

Enhancing the Rights of Legal Residents

THREE-JUDGE PANEL

In 1910, Congress created three-judge district courts in response to the Supreme Court's ruling in *Ex parte Young* (1908), which increased the number of cases in federal courts by holding that state government officials could be sued in federal courts for attempting to enforce an unconstitutional state law. Congress believed that three judges, pulled from two different federal courts, would offer more perspective in such cases than a single district judge. Three-judge panels may be ordered, for example, in requests for prison population reduction and certain proceedings related to voting rights. In *Flores de Otero v. Examining Board*, a three-judge panel was ordered because the case challenged the constitutionality of a statute.



Jose V. Toledo Federal Building and U.S. Courthouse, Old San Juan, PR

CASE SUMMARY

Maria Flores de Otero and Sergio Perez were legal residents of Puerto Rico. They were denied licenses to work as engineers, despite having all the requirements, because they were not U.S. citizens. In October 1973, Flores sued the Examining Board in the U.S. District Court for the District of Puerto Rico. She alleged it was a violation of her rights under the 5th and 14th Amendments. Perez sued a few months later. Both cases were reviewed by the same three-judge district panel. The attorneys submitted briefs to the panel. Chief Justice Coffin wrote the majority opinions joined by Chief Judge Toledo. Judge Pesquera dissented. **The Commonwealth using citizenship to prevent an "uncontrollable invasion of alien engineers" is discriminatory.** Since citizenship requirements were found unconstitutional, defendants were ordered to license plaintiff as engineers.

BRIEFS:

DEFENDANT (EXAMINING BOARD)

The main arguments of the defense are as follows:

- The court should abstain from reaching a constitutional issue and await an authoritative interpretation of the challenged statute by the courts of the Commonwealth of Puerto Rico. (*The court later decided to decline this proposal*)
- Puerto Rico may use a citizenship requirement to protect itself against an "uncontrollable invasion of alien engineers."
- Engineers not trained in Puerto Rico's unique geography and climate could be unsuitable to design safe buildings for the Commonwealth.
- Article 1483 of the Puerto Rico Civil Code imposed upon a contractor liability for damages resulting from the collapse of a building within ten years of its construction. A legal resident who did not become a citizen was "a poor risk to comply with the cited article."

PLAINTIFF (MARIA FLORES & SERGIO PEREZ)

Plaintiffs were by profession civil engineers, as well as legal residents of Puerto Rico. Plaintiffs were denied registration as licensed engineers by the defendant on the ground that they failed to meet the citizenship requirement embodied in the statute. The main arguments of the plaintiffs are as follows:

- Classification based on citizenship is unconstitutional.
- According to precedent case *In re Griffiths* classification on the basis of citizenship is suspect and can be justified only a compelling state interest. There is no compelling state interest in this case.
- There is no demonstrated relationship between citizenship and the likelihood that an individual will meet the Article 1483 liability obligation of ten years, and that any link that may exist is too tenuous to establish a compelling interest in denying licenses to all noncitizens.

Chief Circuit Judge Coffin



Held that this court had clear jurisdiction, the classification based on alienage was unconstitutional, and the defendant did not present a compelling state interest.

Chief District Judge Toledo



Joined Circuit Judge Coffin in the majority opinion.

District Judge Pesquera



Dissented arguing that citizenship guaranteed devotion, respect, and pride in American identity and that it should be protected.

OUTCOME

The majority opinion stated that discrimination for its own sake was not a constitutionally permissible purpose and that there was no demonstrated relationship between citizenship and liability.

Defendants were directed to license plaintiffs as civil engineers.

THE EXAMINING BOARD APPEALED, AND BECAUSE THE CASE HAD BEEN DECIDED BY A 3-JUDGE DISTRICT PANEL, IT AUTOMATICALLY WENT TO THE SUPREME COURT WHO NOTED PROBABLE JURISDICTION.

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