

Law

by Student Paper

Submission date: 30-Mar-2019 10:32PM (UTC+1300)

Submission ID: 1102575672

File name: Lawrence_v_Texas_and_Terry_v._Ohio-1.docx (28.25K)

Word count: 2957

Character count: 16090

Lawrence V. Texas and Terry V. Ohio

Student's Name

Institutional Affiliation

Lawrence v. Texas

Summary of Case Facts

In a ruling made on twenty-sixth June 2003, American supreme court nullified a Texas Court ruling which had made a crime for two men performing sexual acts in private (Lawrence v. Texas, 2003). The sweeping decision by the supreme court on Lawrence v. Texas apprehended that the due process privacy guarantee of Amendment four should also be applicable in contextual same-gender sex. To confirm whether the Texas statute had adhered to the equal protection guideline as per the constitution, the court based the decision on broader privacy notions.

Question of Law before the case

Violation of privacy and equal protection rights.

Ruling and question of law

The sweeping decision by the supreme court on Lawrence v. Texas apprehended that the due process privacy guarantee of Amendment four should also be applicable in consensual same-gender sex.

Case Background

In the case of Lawrence v. Texas (530 U. S 553) was the Supreme Court of America case on the criminal prohibition of the homosexual pederasty which was nullified in Texas. The petitioner, Lawrence, was found in his private room having consensual sex with another man, who was also an adult. The two were arrested on the basis of violating the sodomy law. After the petitioners were convicted and fined, Lawrence filed an appeal arguing that the homosexual conduct law was unlawful since it

was biased against homosexual in violation of the equal protection clause (Lawrence v. Texas, 2019). Lawrence and Garner's conviction. During the hearing, the petitioner argued that the law violates their constitutional right in equal protection, privacy and due process under the fourteenth amendment. The ruling on this case had many effects throughout the US and resulted in the invalidation of related laws which would criminalize homosexuality amongst adults when it was being done privately and in consent.

Petitioners

The petitioners in this case were John Lawrence a medical practitioner in his sixties and Garner, a barbecue vendor in his mid-thirties. The two got caught by the police while having sex in a private room inside the house of Lawrence in Houston in seventeenth September 1998. The police entered the house freely and arrested the two. Findings later showed that this case was reported by forty-one-year-old Roger David Nance, who filed a report claiming that Lawrence was in possession of weapons inside his apartment, Nance admitted to giving a false statement to the police, and he served a jail term of fifteen days.

Equal Protection

Despite justice O'Connor agreeing that the ruling by Texas court was unconstitutional, she disagreed with the majority reasoning. Instead of judging based on privacy grounds, O'Connor based her judgment on compatible opinion on the fourteenth amendment on equal protection clause (Lawrence v. Texas, 2019). Laws that are founded on suspect classification like gender or race generally get more investigation and obtain a compelling and stronger state interest to justify the minority.

Given that sexual orientation is not categorized under suspect classification, the court only advances a rational reason for endorsing a statute which treats people differently on the

basis of their sexual identity (Lemieux, 2019). O'Connor further argued that not all laws which distinguish homosexuals and heterosexuals violate equal protection. Particularly she explained that interests pertaining to national security constitute legitimate government interests. However, the dissent disagreed with O'Connor's equal protection analysis on the bases that Texas Court is fair since it applies equally to all genders, sexual orientations and all people subject to the same prohibition against sodomy.

Impact of the judgement

The decision was felt by both opponents and supporters of gay rights, and both parties reacted vocally to this ruling. Markedly, both parties felt that maintenance or defeat of homosexual laws was symbolically pivotal to their cases. Lambda Legal executive director was pleased about the decision. The director thought that this ruling proved that America had gone past the era of discrimination, disrespect and bias treatment on bases of sodomy. On the opposition viewed the entire situation differently. Focus on the family is a conservative Christian ministry in America which aims at promoting religious and conservative principles. After the court ruling, in this case, the ministry's vice president criticized the court for continuing to pillage its decisions by corrupting America's moral guidelines (Romero, 2017). However, both the supporters and opponents of the verdict believed although on different perspectives that several activists would use Lawrence to campaign on legalizing same-sex marriage.

