

Craig v. Boren¹

-Petitioner: Curtis Craig and Carolyn Whitener-

-Respondent: David Boren, Governor of Oklahoma-

-Citation: 429 US 190 (1976)-

-Argued: Oct 5, 1976-

-Decided: Dec 20, 1976-

Facts & Procedural Background

In Oklahoma, women who were over the age of 18 could buy non-intoxicating 3.2% beer, whereas only men who were at least 21 could buy it. A male who was between the ages of 18 and 21, Curtis Craig, challenged the law after being prevented from buying beer. Boren, who was the Governor of Oklahoma at the time, was sued in his official capacity on behalf of the State of Oklahoma, since only the law itself was being challenged.

Issue

Does Oklahoma State Law, which distinguishes between genders for minimum drinking age (18 for females and 21 for males), violate the “**Equal Protection Clause**” of the **Fourteenth Amendment**?

¹ <https://www.oyez.org/cases/1976/75-628>

Holding

Yes, the authority granted to the states under the **Twenty-first Amendment**, which allows them to regulate delivery or use of the intoxicating liquors, does not override or restrict the rights protected by the “**Equal Protection Clause**”.

Rule

In the case of *Craig v. Boren* there are such rules that is beyond the stage like the 14th Amendment that protects the “**Equal Protection Clause**” and the Oklahoma State Law (§§ 241-245) that regulates the buying age of a non-intoxicating beer,

1-Oklahoma state law (§§ 241-245) separates the sexes under the trajectory of the buying age for %3,2 non-intoxicating beer.

2-The 14th Amendment:

Amendment XIV.

Passed by Congress June 13, 1866. Ratified July 9, 1868.

(Note: Article I, Section 2 of the Constitution was modified by Section 2 of the 14th Amendment.)

SECTION 1

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall

make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

3-Prior to *Craig v. Boren*, the legal system formally described the review of sex-based classification as “**rational basis**”, however in practice, the Court applied a standard that was more strict than ordinary rational basis in such cases like **Reed v. Reed**.²

-Can be interpreted like a gap between theory and judicial practice-

Arguments & Reasoning

When this case is evaluated through the case precedents under the doctrine of ‘**stare decisis**’ from historical background, the first case that is required to mention is “**Reed v. Reed**”: according to the case cited, if a law automatically grants benefit for a gender without a rational basis, it violates the “**Equal Protection Clause**”. Since the Oklahoma State law establishes different minimum drinking ages for men and women (gender-based discrimination), and the “**ratio legis**” of the Oklahoma State law is unknown while it is enacted in 1890, it is a point that gives justification to the petitioner side according to the precedent of “**Reed v. Reed**”.

² 404 US 171, 1971

The second part that needs to be mentioned is the age gap between genders introduced by Oklahoma State law. James H. Gray (lawyer of the Boren-Governor of Oklahoma) states: “Oklahoma was traditional in its treatment of the age of majority since it is stated within 1907 being 18 for girls and 21 for boys³”. However in 1972, the legislature revised the age of majority statute to make 18 the age of legal adulthood for both genders. So the 1972 revision undermined the historical justification for differential treatment based on age and gender, thereby weakening the state’s claim that the beer statute reflected longstanding social policy.

On the other hand, within the scope of ‘Craig v. Boren’ there are several landmark cases that should be cited such as “**Goesaert v. Cleary**⁴”, “**Plessy v. Ferguson**⁵” and “**California v. LaRue**⁶”. In the precedent of Goesaert, the court used the “traditional rational basis” while evaluating through gender-based qualifications. So; under the trajectory of the “rational basis” criteria, court stated that: the Michigan State Law, which prohibits most women from working on bartenders-except the women is the bar owner’s daughter or wife-, is constitutional. Later on; in the precedent of Plessy, according to verdict of the court, the doctrine of “**separate but equal**” is constitutional; however in 1954 with the case of “**Brown v. Board of Education**⁷”, the precedent of Plessy was overruled.

³ <https://www.oyez.org/cases/1976/75-628>

⁴ 335 US 464, 1948

⁵ 163 US 537, 1896

⁶ 409 US 109, 1972

⁷ 347 US 843, 1954

When the both cases are considered, an analogy can be drawn between the black race in the “**Plessy case**” and the men under the Statute of Oklahoma. So, to protect the doctrine of “**stare decisis**” in the case of ‘Craig v. Boren’; if the problem is about the ‘separate but equal’ doctrine, the Oklahoma State law must be argued within the scope of “Equal Protection Clause”.

Evaluation through the “**Standing**” and “**Mootness Doctrine**”:

“**Craig v. Boren**” must be argued with the criteria hereby mentioned (**mootness doctrine**) while **Craig** turns the age of 21, he will no longer be affected by the Oklahoma statute that regulates the men who are under the age of 21 cannot buy the %3,2 percent non-intoxicating beer. While Craig appeals that case, he was under the age of 21 so he has the right to stand - **locus standi**- in the case as a party (plaintiff). However; while in the judicial process of this case he turned the age of 21, and according to that, he cannot be a party. And for the “**standing**” criteria, according to the “**Eisenstadt v. Baird**”⁸ precedent, the parties who are directly affected by a statute may challenge its constitutionality when there is a “**direct causal nexus**” between the law and their injury. So, when an interpretation made for the Craig v. Boren case’s standing party, Carolyn Whitener, under the trajectory of this⁹ precedent; Whitener, the beer vendor, had standing to challenge the Oklahoma statute while there is a “**direct causal nexus**” between law and her injury.

