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CAMPBELL v. LOUISIANA
118 S. Ct. 1419 (1998)

FACTS AND PROCEDURAL HISTORY

Petitioner Terry Campbell was indicted for second-degree murder in Evangeline Parish, Louisiana.¹ Prior to trial, Campbell filed a motion to quash the indictment alleging that the grand jury foreperson selection process in Evangeline Parish is discriminatory and thus violates the Equal Protection Clause² and Due Process Clause³ of the Fourteenth Amendment, as well as the Sixth Amendment's fair-cross-section⁴ requirement.⁵ To support his allegations, Campbell presented evidence that throughout the past sixteen and a half-years,⁶ an African-American had never served as the grand jury foreperson in Evangeline Parish, even though African-Americans constitute more than twenty-percent of the registered voters.⁷ The trial

court denied Campbell's motion based on its determination that Campbell, a white man charged with the murder of another white man, lacked standing to challenge an all-white grand jury.⁸

Campbell's first trial resulted in a mistrial, but he was subsequently re-tried and convicted of second-degree murder.⁹ Campbell was sentenced to life in prison without the possibility of parole.¹⁰ In a motion for a new trial, Campbell renewed his constitutional challenges to the grand jury selection process, and was again denied relief by the trial court.¹¹ Campbell then appealed to the Louisiana Court of Appeal, alleging that the trial court erred in refusing to quash his indictment on the grounds that the grand jury selection process violated the Sixth and Fourteenth Amendments of the United States Constitution.¹²

Relying on *Powers v. Ohio*,¹³ the Louisiana Court of Appeal held that Campbell had standing to raise equal protection and due process challenges to the grand jury foreman selection process,

¹ Campbell v. Louisiana, 118 S. Ct. 1419, 1421 (1998).

² The Equal Protection Clause of the Fourteenth Amendment provides, in pertinent part, "No state shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST. amend XIV, § 1.

³ The Due Process Clause of the Fourteenth Amendment states, "No state shall . . . deprive any person of life, liberty, or property, without due process of the law." U.S. CONST. amend XIV, § 1.

⁴ The relevant portion of the Sixth Amendment provides, "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . ." U.S. CONST. amend VI.

⁵ *Campbell*, 118 S. Ct. at 1421.

⁶ The sixteen and one-half years consisted of the time period between January of 1976 and August of 1993. *Id.*

⁷ Both parties stipulated to these facts. *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 1421-22.

¹² Louisiana v. Campbell, 651 So.2d 412, 412 (La. App. 3 Cir. 1995).

¹³ In *Powers*, the Supreme Court held that a criminal defendant has standing to object to the exclusion of jurors through race-based peremptory challenges under the Equal Protection Clause, regardless of defendants' own race. *Powers v. Ohio*, 499 U.S. 400, 416 (1991).

regardless of his race.¹⁴ However, the court determined that the evidence Campbell presented to the trial court was insufficient to substantiate his claims.¹⁵ Therefore, the Louisiana Court of Appeal remanded the case to the trial court for a full evidentiary hearing to determine whether the foreperson selection process had violated Campbell's constitutional rights.¹⁶ The appellate court did not address Campbell's Sixth Amendment claim or Campbell's additional assignments of error.¹⁷

The Louisiana Supreme Court granted the state's petition for certiorari and reversed the appellate court's ruling.¹⁸ Consistent with the finding of the trial court, the Louisiana Supreme Court held that a white defendant lacks standing to bring either an equal protection or due process challenge based on the exclusion of African-Americans from service as grand jury forepersons.¹⁹ The Louisiana Supreme Court determined that the appellate court erred in relying on *Powers v. Ohio*,²⁰ rather than *Rose v. Mitchell*²¹