All the anti-sodomy laws that were existing by the time of this ruling were invalidated, irrespective of whether the couples involved were both homosexuals or one was homosexual (Lemieux, 2019). If the court had made a judgment on the basis of

O'Connor's idea, the decision would only invalidate statutes which were discriminating against gays through the prohibition of sodomy exclusively

LGBT members, especially the youth becoming more open in public. Initially, most LGBT teens are struggling with their identities. Unlike other minority groups in the society, most homosexuals have straight parents; thus, they do not always face the support of their families when facing discrimination in society. Therefore, most LGBT youths find themselves confronting the issue by themselves, and in some situations, they end up losing family. Thus, this ruling showed that there is equal protection of homosexual rights in the court. Most people "came out" to openly declare their sexual identity.

Controversy on this hearing

The main controversy against this case was from Justice Anthony Kennedy, who was talking on behalf of the majority. He argued that people have the right to privacy protection during any sexual acts done in private. He was very firm at his decision, and it led to overruling of a court's previous ruling that gave an opposite verdict in a similar case, *Bowers v. Hardwick*. Consequently, justice Anton Scalia wrote a non-conforming opinion, stating that courts should help in legally enforcing moral opposition to homosexual conduct. However, he only had the back up of two fellow justice. Eventually, this case became a memorable win for homosexual rights activists throughout the United States.

Scholarly analysis of the case

Not many persons expect a supreme court ruling to be swift. However, in *Lawrence v. Texas* it was more sweeping than most people expected. Had the court issued a decision based on the less extensive equal protection grounds as argued by O'Connor, the judgment could have been less severe. Thus, the decision could impact in cases involving gay rights and sexual

privacy amongst other issues. The judgment established that homosexual sex which is private and consensual is part of a utilitarian right to liberty as protected in the constitution (Lemieux, 2019). Given that the court issued a more comprehensive ruling that the authorities cannot arrest people due to private, consensual, adult sexual activities, the case created a broader right to sexual privacy. Extends the freedom of sexual privacy which prohibits the government from criminalizing sodomy against any person.

Additionally, the case showed that there are broad principles which disparate and numerous activities can be protected, most of which are implicitly protected by the constitution. Moreover, this ruling acted as a change from the era of conservative statute ruling methods that were applicable in the eighties and nineties. Markedly, this methodology only found proof of essential right only in undertakings which the laws themselves protected significantly (McGuire, 2017). Thus, *Lawrence v. Texas* ruling enhanced the privacy of sexual activities and transformed the court's power to identify personal rights above and beyond the laws that are traditionally protected under the law.

The court clearly stated that the traditions and constitutions support protection on personal decisions pertaining to family relations, procreation, marriage, and contraception (Lemieux, 2019). If *Lawrence* is seen to have established an extensive constitutional right to sexual privacy, it can be translated that the court's decision supports challenges to laws which ban policies like gay adoption or same-sex marriage. The courts can point out other state interests like prostitution cases or cases involving minors to distinguish the sexual conduct in this case from matters at stake in cases which entail gays joining military or their marriage.

Conclusion

The case *Lawrence v. Texas* (530 U. S 553) was nullified in Texas court, but the petitioners appealed in the supreme court. The supreme court ruling was based on broader privacy notions, and it had several impacts on cases pertaining to gay adoption, same-sex marriage, and gays in the military. Had the court used the narrower O'Connor equal rights idea, the court could have only advanced a rational reason for endorsing a statute which treats people differently on the basis of their sexual identity.

Terry v. Ohio

Summary of Case Facts

Terry V. Ohio is a 1968 US Supreme court decision that affirmed that it is not against the constitution when a police officer decides to stop a person randomly and frisk them because they have a reasonable belief that the individual is a suspect. Moreover, it is not against the fourth amendment which explains about the safeguard against unreasonable seizure or search.

Question of Law before the case

Whether the “stop” and “frisk” tactic is violation of the fourth Amendment

Ruling and question of law

Provided the officer has reasonable doubt to suspect an individual, they can do a “Stop” and “Frisk”.

