

May 17, 1999

## **SUPREME COURT STRIKES DOWN CALIFORNIA WELFARE REFORM**

*(Saenz v. Roe, No. 98-97)*

The U.S. Supreme Court today struck down a California welfare reform measure that establishes a reduced level of welfare benefits during the first 12 months after a recipient moves to California.

The court's decision in *Saenz v. Roe* (formerly known as *Anderson v. Roe*) was a setback for the Washington Legal Foundation (WLF), which had filed a brief in the case arguing that states should be granted the flexibility to provide a reduced level of benefits to newcomers so that they can devote a greater percentage of their limited public welfare funds to providing assistance to long-term residents.

The Supreme Court held 7-2 that treating newly arrived residents less well than long-term residents violates the Privileges and Immunities Clause of the 14th Amendment to the U.S. Constitution, because it impermissibly discriminates against new residents based solely on the duration of their residency. The Court's decision upheld an injunction issued against the welfare reform law in early 1998 by the U.S. Court of Appeals for the Ninth Circuit in San Francisco.

WLF attorneys, while disappointed by the loss, breathed a sigh of relief that the Court's decision was far narrower than it might have been. In particular, the Court declined to base its decision (as the court of appeals had done) on an amorphous "right to travel" unanchored to any specific provision in the Constitution. By citing the Privileges and Immunities Clause as the sole basis for the plaintiffs' victory, the Court signaled that it will not permit today's decision to be used to provide expanded benefit entitlements for those traveling from state to state.

WLF filed its brief on behalf of the Allied Educational Foundation and six California legislators: U.S. Rep. John T. Doolittle; California Senators Ray Haynes, K. Maurice Johannessen, and Richard L. Mountjoy; and California Assemblymen Bill Morrow and Bernie Richter. WLF filed at the request of the California Attorney General's office.

California adopted the challenged reform law in an effort to reduce its staggering welfare costs. The reform law altered welfare payment levels so that those arriving in California would, during their first 12 months of residence, receive the level of benefits they would have received had they remained in their former states. A family moving to California from Oklahoma, for example, would receive benefits at Oklahoma's level. California's welfare system is among the most generous in the nation, so under the new law newcomers often would receive substantially reduced benefits during their first year in California.

WLF argued that California should not be required to operate a "welfare magnet." To the extent that indigents are moving to California in order to partake of its higher welfare benefits, California ought to be permitted to take reasonable steps to reduce the attraction and thereby preserve its tax dollars for its long-term residents, WLF argued.

The Washington Legal Foundation is a public interest law and policy center with supporters in all 50 states. It has been actively involved in defending recently-adopted welfare reform legislation against courtroom challenges. WLF has been battling in support of California's welfare residency law for more than five years; it filed two separate briefs in 1994 when this same case was previously before the U.S. Supreme Court. WLF also filed a brief in support of the California law in the federal appeals court, and a brief asking the Supreme Court to hear California's appeal from the appeals court decision striking down the law.

\* \* \*

For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302.