

1979

State Tax Commission of Utah v. Warren S. Wright : Brief of Respondent

Utah Supreme Court

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Attorney for Plaintiff; Bruce M. Hale;

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IN THE SUPREME COURT
OF THE STATE OF UTAH

* * * * *

STATE TAX COMMISSION,
STATE OF UTAH,

Plaintiff and Respondent,

-vs-

WARREN S. WRIGHT,

Defendant and Appellant.

* * * * *

RESPONDENT'S BRIEF ON REHEAR

Appeal from the Judgment of the
Third District Court
The Honorable Judge David K. Miller

* * * * *

WARREN S. WRIGHT, PRO SE
Defendant and Appellant
3090 South 1200 West
Salt Lake City, Utah 84119

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IN THE SUPREME COURT
OF THE STATE OF UTAH

* * * * *

STATE TAX COMMISSION,)	
STATE OF UTAH,)	
)	RESPONDENT'S BRIEF
Plaintiff and Respondent,)	ON APPEAL
)	
-vs-)	
)	Civil No. 15931
WARREN S. WRIGHT,)	
)	
Defendant and Appellant.)	

* * * * *

STATEMENT OF THE NATURE OF THE CASE

The sole issue to be decided on appeal is Judge Winder's denial of Appellant's untimely motion to dismiss a Supplemental Order and/or the Utah State Tax Commission's warrant of judgment. Appellant collaterally attempts to interject the issue of the constitutionality of the entire Utah income tax law. This issue is not properly before the Court but the Appellant will briefly address it.

DISPOSITION IN THE LOWER COURT

Defendant's motion to dismiss the Utah State Tax Commission's tax warrant and a lawful District Court Supplemental Order was denied. The Supplemental Order was continued without date.

RELIEF SOUGHT ON APPEAL

Respondent requests this court to affirm the District Court's order of denial.

STATEMENT OF FACTS

Respondent does not agree when Appellant asserts that the "married" classification for State Income Tax Law purposes is not based on marital status but personal life style. The classification is based on the "ability to pay." Respondent also asserts that due process was not denied Appellant.

The essential facts are stated in the "Disposition in the Lower Court."

ARGUMENT

POINT I

THAT PORTION OF THE UTAH INCOME TAX LAW PROVIDING OTHER RATES FOR MARRIED COUPLES FILING JOINTLY IS NOT AN ARBITRARY AND UNREASONABLE LEGISLATIVE CLASSIFICATION

Appellant argues that Section 59-14A-5 of the Utah Code (1973) allowing married couples to file a joint income tax return violates Article I, Section 24 of the Utah Constitution. Section 24 provides that "all laws of a general nature shall have uniform operation." Appellant contends that income tax laws are general laws and that Utah's classification scheme is arbitrary and without any reasonable

basis.

The law concerning legislative classifications and uniformity is quite clear:

An act is never unconstitutional because of discrimination so long as there is some reasonable basis for differentiation between classes which is related to the purposes to be accomplished by the act. And it applies uniformly to all persons within the class.

In fixing the limits of the class, the legislative body has a wide discretion and this court may not concern itself with the wisdom or policy of the law. Our function is to determine whether an enactment operates equally upon all persons similarly situated. If it does, then the discrimination is within permissive legislative limits.

Hansen v. Public Employees Retirement System Board of Administration, 246 P. 2d 591 (Utah 1952).

We also hold the tax does not violate the "uniformity clause" Section 24, Article I, of the state constitution. The significance of this clause is well expressed on pp. 818, 819 of Vol. 5, Calif. Jurisprudence where it states: "The word 'uniform' in the section of the constitution under consideration does not mean universal. The provision intends simply that the effect of general laws shall be the same upon all persons who stand in the same relation to the law. It has been repeatedly held that a law is general which applies to all of a class--the classification being a proper one--and that the requirements of uniformity is satisfied if it applies to all of the class alike."

As applied to taxation statutes such constitutional provision requires only that the tax shall fall upon all similarly situated.

Untermeyer v. State Tax Commission, 129 P. 2d 881 (Utah 1942).

The Utah income tax law is uniformly applied with

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respect to the "married filing jointly" classification, i.e., the law applies equally to all persons in that class. There is also a "reasonable basis" for differentiating between married persons and others.

Hansen, supra, noted, the court's role is not to second guess the wisdom of the legislature, but to determine if the legislature has acted with some reasonable basis. This court held in State v. J. B. & R. E. Walker, Inc., 116 P. 2d 766 (Utah 1941) that " . . . one who assails a legislative classification as arbitrary has the burden of showing it to be such." In order to prevail, Appellant has a strong burden of proof to convince this court that there is no reasonable basis whatsoever justifying the classification in question. No credible evidence has been put before this court to establish Appellant's case. His "naked" assertions such as "now in at least half the married households both parties are employed outside the home and at the same time average family size has decreased substantially," are not evidence. (Appellant's brief p. 9). Even if Appellant's assertions were entirely true the "ability to pay" classification is uniform and reasonable.

Appellant merely relies on his own perceptions as to how the law should be. He admits that he can't prove them. (Appellant's brief p. 10). He pits his own wisdom against that of the legislature and asks this court to accept it.

This Court, as others have, can take judicial notice of the fact that married couples (two persons) generally have greater expenses than single persons and that children generally result from marriage relationships and create additional expense. This fact alone provides a basis for the tax statute passed by the legislature.