Case details

In October 1963, a Cleveland officer, McFadden, on patrol in plain clothes noted three men were walking along the same route severally, and pausing to look in the same store (Terry v. Ohio, 2019). He suspected they could be up to some mischief. Mr. McFadden identified himself as a policeman and asked their names. McFadden did a search on the two entirely to the minimally necessary requirements to help him note if the suspects were and to take the weapons in case he found any, after frisking the McFadden found John W. Terry and Richard Chilton with guns and charged the two with possession of concealed weapons. The officer did not do a comprehensive search for the evidence of criminal activity he found.

The court ruled that the weapons were enough evidence for the officer to believe that the suspects were acting suspiciously. The petitioners appealed in the Supreme court, which also affirmed that the guns should be admissible. Nonetheless, the supreme court did not oppose the notion that stop and frisk did not implicate the fourth amendment protections on unreasonable seizures or searches. Although an officer is required to have a search warrant before the seizure, the court stated that this procedure is not applicable always, because in some instances they need to make a quick decision.

Impact of the court's ruling

The ruling in Terry v. Ohio still hold, and police do not have to delay commencing investigation action until the crime happens. The operation in some instances entails officers stopping, questioning and frisking people provided that they have enough reason to suspect the individual of a biased act. Markedly, this tactic if stop, question, and frisk helped in reducing the crime rate in cities around the United States during the nineties. For instance, New York City had a record of 2,200 homicide cases in 1990, and twenty-five years later, the rate had decreased to 350, with the most significant decrease happening in mid-nineties (Stoughton, 2017). The stop and frisk tactic were a key part of the broader strategy that was used by the police to decrease homicide cases.

Additionally, the decision resulted in an increase in transaction costs of criminals transacting illicit or counter brand products making the dealers conduct most of their transactions indoors. Therefore, this made the streets and other public places safe.

There was a claim in NY where a federal judge raised concern about police only using the stop and frisk policy in the neighborhoods mainly occupied by minorities (Newberry, 2017). The mayor reformed the policy to settle any pending cases on that notion. However, this did not

term the stop and frisk as unconstitutional, but instead, the method being used by NY police to implement it was the illegal part.

Controversies surrounding the case

The case on Terry v. Ohio was controversial because of several reasons. First, the court explained that McFadden had enough reasons to suspect that the three were about to conduct a crime, thus the officer was reasonable enough to suspect the three could be dangerous or even armed. However, prior to the officer feeling a gun through the defendants' clothes, the only evidence he had of a crime being planned or having taken place was based on suspicion. Thus, it can raise the question of up to what level the Fourth Amendment protects individuals on the road.

Additionally, it can be controversial as to whether there is a difference between a "stop" and an "arrest search," between a "search" and a "frisk." Furthermore, it is not clear as to what suspicion is just a probable cause or reasonable enough. For instance, in the case of Terry v. Ohio. It is unclear whether the weapons were inadmissible in court.

Scholarly Analysis

For a police officer to decide to seize and search a person, he must be having enough reason to suspect that person. In this case, Terry and his counterpart were armed and dangerous, thus it was important for the police to take swift measures for him to understand the facts of the situation but at the same time protecting himself from any danger (Stoughton, 2017). However, this does not mean that any unusual conduct that an officer sees means the suspect is armed or dangerous. Police are allowed by the constitution to search the outer clothing of a suspect with the aim of finding any hidden

weapons for the officer's protection or other citizens around. Such frisking is permissible in the fourth amendment, and in case a weapon is seized during the such, it can be used as evidence against the person in the court of law

However, there are counter-arguments that Stop and Frisk is a policy which gives police officers more power than a magistrate, meaning that American courts have taken a very extensive move down the totalitarian path (Cooper,2019). Although this step is applicable in handling modern forms of lawlessness, it should have been taken through willingly choice of citizens through an amendment of the constitution. Although there have been several instances during American history when the court has had to overlook constitutional guarantees and give the police officers a priority, this is probably the greatest of all such scenarios. However, a situation whereby police are allowed to be sovereign, and they have a right to stop someone anytime they feel that he or she is suspicious as per their discretion is a decision that should have been made through a debate which entailed all citizens ((Stoughton, 2017). Although the rule positively improved the ability of pollute investigating suspicious occurrences, it is still an issue of debate as to whether this tactic is a threat to liberty or a good strategy to fight crimes.

