESENFELD, 420 U.S. 636 (1975): Struck down a Social Security Act provision providing insurance benefits to surviving widows with dependent children but denying such benefits to similarly situated widowers, on the grounds that such a classification discriminated against female wage earners by affording them less protection for their survivors than male wage earners received.

STANTON V. STANTON, 421 U.S. 7 (1975): Struck down a state child support statute that ended support for girls at 18 but boys at 21, finding that the distinction was improperly based on the stereotype that boys needed the additional support to obtain an education that would allow them to support a family, while girls did not.

CRAIG V. BOREN, 429 U.S. 190 (1976): Struck down a state law prohibiting the sale of certain beer to males under age 21, but to females under age 18, by reasoning that sex was not an accurate proxy for the propensity to drink and drive. Announced for the first time that laws discriminating on the basis of sex were invalid unless they were substantially related to achievement of important governmental objectives.

CALIFANO V. GOLDFARB, 430 U.S. 199 (1977): Struck down a provision of the Social Security Act requiring widowers, but not widows, claiming survivor's benefits to prove dependency upon the deceased spouse, reasoning that the gender-based distinction was based upon the stereotype that wives are dependent on their husbands.

CALIFANO V. WEBSTER, 430 U.S. 313 (1977): Upheld a Social Security Act provision allowing women to eliminate several more low-earning years from the calculation of their retirement benefit than men, reasoning that the provision served an important governmental objective by remedying some of the economic effect of past discrimination.

VORCHHEIMER V. SCHOOL DISTRICT OF PHILADELPHIA, 430 U.S. 703 (1977): Affirmed by a tie vote without a written opinion a decision upholding single-sex admissions policy of a boys' selective, college preparatory high school in Philadelphia when a "comparable" single-sex high school was available to girls.

FIALLO V. BELL, 430 U.S. 787 (1977): Upheld a portion of the Immigration and Nationality Act that provided preferential immigration status based on a non-marital child's relationship to a mother who was a U.S. citizen or lawful permanent resident, but not based on a non-marital child's relationship to a father who was a U.S. citizen or lawful permanent resident, on the grounds that the distinction was within Congress's broad authority over immigration law, and could have been based on the perceived absence of close family ties between fathers and non-marital children or the problems of proof in paternity determinations.

ORR V. ORR, 440 U.S. 268 (1979): Struck down a state law imposing alimony obligations on husbands but not wives, because the assumption that wives, but not husbands, are financially dependent on their spouses was a stereotype and there were methods available to determine actual dependency.

PARHAM V. HUGHES, 441 U.S. 347 (1979): Upheld a state law allowing all mothers of a non-marital child, but only fathers who have legitimated the child, to sue for the wrongful death of the child, finding that the distinction was between fathers who have legitimated their non-marital children and those who have not, not between fathers and mothers, and that the statute reasonably promoted the goal of avoiding multiple lawsuits by individuals claiming to be the father of the deceased child. The Court also recognized that in this case the child was not harmed by the statutory distinction.

CABAN V. MOHAMMED, 441 U.S. 380 (1979): Overturned a state law that permitted an unwed mother, but not an unwed father, to block the adoption of a child simply by withholding consent, concluding that this distinction arbitrarily cut off the paternal rights of fathers and did not bear a substantial relationship to an important state interest.

PERSONNEL ADMINISTRATOR OF MASSACHUSETTS V. FEENEY, 442 U.S. 256 (1979): Upheld a veteran's preference in hiring for state civil service positions, finding that even though veterans were overwhelmingly male, the statutory distinction was between veterans and non-veterans, with both categories including men and women, and there was no showing of intent to discriminate on the basis of sex.

CALIFANO V. WESTCOTT, 443 U.S. 76 (1979): Invalidated a federal law that provided welfare benefits to families when a father was unemployed, but not when a mother was unemployed, reasoning that the law was based on the gender stereotype that the father is the primary breadwinner.

WENGLER V. DRUGGISTS MUTUAL INSURANCE COMPANY, 446 U.S. 142 (1980):

Struck down a state workers compensation statute requiring widowers, but not widows, to prove dependence on the spouse's earnings to receive benefits, since the claimed justification of efficient administration was an insufficient rationale for gender-based discrimination.

MICHAEL M. V. SUPERIOR CT. OF SONOMA COUNTY, 450 U.S. 464 (1981): Upheld a state statutory rape law that criminalized sexual intercourse with girls, but not boys, under 18, concluding that the rule was substantially related to preventing teen pregnancy because imposing a criminal sanction on males would serve as a deterrent from sex with teen girls that was roughly equal to the deterrent risk of pregnancy faced by girls.

KIRCHBERG V. FEENSTRA, 450 U.S. 455 (1981): Struck down a state statute that gave a husband exclusive control over the disposition of jointly owned marital property, finding that the statute did not serve an important government objective.

ROSTKER V. GOLDBERG, 453 U.S. 57 (1981): Upheld the requirement that males, but not females, register for the draft, reasoning that because women were excluded from combat service, and the purpose of registration was to prepare for a draft of combat troops, the exemption of women from registration was sufficiently related to Congress's purpose in requiring registration.

MISSISSIPPI UNIVERSITY FOR WOMEN V. HOGAN, 458 U.S. 718 (1982): Struck down a policy prohibiting the admission of males to a state-supported nursing school, finding that the single-sex policy did not compensate for discrimination against women, but rather perpetuated the stereotyped view of nursing as a woman's job.

LEHR V. ROBERTSON, 463 U.S. 248 (1983): Upheld an adoption that occurred without notice to an unwed father who had not placed his name on a putative father registry entitling him to notice to adoption proceedings, supported the child, or seen the child frequently, when state law provided that no adoption could proceed without an unwed mother's notice or consent, because the father had not established a substantial relationship with the child, while the mother had.

J.E.B. V. ALABAMA EX REL. T.B., 511 U.S. 127 (1994): Held that striking someone from a jury based solely on his or her gender is discriminatory because gender may not serve as a proxy for juror competence and impartiality and such challenges were based on stereotypes about the relative abilities of men and women.

U.S. V. VIRGINIA, 518 U.S. 515 (1996): Struck down the policy of excluding women from the Virginia Military Institute on the grounds that the male-only policy did not further diversity in the state's education system and was improperly based on stereotypes about women's abilities and interests.

NGUYEN V. INS, 533 U.S. 53 (2001): Upheld a federal law addressing acquisition of U.S. citizenship for a child born outside the United States to unmarried parents when only one parent is a U.S. citizen that requires citizen fathers, but not citizen mothers, to formally establish parentage before the child turns 18 in order to pass on U.S. citizenship. Reasoned that the gender classification served the two important objectives of ensuring that a biological parent-child relationship existed and that the child and the citizen parent had some demonstrated opportunity to develop a relationship.

FLORES-VILLAR V. U.S., 564 U.S. ___ (2011): Affirmed by a tie vote without a written opinion a decision upholding a separate portion of the law that imposes requirements for the acquisition of U.S. citizenship for a child born outside the United States to unmarried parents when only one parent is a U.S. citizen. The challenged provision requires fathers, but not mothers, to reside in the United States for five years after the age of 14 in order to pass on U.S. citizenship.