and *Hobby v. United States*.²²

According to the Louisiana Supreme Court, the United States Supreme Court's holding in *Rose*, prevents a defendant from bringing a race-based equal protection claim, unless he is the same race as the individuals who were allegedly discriminated against.²³ Although the Louisiana court acknowledged that *Powers* held that a white defendant has standing to challenge the exclusion of blacks from a petit jury, the Louisiana court refused to expand the holding in *Powers* to encompass a situation involving a grand jury.²⁴ The court reasoned that the holding in *Powers* was based on the "considerable and substantial impact that such obvious discrimination by the prosecutor during voir dire would have on the defendant's trial as well as on the integrity of the judicial system as a whole."²⁵ The Louisiana Supreme Court concluded that "[t]he same cannot be said for discrimination in the selection of grand jury foreman."²⁶

Additionally, the Louisiana Supreme Court held that *Hobby* prevented Campbell from maintaining his due process challenge.²⁷ In *Hobby*, the United States Supreme Court held that the

¹⁴ Louisiana v. Campbell, 651 So.2d 412, 413 (La. App. 3 Cir. 1995).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Campbell's appeal included a total of eleven assignments of error. *Id.*

¹⁸ Louisiana v. Campbell, 661 So.2d 1321 (La. 1995).

¹⁹ *Id.*

²⁰ Powers v. Ohio, 499 U.S. 400, 416 (1991).

²¹ Rose v. Mitchell, 443 U.S. 545, 564-65 (1979). In *Rose*, the United States Supreme Court held that racial discrimination in the selection of a grand jury constitutes grounds for setting aside a criminal conviction. However, the defendant in *Rose* was held not to have made out a prima facie case of discrimination based on his allegation that discrimination tainted only the selection of the

grand jury foreperson. *Id.*

²² Hobby v. United States, 468 U.S. 339, 350 (1984). The Supreme Court held that even if discrimination tainted the selection of the grand jury foreperson, the white defendant was not entitled to reversal of the conviction or dismissal of the indictment against him.

²³ Louisiana v. Campbell, 661 So.2d at 1324.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

defendant's due process rights were not violated by discrimination in the selection of federal grand jury forepersons, due to the "ministerial nature" of the forepersons' duties.²⁸ The United States Supreme Court held that because of the "ministerial nature" of the forepersons duties, even if selection of the grand jury foreperson had been tainted with discrimination, it would have only an "incidental effect" on the trial, and thus does not violate the defendant's due process rights.²⁹ Finding a grand jury foreperson's duties in Evangeline Parish to be similarly ministerial, the Louisiana Supreme Court determined that any "discrimination that existed in the selection of a grand jury foreman from a properly constituted venire has little, if any effect on the defendant's due process right of fundamental fairness."³⁰ Therefore, the Supreme Court of Louisiana held that Campbell lacked standing to litigate either an equal protection or due process challenge based on allegations of discrimination against African-Americans in the selection of grand jury forepersons.³¹ Without addressing Campbell's Sixth Amendment claim, the Louisiana Supreme Court remanded the case to the appellate court to consider Campbell's remaining allegations of error.³²

²⁸ *Hobby v. United States*, 468 U.S. 339, 345 (1984).

²⁹ *Id.*

³⁰ *Louisiana v. Campbell*, 661 So.2d at 1324.

³¹ *Id.*

³² *Id.*

On remand, the Louisiana Court of Appeal affirmed Campbell's conviction.³³ Campbell applied to the Louisiana Supreme Court for a rehearing of his equal protection and due process claims, but the petition was denied.³⁴ Campbell then filed for a writ of certiorari with the United States Supreme Court. The Court granted certiorari to "address the narrow question of Campbell's standing to raise equal protection, due process, and fair-cross-section claims."³⁵

HOLDING

The Louisiana Supreme Court held that Campbell satisfied the three-part test articulated in *Powers* to establish third party standing to raise an equal protection challenge based on discrimination against African-Americans in the selection of grand jury forepersons.³⁶ Specifically, the Court found (1) that Campbell's allegations constitute an injury in fact, (2) that Campbell had a close relationship with the excluded jurors, and (3) that the excluded jurors were hindered from asserting their own rights.³⁷ Additionally, the Supreme Court held that Campbell has standing to litigate whether his conviction comported with due process based on his allegations of discrimination.³⁸

ANALYSIS

Prior to determining whether

³³ *Louisiana v. Campbell*, 673 So.2d 1061 (La. App. 3 Cir. 1996).