Moreover, from the NY debate, it is evident that the police can easily abuse this power printed to them. The police officers can target minority groups or neighborhoods with little or no justification. Moreover, this tactic is amongst the main factors that expose Africa Americans to violence.

The fourth amendment of the constitution safeguards individuals on matters pertaining to arrest or investigation and prohibits the utilization of materials confiscated without a warrant as court-room evidence. The level of protection a citizen gets in any circumstance is determined by apprehension nature, characteristics of the location being searched, and the circumstance under

which the search is being conducted. Nonetheless, for any officer to keep an individual in custody, they need to have reasonable suspicion to uphold that the individual was possibly involved in some criminal activities.

The defendant's party tried surprising evidence, but the prosecutor declared that the weapons were apprehended during a legal pursuit operation. Additionally, the court rejected the appeal for weapon suppression, explaining that this would be used as proof on the allegation that the police was suspecting the petitioner and Chilton to be up to some criminal activities. Thus, according to the prosecutor, questioning the suspects was in order, and for the officer had a right to frisk the suspects for him guarantee his safety while handling them.

Conclusion

In the case *Terry v. Ohio*, the court's decision was that police can stop a suspect and frisk them in the street when they have a reasonable belief that the suspect is doing, about to do or has done a crime. The ruling has helped in minimizing the crime rates in most cities. However, there are minority groups who feel that the police misuse this ruling and focus it mostly on the minority neighborhoods. Nonetheless, making the stop and frisk legal should have been made by involving the entire public through a debate on the constitutional amendment because it is a matter of great public interest.

Reference

- Cooper, M. (2019). THE DIALLO SHOOTING: THE STOP-AND-FRISK; Procedure Was Once to Protect the Police. Retrieved from <https://www.nytimes.com/1999/03/29/nyregion/the-diallo-shooting-the-stop-and-frisk-procedure-was-once-to-protect-the-police.html>
- LAWRENCE V. TEXAS. (2019). Retrieved from <https://www.law.cornell.edu/supct/html/02-102.ZO.html>
- Lemieux, S. (2019). How the supreme court learned to love gay couples | Scott Lemieux. Retrieved from <https://www.theguardian.com/commentisfree/2016/mar/07/supreme-court-gay-couples-same-sex-lgbt>
- McGuire, K. (2017). Why a postwar legal debate over the impact of private sex still matters today. *The Conversation*.
- Newberry, J. (2017). A Data Envelopment Analysis of the New York City Stop-and-Frisk Policy, Pre-and Post constitutionality Ruling. *Papers in Applied Geography*, 3(3-4), 308-321.
- Romero, V. C. (2017). An "Other" Christian Perspective on Lawrence V. Texas. *Journal of Catholic Legal Studies*, 45(1), 7.
- Stoughton, S. W. (2017). Terry v. Ohio and the (Un) Forgettable Frisk. *Ohio St. J. Crim. L.*, 15, 19.
- Terry v. Ohio. (2019). Retrieved from <https://www.law.cornell.edu/supremecourt/text/392/1>

ORIGINALITY REPORT

1 %	1 %	1 %	1 %
SIMILARITY INDEX	INTERNET SOURCES	PUBLICATIONS	STUDENT PAPERS

PRIMARY SOURCES

1	www.coursehero.com	1 %
	Internet Source	

Exclude quotes	Off	Exclude matches	Off
Exclude bibliography	On		

FINAL GRADE

/100

GENERAL COMMENTS

Instructor

PAGE 1

PAGE 2

PAGE 3

PAGE 4

PAGE 5

PAGE 6

PAGE 7

PAGE 8

PAGE 9

PAGE 10

PAGE 11

PAGE 12

PAGE 13