

Frontiero v. Laird (1972)



Young Lt. Sharron Frontiero (now Sharron Cohen) in her Air Force uniform in 1972

FACTS OF THE CASE

Sharron Perry, born and raised in Massachusetts, joined the United States Air Force during her senior year at the University of Connecticut. In 1969, she moved to Maxwell Air Force Base in Montgomery, Alabama. While in Montgomery, Sharron married a high school classmate and veteran, Joseph Frontiero. In 1971, Lt. Frontiero applied for military benefits for her spouse. She was denied these benefits because she could not prove that she provided at least half of Joseph's expenses. Male officers, however, received these dependency benefits for their wives, regardless of whether or not their spouses were indeed dependent. Joseph's monthly naval benefits and part-time job accounted for more than half of his living expenses; therefore, Sharron could not claim him as her dependent and receive additional benefits. Military policy allowed a substantial difference between the treatment of male and female service members. The Frontieros sought out attorney Joseph Levin Jr. to discuss the constitutionality of the policy.

DOES A FEDERAL LAW WITH DIFFERENT REQUIREMENTS FOR CLAIMING DEPENDENTS, BASED ON SEX, VIOLATE THE FIFTH AMENDMENT'S DUE PROCESS CLAUSE?

WHY THE 3-JUDGE PANEL?

Created by Congress in 1910*, three-judge district panels provide a broader range of perspectives on potentially unconstitutional state or federal laws. The panels are composed of a judge from the U.S. Court of Appeals for the local circuit and two district judges—including the district judge who initially received the case. After hearing the case, the panel meets in conference to discuss the case. The opinion is drafted by the most senior judge and the panel issues its ruling. The decision could either be unanimous or a split 2-1 majority with a dissenting opinion. Regardless of whether the decision is unanimous or divided, the majority opinion represents the court's official opinion. Appeals from these panels are heard by the Supreme Court of the United States.

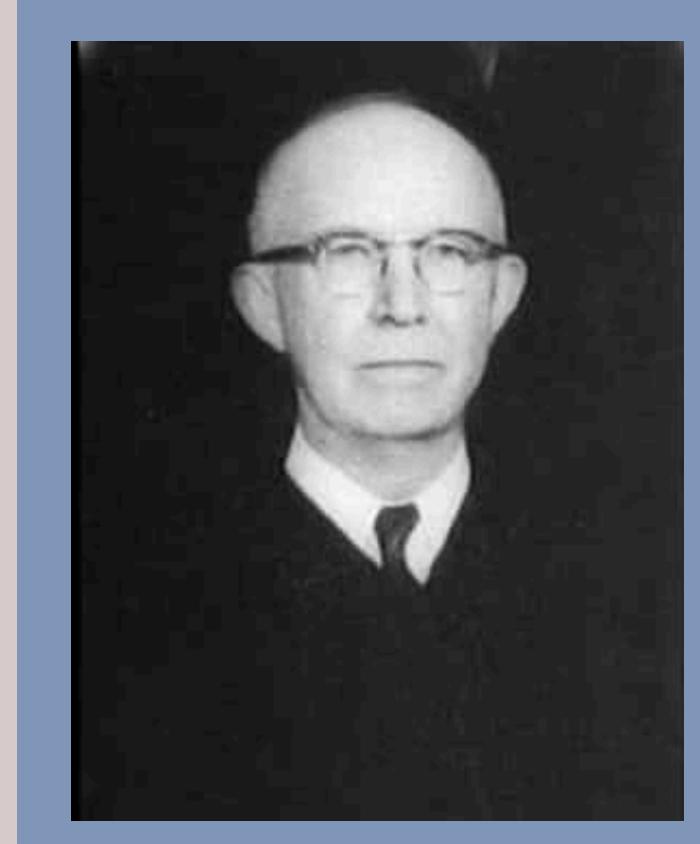
The issue in *Frontiero v. Laird* challenged a federal law and therefore constitutionally required a three-judge panel. Judge Frank H. McFadden (Fifth Circuit), Senior Judge Richard T. Rives, Chief Judge Frank M. Johnson Jr. served on the panel.