³⁴ *Campbell v. Louisiana*, 118 S. Ct. 1419, 1422 (1998).

³⁵ *Id.*

³⁶ *Campbell v. Louisiana*, 118 S. Ct. at 1423.

³⁷ *Id.*

³⁸ *Id.* at 1424-25.

Campbell could invoke third party standing to raise his constitutional objections, the Louisiana Supreme Court emphasized the difference between the selection of a grand jury foreperson in the Louisiana judicial system and the selection process utilized in the federal court system.³⁹ In federal courts, after the grand jury has been selected, the foreperson is chosen from among the seated grand jurors.⁴⁰ Consequently, the selection of a grand juror to serve as the foreperson does not alter the total composition of the grand jury. In contrast, the Louisiana judicial system requires the presiding judge to select the grand jury foreperson from the entire venire pool before any other members of the grand jury are seated.⁴¹ Thus, in Louisiana the selection of a grand jury foreperson effects the total composition of the grand jury. Therefore, the Louisiana Supreme Court determined that Campbell's claim is not merely a claim of discrimination in the selection of grand jury forepersons, but rather is equivalent to a claim of discrimination in the selection of the grand jury itself.⁴²

A. The Equal Protection Clause

The Supreme Court held that Campbell satisfied the *Powers* test for establishing third party standing.⁴³ Therefore, the trial court should have

allowed Campbell to assert the "rights of black persons not to be excluded from grand jury service on the basis of their race."⁴⁴

The Supreme Court found that if Campbell was indicted by a "grand jury tainted by racial discrimination," he had suffered an injury in fact.⁴⁵ In explaining why such discrimination would constitute an injury in fact, the Court emphasized that the "grand jury is a central component of the criminal justice process."⁴⁶ Therefore, regardless of the defendant's race, race-based discrimination in the selection of grand jurors "strikes at the fundamental values of our judicial system."⁴⁷ Not only does the grand jury act "as a vital check against the wrongful exercise of powers by the state," but the grand jury also possesses considerable other powers.⁴⁸ For example, the grand jury determines whether to issue the indictment, the particular offenses, and the degree of the offenses that will be brought against the defendant.⁴⁹ "The integrity of these decisions depends on the integrity of the process used to select the grand jurors."⁵⁰ Consequently, to allow racial discrimination to taint the selection of grand jurors would call into question the integrity of the judicial process.⁵¹ Therefore, although Campbell's allegations indicated that only one of the

³⁹ The Court also noted that even in state courts, the selection process utilized by the federal courts was the dominant process used. *Id.*

⁴⁰ *Id.*

⁴¹ LA. CODE CRIM. PROC. ANN., art. 413 (B) (West 1997).

⁴² *Campbell v. Louisiana*, 118 S. Ct. at 1422.

⁴³ *Id.*

⁴⁴ *Id.* at 1423.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.* (quoting *Rose v. Mitchell*, 443 U.S. 545, 556 (1979)).

⁴⁸ *Id.* (quoting *Powers v. Ohio*, 499 U.S. 400, 411 (1991)).

⁴⁹ *Id.* at 1423.

