**CLEBURNE v. CLEBURNE LIVING CENTER, INC.**

**473 U.S. 432 (1985)**

**Argued March 18, 1985 Reargued April 23, 1985
Decided July 1, 1985**

JUSTICE WHITE delivered the opinion of the Court.

A Texas city denied a special use permit for the operation of a group home for the mentally retarded, acting pursuant to a municipal zoning ordinance requiring permits for such homes. The Court of Appeals for the Fifth Circuit held that mental retardation is a "quasi-suspect" classification and that the ordinance violated the Equal Protection Clause because it did not substantially further an important governmental purpose. We hold that a lesser standard of scrutiny is appropriate, but conclude that under that standard the ordinance is invalid as applied in this case.

**I**

In July 1980, respondent Jan Hannah purchased a building at 201 Featherston Street in the city of Cleburne, Texas, with the intention of leasing it to Cleburne Living Center, Inc. (CLC), for the operation of a group home for the mentally retarded. It was anticipated that the home would house 13 retarded men and women, who would be under the constant supervision of CLC staff members. The house had four bedrooms and two baths, with a half bath to be added. CLC planned to comply with all applicable state and federal regulations.

The city informed CLC that a special use permit would be required for the operation of a group home at the site, and CLC accordingly submitted a permit application. In response to a subsequent inquiry from CLC, the city explained that under the zoning regulations applicable to the site, a special use permit, renewable annually, was required for the construction of "[h]ospitals for the insane or feeble-minded, or alcoholic [sic] or drug addicts, or penal or correctional institutions." The city had determined that the proposed group home should be classified as a "hospital for the feeble-minded." After holding a public hearing on CLC's application, the City Council voted 3 to 1 to deny a special use permit.

CLC then filed suit in Federal District Court against the city and a number of its officials, alleging, inter alia, that the zoning ordinance was invalid on its face and as applied because it discriminated against the mentally retarded in violation of the equal protection rights of CLC and its potential residents. The District Court…held the ordinance and its application constitutional. Concluding that no fundamental right was implicated and that mental retardation was neither a suspect nor a quasi-suspect classification, the court employed the minimum level of judicial scrutiny applicable to equal protection claims. The court deemed the ordinance, as written and applied, to be rationally related to the city's legitimate interests in "the legal responsibility of CLC and its residents, . . . the safety and fears of residents in the adjoining neighborhood," and the number of people to be housed in the home.

The Court of Appeals for the Fifth Circuit reversed, determining that mental retardation was a quasi-suspect classification and that it should assess the validity of the ordinance under intermediate-level scrutiny. 726 F.2d 191 (1984). Because mental retardation was in fact relevant to many legislative actions, strict scrutiny was not appropriate. But in light of the history of "unfair and often grotesque mistreatment" of the retarded, discrimination against them was "likely to reflect deep-seated prejudice." Id., at 197. In addition, the mentally retarded lacked political power, and their condition was immutable. The court considered heightened scrutiny to be particularly appropriate in this case, because the city's ordinance withheld a benefit which, although not fundamental, was very important to the mentally retarded. Without group homes, the court stated, the retarded could never hope to integrate themselves into the community. Applying the test that it considered appropriate, the court held that the ordinance was invalid on its face because it did not substantially further any important governmental interests…We granted certiorari, [469 U.S. 1016](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=469&invol=1016) (1984).

**II**

The Equal Protection Clause of the Fourteenth Amendment commands that no State shall "deny to any person within its jurisdiction the equal protection of the laws," which is essentially a direction that all persons similarly situated should be treated alike. Plyler v. Doe, [457 U.S. 202, 216](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=457&invol=202#216) (1982). Section 5 of the Amendment empowers Congress to enforce this mandate, but absent controlling congressional direction, the courts have themselves devised standards for determining the validity of state legislation or other official action that is challenged as denying equal protection. The general rule is that legislation is presumed to be valid and will be sustained if the classification drawn by the statute is rationally related to a legitimate state interest. Schweiker v. Wilson, [450 U.S. 221, 230](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=450&invol=221#230) (1981); United States Railroad Retirement Board v. Fritz, [449 U.S. 166, 174](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=449&invol=166#174) -175 (1980); Vance v. Bradley, [440 U.S. 93, 97](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=440&invol=93#97) (1979); New Orleans v. Dukes, [427 U.S. 297, 303](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=427&invol=297#303) (1976). When social or economic legislation is at issue, the Equal Protection Clause allows the States wide latitude, United States Railroad Retirement Board v. Fritz, supra, at 174; New Orleans v. Dukes, supra, at 303, and the Constitution presumes that even improvident decisions will eventually be rectified by the democratic processes.