⁸ 405 US 438, 1972

⁹ Eisenstadt v. Baird

In addition, the case of “**Singleton v. Wulff**¹⁰” established that a party may assert the constitutional rights of others when there are a close relationship and a genuine obstacle preventing the right-holder from suing directly. Also, the case of Singleton formalized the modern two-part test for third-party standing, the test comprehends two frameworks as “**Close relationship**” and “**Hindrance**”. So, under the two-part test framework, an assessment must be conducted within the light of Craig v. Boren: firstly, it’s clarified that there is a close relation for Whitener in the concrete event and a genuine obstacle preventing the right-holder from suing directly (hindrance) is obvious as well. So; case of Singleton provides the doctrinal backbone for the third-party standing analysis used in Craig v. Boren:

“hindrance” is obvious for the Whitener, and also there is a close relation in the context of locus standi. Latter, this precedent refers that vendors and those in like positions have been uniformly permitted to resist efforts at restricting their operation by acting as advocates of the rights of third parties who seek access to their market or function. So; within the light of that precedent that is revealed in 1976, (exact same year that the mentioned case¹¹ was in the judicial process), “Carolyn Whitener” has the locus standi - right to be a party- in this case as well.

However, from a dissenting opinion, Chief Justice Burger objected to the section of the majority’s opinion on the standing issue. The Chief Justice reasoned that the alleged economic harm was too attenuated to trigger procedural due process protections.

¹⁰ 428 US 106, 1976

¹¹ Craig v. Boren

In addition, under the precedents of “**Barrows v. Jackson**¹²” and “**Sullivan v. Little Hunting Park**¹³”, third-party standing is allowed when the plaintiff suffers a direct injury, has a close relationship with the rights-holder, and the rights-holder faces genuine obstacles (hindrance in *Singleton v. Wulff*) to vindicating their rights themselves, such that denying standing would effectively insulate the underlying rights violation from judicial review.

Counter-Reasoning

The first countering is the case of Precedent of “California v. LaRue”, which solves the intersection between the 1st and 21st amendment. According to that precedent, 21st Amendment strengthened state power; 1st amendment analysis have been softened. So, the margin of appreciation for the state under the 21st Amendment was expanded over alcohol-related activities and First Amendment scrutiny is applied with greater deference.

So, when an analogy between the precedent of “California v. LaRue” and “Craig v. Boren” was driven, the respondent side’s (Boren-Behalf of the Oklahoma State) discretion was wide, within its regulatory authority (*intra legem*, in a theoretical sense) through alcohol-related activities as the State of Oklahoma.

However that discretion must be proportional, predictable and legitimate.

¹² 346 US 249, 1953

¹³ 396 US 229, 1969

On the other hand the precedent of “**State Board of Equalization v. Young’s Market Co.**”¹⁴ held that the Twenty-First Amendment gave states broad authority to regulate alcohol, even when such regulation would otherwise conflict with constitutional provisions — a position later narrowed by the Court. According to that precedent, structural federalism provisions (commercial clause etc.) by the states can sometimes yield to the 21st Amendment. However; individual right guarantees cannot be displaced by it, and since the “Equal protection clause” was an individual right guarantee, it is untenable to invoke this¹⁵ precedent to legitimize the violation of the “Equal protection clause” in “Craig v. Boren”.

The counter-substantial assessment

The precedent of “**Bassett v. Bassett**”¹⁶ invalidated Oklahoma’s old sex-based minority distinction under Equal Protection but did not itself universally set 18 as the legal age for all purposes. However within the procedural process, while it is a state intermediate appellate court decision, this precedent is not a binding precedent on the U.S. Supreme Court.

¹⁴ 229 US 59, 1936

¹⁵ State Board of Equalization v. Young’s Market Co.

¹⁶ Bassett v. Bassett, 1974, Case Number: 46368

The last precedent was “**Goesaert v. Cleary**” and it mentions that “Mich.Stat.Ann. (Cum.Supp. 1947) § 18.990(1), which in effect forbids any female to act as a bartender unless she was "the wife or daughter of the male owner" of a licensed liquor establishment, does not violate the Equal Protection Clause of the Fourteenth Amendment.¹⁷” However while this law was found constitutional, it creates an actual “blanket ban” for the women and so on it does not provide the “Equal Protection Clause”.

Conclusion

In a 7-to-2 decision the court held that the statute creates an unconstitutional gender classification. The court held that the statistics relied on by the state of Oklahoma was insufficient to show a substantial relationship between the law and the maintenance of traffic safety. The Court also found that the Twenty-first Amendment did not alter the application of the Equal Protection Clause in the case.

Significance

In striking down the Oklahoma law, the Court established a new standard for review in gender discrimination cases. More demanding than the lowest standard for review -- rational basis -- but less demanding than the highest standard -- strict scrutiny, the majority articulated an in-between standard -- **intermediate scrutiny**.

¹⁷ <https://supreme.justia.com/cases/federal/us/335/464/>

Also, *Craig v. Boren* overruled *Goesaert's* blanket allowance for sex discrimination and established that: Laws that classify based on sex must serve important governmental objectives and must be substantially related to achieving those objectives. As a last index, Justice William J. Brennan Jr. mentions that if this case was won by the plaintiff side it will be a "Pyrrhic Victory"; and since the plaintiff won, it was such a victory, both substantive and procedural.

Dissenting Opinions

- Justice Rehnquist

Rehnquist dissented because he felt that the law needed to pass only "rational basis" criteria, as previous cases in the area, such as *Stanton v. Stanton*¹⁸, had used only the "rational basis" test.

- Chief Justice Burger

Chief Justice Burger was "in general agreement with Mr. Justice Rehnquist's dissent" but penned a separate dissent to emphasize that "a litigant may only assert his own constitutional rights or immunities." He felt that the indirect economic injury to Whitener and other vendors introduced "a new concept of constitutional standing to which he cannot subscribe."

¹⁸ 421 US 7, 1975