⁵⁰ *Id.*

⁵¹ *Id.*

seats on the grand jury had been denied to African-Americans based on their race, this was sufficient to establish Campbell's injury in fact.⁵² Furthermore, the Court also noted that Campbell was calling into question "the impartiality and discretion of the judge, himself," making his allegation even more detrimental to the judicial process.⁵³

In determining that Campbell has a "close relationship" with the excluded grand jurors, the Court relied primarily on its finding of "a close relationship" in *Powers*.⁵⁴ In *Powers*, the Court found that the close relationship between the defendant and the excluded jurors was based on their "common interest in eliminating discrimination from the courtroom."⁵⁵ Likewise, the Court found that the common interest shared by Campbell and the excluded grand jurors includes a common interest in "eradicating discrimination from the grand jury."⁵⁶ Additionally, the Court noted that it had no reason to believe that a white defendant would be a less effective advocate for excluded grand jurors than he could be for excluded petit jurors.⁵⁷

Lastly, the Supreme Court held that Campbell satisfied the third prong of the *Powers* test, which requires that there be "some hindrance" to the jurors' ability to protect their own interests.⁵⁸ Similar to the excluded petit jurors in *Powers*, the excluded grand jurors whose rights

Campbell sought to assert also lacked the economic incentive to bring the equal protection challenge themselves.⁵⁹ Not only are the time and monetary costs of bringing such an action substantial, but the meager financial compensation available provided little incentive for the jurors excluded because of their race.⁶⁰ Therefore, the Court held that "Campbell, like any other white defendant, has standing to raise an equal protection challenge to discrimination against black persons in the selection of his grand jury."⁶¹

B. The Due Process Clause

The Louisiana Supreme Court also held that Campbell had standing to assert that his due process rights had been violated by the alleged discrimination in the grand jury.⁶² First, the Court noted that its decision in *Hobby v. United States*⁶³ had rested on the implied assumption "that a defendant has standing to litigate whether his conviction was procured by means or procedures which contravened due process."⁶⁴ Although the *Hobby* Court ultimately determined that the defendant had not been denied his due process rights, the Court did not hold that the defendant was barred from asserting such claims.

The Court explained that in *Hobby* the defendant had not been denied due process even if discrimination had tainted the selection of the jury foreperson because the foreperson's duties were only

⁵² *Id.* at 1424.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Powers v. Ohio*, 499 U.S. 400, 414 (1991).

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Campbell v. Louisiana*, 118 S. Ct. at 1424.

⁵⁹ *Id.*

⁶⁰ *Id.* at 1423.

⁶¹ *Id.* at 1424.

⁶² *Id.* 1424-25.

⁶³ *Hobby*, 468 U.S. at 350.

⁶⁴ *Campbell v. Louisiana*, 118 S. Ct. at 1424-25.

ministerial.⁶⁵ However, this determination was based on the fact that the foreperson was selected from among the seated jurors, and therefore, “the decision to pick one grand juror over another, at least arguably, affected the defendant only if the foreperson was given some significant duties that he would not have had as a regular grand juror.”⁶⁶ The *Hobby* Court only looked at the duties performed by the foreperson because if discrimination had been a factor in the selection of the foreperson, those persons who were discriminated against still had an equal opportunity to sit on the grand jury. Therefore, the discrimination could only impact the indictment if the foreperson had significant duties that were being denied to African-Americans.

As previously noted, unlike the federal system for selecting forepersons used in *Hobby*, Louisiana courts require the judge to select the foreperson from among the entire venire pool. Therefore, the inquiry in *Campbell v. Louisiana* could not be confined to whether the foreperson’s duties are ministerial as it was in *Hobby*.⁶⁷ In Louisiana, the alleged discrimination would prevent an African-American person from even sitting on the grand jury and thus would impact the indictment, regardless of the foreperson’s duties.⁶⁸ Even if a foreperson’s duties in the Louisiana court system are ministerial, the opportunity to sit on the grand jury is not ministerial. Therefore, the Supreme Court held that Campbell “has standing to litigate whether his conviction was

procured by means or procedures which contravene due process.”⁶⁹

C. Fair-Cross-Section

The Supreme Court refused to address Campbell’s claim that discrimination in the selection of the grand jury foreman had violated the fair-cross-section requirement of the Sixth Amendment.⁷⁰ Although Campbell had asserted the Sixth Amendment violation in his initial motion to quash the indictment and in his petition for certiorari, neither of the Louisiana courts addressed this claim, nor did Campbell argue this issue at the appellate level. Therefore, because Campbell had not made an “effort to meet his burden of showing this issue was properly presented to the Louisiana appellate courts,” the Louisiana Supreme Court refused to review this claim.⁷¹

