

SUPREME COURT OF THE UNITED STATES

Gillette v. United States

401 U.S. 437 (1971) · No. No. 85 · Decided March 8, 1971

SUMMARY

The Supreme Court held that the conscientious-objector exemption in § 6(j) of the Military Selective Service Act applies only to individuals conscientiously opposed to participation in war in any form, not to those opposed solely to a particular war. The Court rejected petitioners' statutory and First Amendment challenges and affirmed the judgments denying relief to Gillette and Negre.

CASE DETAILS

COURT	Supreme Court of the United States
WRITING FOR THE COURT	Justice Marshall; Justice Black; Justice Brennan; Justice Burger; Justice Douglas; Justice Harlan; Justice Stewart
JURISDICTION	Federal
DECIDED	March 8, 1971
DOCKET	No. 85
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated petitions for certiorari reviewing appellate decisions affirming denial of conscientious-objector relief from military service. Gillette challenged his conviction for willful failure to report for induction; Negre sought habeas relief and discharge from the Army.
STANDARD OF REVIEW	Whether the statutory conscientious-objector provision was properly construed and whether the administrative denials had a basis in fact; constitutional claims under the Establishment and Free Exercise Clauses were reviewed de novo.
PRECEDENTIAL VALUE	published binding Supreme Court precedent
PARTIES	Gillette, Negre v. United States, Larsen et al.

TOPICS

- military law
- statutory interpretation
- legislative history
- establishment clause
- free exercise clause

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether § 6(j) of the Military Selective Service Act exempts a person who objects conscientiously to participation in a particular war but not to war in all forms.
2. Whether limiting the statutory conscientious-objector exemption to persons opposed to participation in all war violates the Establishment Clause or Free Exercise Clause of the First Amendment.
3. Whether the administrative denials of Gillette's exemption and Negre's discharge had a basis in fact.

HOLDINGS

1. Section 6(j)'s phrase "conscientiously opposed to participation in war in any form" exempts only persons whose conscientious objection extends to participation in all war, not persons who object solely to a particular conflict.
2. Section 6(j), construed to exempt only objectors to all war, does not violate the Establishment Clause because the limitation rests on neutral, secular justifications and does not favor a particular religion or religious affiliation.
3. Applying the conscription laws to persons who object to a particular war on grounds of conscience or religion does not violate the Free Exercise Clause where the burden is justified by substantial governmental interests in military manpower and fair administration.

KEY QUOTATIONS

"Thus, however the statutory clause be parsed, it remains that conscientious objection must run to war in any form." (443)

"Rather, we hold that Congress intended to exempt persons who oppose participating in all war —'participation in war in any form'—and that persons who object solely to participation in a particular war are not within the purview of the exempting section, even though the latter objection may have such roots in a claimant's conscience and personality that it is 'religious' in character." (447)

"We find that justifying reasons exist and therefore hold that the Establishment Clause is not violated." (460)

"Since petitioners' statutory and constitutional claims to relief from military service are without merit, it follows that in Gillette's case (No. 85) there was a basis in fact to support administrative denial of exemption, and that in Negre's case (No. 325) there was a basis in fact to support the Army's denial of a discharge." (463)

FACTUAL BACKGROUND

Gillette opposed United States military operations in Vietnam but stated that he would participate in a war of national defense or a United Nations peacekeeping war. He was denied conscientious-objector classification and convicted for willfully failing to report for induction. Negre, a Catholic Army inductee, concluded after infantry training that participation in the Vietnam War would violate his religious beliefs concerning just and unjust wars; his application for discharge was denied and he sought habeas relief.

PROCEDURAL HISTORY

Gillette's conscientious-objector classification was denied, the District Court found a basis in fact for the denial and rejected his defense, and the Second Circuit affirmed his conviction. Negre's application for discharge after induction and orders for Vietnam duty was denied; the District Court denied habeas relief and the Ninth Circuit affirmed. The Supreme Court granted certiorari and affirmed both judgments.

DISPOSITION

affirmed

CASES CITED

- *Welsh v. United States*, 398 U.S. 333 (1970)
- *United States v. Kauten*, 133 F.2d 703 (2d Cir. 1943)
- *Sicurella v. United States*, 348 U.S. 385 (1955)
- *United States v. Seeger*, 380 U.S. 163 (1965)
- *United States v. Macintosh*, 283 U.S. 605 (1931)
- *Epperson v. Arkansas*, 393 U.S. 97 (1968)
- *Walz v. Tax Commission*, 397 U.S. 664 (1970)
- *Abington School District v. Schempp*, 374 U.S. 203 (1963)
- *Sherbert v. Verner*, 374 U.S. 398 (1963)
- *Cantwell v. Connecticut*, 310 U.S. 296 (1940)
- *Jacobson v. Massachusetts*, 197 U.S. 11 (1905)
- *Bolling v. Sharpe*, 347 U.S. 497 (1954)