*Congress discontinued the use of most three-judge district panels in 1976.

MAJORITY OPINION

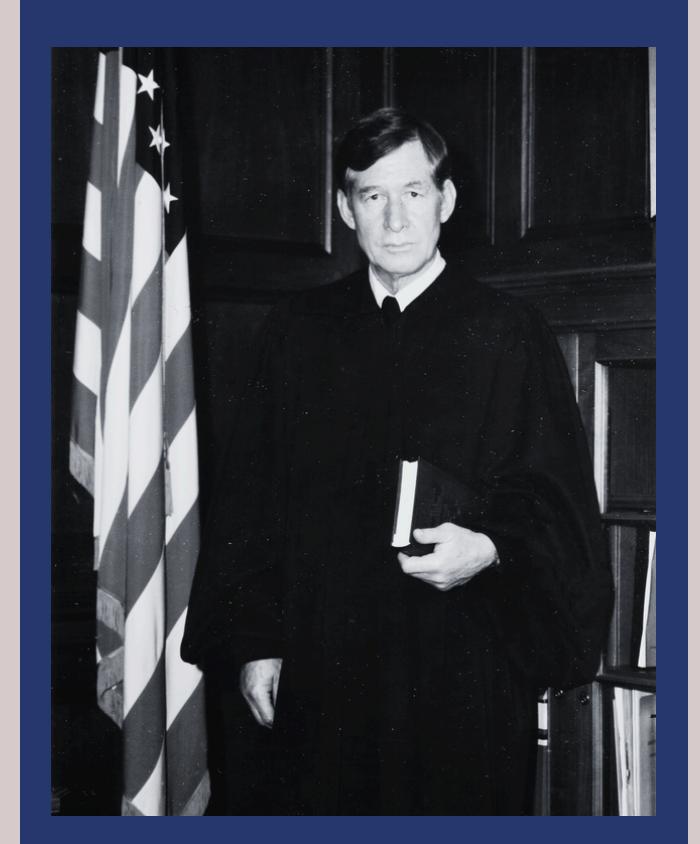


Circuit Judge Frank M. McFadden
United States Court of Appeals
for the Fifth Circuit



Judge Richard T. Rives
United States District Court
for the Northern District of Alabama

DISSENT



Judge Frank M. Johnson Jr.
United States District Court
for the Middle District of Alabama

2-1
NO.

"It seems clear that the reason Congress established a conclusive presumption in favor of married service men was to avoid imposing on the uniformed services a substantial administrative burden of requiring actual proof from some 200,000 male officers and over 1,000,000 enlisted men that their wives were actually dependent upon them."

-Judge Rives, Majority Opinion

DISTRICT TRIAL

The Frontieros challenged a federal law that required female service members to prove their husbands' financial dependence to receive housing and insurance benefits, while married male service members received them without submitting such proof for their wives. A three-judge district panel composed of a Fifth Circuit judge (now partly the Eleventh Circuit) and two district judges from Alabama heard the case. The government attorneys representing Secretary of Defense Melvin Laird, defended the law on the grounds of administrative convenience. They claimed that it would be a burden to require dependency proof from men since men made up 99 percent of the military, while women with civilian husbands were less than one percent.

Joseph Levin Jr., on behalf of the plaintiffs, argued the policy violated the Fifth Amendment's Due Process Clause and discriminated based on sex. He also noted that administrative convenience was not a valid justification, citing *Reed v. Reed* (1971). The district panel ruled 2-1 in favor of the government, with Judges Rives and McFadden in the majority and Judge Johnson dissenting. His dissent encouraged plaintiff attorney Joseph Levin Jr. to appeal. Under federal law, decisions by three-judge panels are appealed directly to the Supreme Court, which is required to hear the case. This resulted in the landmark Supreme Court case *Frontiero v. Richardson*.

"I take issue with the majority's conclusion that the classification under attack here is not based solely on sex."

*-Chief Judge Frank M. Johnson Jr.,
Dissenting opinion*

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