CONCLUSION

In *Campbell v. Louisiana*, the Supreme Court expanded the class of individuals permitted to assert third party standing to raise an equal protection violation alleging race-based discrimination. This decision may indicate that the Court has become less tolerant of discrimination in the judicial system, or at least less tolerant of blatant reoccurring discrimination, such as that which persisted in excess of sixteen years in Louisiana.

The Court was rather pliant in its application of the rigid criteria for obtaining third party standing. For

⁶⁵ *Id.* at 1425.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

example, in finding that the requisite “close relationship”⁷² existed between Campbell and the excluded African-American grand jurors, the Court relied on the theoretical proposition that everyone has an interest in eliminating discrimination. Regardless of how commendable this common interest is, the Court completely disregarded the fact that Campbell’s motivation for bringing this action most likely had nothing to do with eradicating discrimination.⁷³ Campbell’s objective was to have his conviction overturned, not to raise the social conscience of Americans.

Consequently, the question becomes who will benefit from the Court’s holding? In a general sense, because the Equal Protection Clause was created to protect the rights of all Americans, the entire population benefits from the Court’s protection of these rights. The public in general also benefits from efforts to end discrimination, as race-based discrimination has been the source of numerous societal problems throughout the country’s history. Additionally, assuming that white defendants can be effective advocates for excluded jurors of other races, these individuals will benefit from the Court’s ruling. By expanding the

class of individuals who can assert these rights, the Court has made it more likely that discriminatory practices like those alleged in *Campbell v. Louisiana* will not continue.

There are also potential detriments associated with allowing white defendants to represent the interests of excluded jurors of another race. The Court has been restrictive when granting third party standing in order to ensure that issues are raised by individuals with a substantial interest in effectively advocating on behalf of the other party. In alleviating the restrictions on finding a “close relationship” for third party standing in equal protection claims, there is a risk that future non-minority litigants will be less effective advocates than a member of the excluded race. However, because criminal defendants have a substantial penal interest in the outcome of their constitutional challenges, this concern may not materialize.

One important factor that may have impacted the Court’s decision in *Campbell v. Louisiana* is the suspect impartiality of judges in Evangeline Parish. The Court may have been more inclined to find that Campbell did have standing because if his allegations are true the unconstitutional discrimination was not only tolerated by the judge, but actually instituted by the judge. Due to the special position of the judge in the American legal system as the ultimate protector of justice, Campbell’s allegation was more momentous than an allegation of discrimination by another party to the litigation. When the impartiality of the judge is questioned, the integrity of the entire process is jeopardized. Therefore, perhaps this distinction encouraged the

⁷² *Powers v. Ohio*, 499 U.S. 400 (1991).

⁷³ This point was emphasized in Justice Thomas’s separate opinion in which he dissented in part. Justice Thomas’s opinion reiterated his prior disagreement with the Court’s decision in *Powers v. Ohio*, and also his disapproval of the majority’s application of the *Powers* holding in *Campbell v. Louisiana*. Justice Thomas would have held that Campbell did not have standing to litigate the equal protection rights of excluded jurors of a different race. *Campbell v. Louisiana*, 118 S. Ct. at 1426-28.

Court to be fairly liberal in its application of the doctrine of third party standing.

The Court's opinion leaves unresolved the appropriate remedy if on remand the Louisiana court finds that the grand jury selection process violated the Equal Protection Clause or Campbell's due process rights. It is unclear if the indictment must be declared void and the conviction dismissed or if the conviction may be upheld on the ground that

Campbell was not prejudiced. Further litigation of *Campbell v. Louisiana* would potentially resolve this issue of the appropriate remedy.

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