In Sowers v. Oklahoma Tax Commission, 552 P. 2d 698 (Okla. 1976), the Oklahoma Supreme Court held Oklahoma's separate income tax rate for married persons filing jointly to be constitutional. The court recognized that married couples generally have greater financial burdens than single persons and held that "ability to pay" provided a reasonable basis for separate treatment by the tax law.

Sowers, supra, discussed in detail and considered persuasive the Tax Court of Kellems v. Commissioner of Internal Revenue, 58 T.C. 556 (1972). In Kellems, as in Sowers and the case at bar, the claimant was a single person who attacked the constitutionality of the joint return and claimed a refund. The Court gave geographical uniformity as a reason for the federal joint return but then immediately added the constitutional basis for the separate classification:

More importantly, however, Congress was within the bounds of its constitutional role since it is conceivable Congress believed that married persons generally have greater financial burdens than single persons. The recognition of such greater burdens is certainly consonant with taxation based on the

ability to pay, which has long been an important objective of the income tax scheme. The degree of recognition given by Congress to the problem of greater financial burdens on the part of the married taxpayers was also within the discretion of Congress since it does not appear arbitrary or unreasonable. (Emphasis added.)

That case was affirmed by the United States Circuit Court of Appeals, 2nd Circuit, in Kellems v. Commissioner of Internal Revenue, 474 F. 2d 1399 (1973) by a per curiam decision " . . . on the basis of the Tax Court's opinion below." Certiorari was denied by the United States Supreme Court, 414 U.S. 831, 94 S. Ct. 63, 38 L. Ed 2d 66 (1973). Sowers and Kellems are recent cases (1976 and 1973 respectively) which are still persuasive.

Appellant argues that the "married persons" classification should fall because it does not include two groups of individuals in particular, i.e., couples living together, but unmarried and "head of households."

Hansen, supra, gives the legal rationale why the existence of some unmarried couples living together does not defeat the classification at issue:

"The fact that the borderline cases * * * may not be distinguishable does not render the whole classification unjust discrimination * * *. It is often necessary in order to make classifications to draw an arbitrary line between the two classes."

It is against public policy in Utah where the man and woman live together, either by themselves or with their children, on a permanent basis, without getting legally married.

Therefore, the unclean hands theory of law applies, not to mention, the problems of defining and regulating who would qualify for this status would greatly increase the administrative burden.

The "ability to pay" concept provides a rational basis to differentiate between the "married" class and "head of households." Aside from dependants, the "married" class always has one more person, i.e., the marriage partner. The fact that a piece of legislation setting up a particular class for "remedial purposes does not remedy every needful" situation does not affect the validity of that class as long as there exists a reasonable basis to differentiate it. State v. Morgan, 139 N.W. 2d 585 (Wis. 1966) reflects this principle. The court, in upholding the constitutionality of a Wisconsin statute providing certain income tax credits and refunds to persons over 65 stated:

While it is undoubtedly true that some persons under the age of sixty-five are equally deserving of relief, there are undoubtedly other devices by which the legislature has or could, if it so desired, grant other forms of relief or assistance. The mere fact that the legislature in the exercise of a proper police-power function has not seen fit to cure or attempt to alleviate all the evils of poverty in a single piece of legislation does not render the classification used reasonable.

The same arguments against non-married couples apply also to "head of households." The question of giving separate tax rate status to "head of households" and others should be left to the legislature.

The "ability to pay" concept pervades income tax law on both the state and federal levels.

The law is complex. Differing rates, credits, refund exemptions, etc. all reflect the "ability to pay" concept and other goals of the income tax law. The complexity of the tax law requires that the legislature's judgments be given deference by the courts.

The classification is based on reason, it is not arbitrary and without justification and the law acts uniformly upon those within the class.

The rational, uniform and reasonable classifications of married couples for income tax purposes is not a special or private law in violation of Article VI, Section 26 of the Utah Constitution nor does it violate equal protection of the law.

POINT II

THE TRIAL COURTS DENIAL OF APPELLANT'S MOTION TO DISMISS WAS PROPER AND REASONABLE AND, THEREFORE, SHOULD BE SUSTAINED

Any legislative act is presumed to be constitutionally valid unless and until clearly shown it held not to be. That argument and those made in Point I were heard and sustained by the Court below. Such is clearly the law.

The Appellant's "statement" was taken to be in the form of a Motion to Dismiss by the Court, to accomodate the Appellant.

The record shows that the procedure and motion was not proper pursuant to the Rules of Civil Procedure or Chapter 59 of the Utah Code. The Court was, therefore, clearly proper in denying the motion.

The Trial Court's denial of the "Motion to Dismiss" was also reasonable in light of the legal arguments made there, which are essentially the same ones made here. This Court has previously ruled and upheld our state income tax laws. See State Tax Commission of Utah v. Hoopes, 30 U. 2d 107, 514 P. 2d 221.


CONCLUSION

That portion of the Utah income tax law allowing married couples to file joint returns and be taxed at a lesser rate than other persons does not deny uniformity of the law, equal protection of the law or the freedoms of religion or conscience nor is it a special or private law.

The classification does have a reasonable and uniform basis, i.e., ability to pay and the law acts uniformly. Since the District Court's denial was fair and proper, it should be upheld.

DATED this _____ day of October, 1978.

Respectfully submitted,



BRUCE M. HALE
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and Respondent

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing Brief to Mr. Warren S. Wright, Appellant, 3090 South 1200 West, Salt Lake City, Utah 84119, on this _____ day of October, 1978.
