

United States v. Kras,²⁰⁵⁸ the Court held that the imposition of filing fees that blocked the access of an indigent to a discharge of his debts in bankruptcy denied the indigent neither due process nor equal protection. The marital relationship in *Boddie* was a fundamental interest, the Court said, and upon its dissolution depended associational interests of great importance; however, an interest in the elimination of the burden of debt and in obtaining a new start in life, while important, did not rise to the same constitutional level as marriage. Moreover, a debtor's access to relief in bankruptcy had not been monopolized by the government to the same degree as dissolution of a marriage; one may, "in theory, and often in actuality," manage to resolve the issue of his debts by some other means, such as negotiation. While the alternatives in many cases, such as *Kras*, seem barely likely of successful pursuit, the Court seemed to be suggesting that absolute preclusion was a necessary element before a right of access could be considered.²⁰⁵⁹

Subsequently, on the initial appeal papers and without hearing oral argument, the Court summarily upheld the application to indigents of filing fees that in effect precluded them from appealing decisions of a state administrative agency reducing or terminating public assistance.²⁰⁶⁰

The continuing vitality of *Griffin v. Illinois*, however, is seen in *M.L.B. v. S.L.J.*,²⁰⁶¹ where the Court considered whether a state seeking to terminate the parental rights of an indigent must pay for the preparation of the transcript required for pursuing an appeal. Unlike in *Boddie*, the state, Mississippi, had afforded the plaintiff a trial on the merits, and thus the "monopolization" of the av-

²⁰⁵⁸ 409 U.S. 434 (1973).

²⁰⁵⁹ 409 U.S. at 443–46. The equal protection argument was rejected by using the traditional standard of review, bankruptcy legislation being placed in the area of economics and social welfare, and the use of fees to create a self-sustaining bankruptcy system being considered to be a rational basis. Dissenting, Justice Stewart argued that *Boddie* required a different result, denied that absolute preclusion of alternatives was necessary, and would have evaluated the importance of an interest asserted rather than providing that it need be fundamental. *Id.* at 451. Justice Marshall's dissent was premised on an asserted constitutional right to be heard in court, a constitutional right of access regardless of the interest involved. *Id.* at 458. Justices Douglas and Brennan concurred in Justice Stewart's dissent, as indeed did Justice Marshall.

²⁰⁶⁰ *Ortwein v. Schwab*, 410 U.S. 656 (1973). The division was the same 5-to-4 that prevailed in *Kras*. See also *Lindsey v. Normet*, 405 U.S. 56 (1972). But cases involving the *Boddie* principle do continue to arise. *Little v. Streater*, 452 U.S. 1 (1981) (in paternity suit that State required complainant to initiate, indigent defendant entitled to have State pay for essential blood grouping test); *Lassiter v. Department of Social Services*, 452 U.S. 18 (1981) (recognizing general right of indigent parent to appointed counsel when state seeks to terminate parental status, but using balancing test to determine that right was not present in this case).

²⁰⁶¹ 519 U.S. 102 (1996).