

To encourage the growth of its population, a state established a program that awarded \$1,000 to the parents of each child born within the state, provided that at the time of the child's birth the mother and father of the newborn were citizens of the United States.

A married couple, noncitizens who are permanent residents of the United States, have resided in the state for three years. When their first child was born two months ago, they applied for and were denied the \$1,000 award by state officials on the sole ground that they are not citizens of the United States. The couple filed suit in federal court contending that their exclusion from the award program was unconstitutional. Assume no federal statute addresses this question.

In this case, how should the court rule as to the constitutionality of the state's exclusion of noncitizens from the award program?

- A. The exclusion is constitutional, because the state has a legitimate interest in encouraging the growth of its population, and a rational legislature could believe that families in which both parents are United States citizens are more likely to stay in the state and contribute to its future prosperity than those in which one or both of the parents are noncitizens.
- B. The exclusion is constitutional, because the Tenth Amendment reserves to the states plenary authority over the spending of state funds.
- C. The exclusion is unconstitutional, because state classifications based on citizenship are impermissible unless explicitly authorized by an act of Congress.
- D. The exclusion is unconstitutional, because strict scrutiny governs judicial review of such state classifications based on citizenship, and the state cannot demonstrate that this classification is necessary to advance a compelling state interest.

## Explanation:

**Discriminatory state action** can be challenged on **Fourteenth Amendment equal protection** grounds. When such action discriminates against a **suspect class** or substantially impacts a **fundamental right**, it must survive **strict scrutiny**—the most stringent standard of review. This requires the state to prove that its action is **necessary** to advance a **compelling state interest**. And since this is a **nearly impossible standard** to meet, state actions subject to strict scrutiny are almost always held unconstitutional.

Here, the state program discriminates against parents who are resident noncitizens by denying them the \$1,000 award given to other parents of newborns. Since citizenship is a suspect class, strict scrutiny applies. And since the state's interest in promoting population growth could be achieved without excluding resident noncitizens from its award program, the state cannot demonstrate that its actions were necessary to advance a compelling state interest. As a result, the court should find the state's exclusion of noncitizens from the award program unconstitutional.

**(Choice A)** Under the *rational basis* test (the least stringent standard of review), government actions are constitutional as long as they are rationally related to any legitimate state interest. But this test only applies when the government action does not impact a **quasi-suspect class**, suspect class, or fundamental right.

**(Choice B)** The Tenth Amendment gives the states any powers not given to the federal government. But states must comply with other constitutional provisions like the equal protection clause when exercising those powers.

**(Choice C)** Congress cannot authorize state classifications based on citizenship. Such classifications must survive strict judicial scrutiny instead.

## Educational objective:

State actions that discriminate against a suspect class or substantially impact a fundamental right are subject to strict scrutiny. Under this most stringent standard of review, such actions are unconstitutional unless the state can prove that they are necessary to advance a compelling state interest.

## References

- *Nyquist v. Mauclet*, 432 U.S. 1, 7 (1977) (explaining that state classifications based on citizenship are inherently suspect and subject to strict scrutiny).

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## Levels of equal protection review