The general rule gives way, however, when a statute classifies by race, alienage, or national origin. These factors are so seldom relevant to the achievement of any legitimate state interest that laws grounded in such considerations are deemed to reflect prejudice and antipathy - a view that those in the burdened class are not as worthy or deserving as others. For these reasons and because such discrimination is unlikely to be soon rectified by legislative means, these laws are subjected to strict scrutiny and will be sustained only if they are suitably tailored to serve a compelling state interest. McLaughlin v. Florida, [379 U.S. 184, 192](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=379&invol=184#192) (1964); Graham v. Richardson, [403 U.S. 365](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=403&invol=365) (1971). Similar oversight by the courts is due when state laws impinge on personal rights protected by the Constitution. Kramer v. Union Free School District No. 15, [395 U.S. 621](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=395&invol=621) (1969); Shapiro v. Thompson, [394 U.S. 618](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=394&invol=618) (1969); Skinner v. Oklahoma ex rel. Williamson, [316 U.S. 535](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=316&invol=535) (1942).

Legislative classifications based on gender also call for a heightened standard of review. That factor generally provides no sensible ground for differential treatment…Rather than resting on meaningful considerations, statutes distributing benefits and burdens between the sexes in different ways very likely reflect outmoded notions of the relative capabilities of men and women. A gender classification fails unless it is substantially related to a sufficiently important governmental interest. Mississippi University for Women v. Hogan, [458 U.S. 718](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=458&invol=718) (1982); Craig v. Boren, [429 U.S. 190](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=429&invol=190) (1976). Because illegitimacy is beyond the individual's control and bears "no relation to the individual's ability to participate in and contribute to society," Mathews v. Lucas, [427 U.S. 495, 505](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=427&invol=495#505) (1976), official discriminations resting on that characteristic are also subject to somewhat heightened review. Those restrictions "will survive equal protection scrutiny to the extent they are substantially related to a legitimate state interest." Mills v. Habluetzel, [456 U.S. 91, 99](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=456&invol=91#99) (1982).

We have declined, however, to extend heightened review to differential treatment based on age:

"While the treatment of the aged in this Nation has not been wholly free of discrimination, such persons, unlike, say, those who have been discriminated against on the basis of race or national origin, have not experienced a `history of purposeful unequal treatment' or been subjected to unique disabilities on the basis of stereo-typed characteristics not truly indicative of their abilities." Massachusetts Board of Retirement v. Murgia, [427 U.S. 307, 313](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=427&invol=307#313) (1976).

The lesson of Murgia is that where individuals in the group affected by a law have distinguishing characteristics relevant to interests the State has the authority to implement, the courts have been very reluctant, as they should be in our federal system and with our respect for the separation of powers, to closely scrutinize legislative choices as to whether, how, and to what extent those interests should be  pursued. In such cases, the Equal Protection Clause requires only a rational means to serve a legitimate end.

**III**

Against this background, we conclude for several reasons that the Court of Appeals erred in holding mental retardation a quasi-suspect classification calling for a more exacting standard of judicial review than is normally accorded economic and social legislation. First, it is undeniable, and it is not argued otherwise here, that those who are mentally retarded have a reduced ability to cope with and function in the everyday world. Nor are they all cut from the same pattern: as the testimony in this record indicates, they range from those whose disability is not immediately evident to those who must be constantly cared for. They are thus different, immutably so, in relevant respects, and the States' interest in dealing with and providing for them is plainly a legitimate one. How this large and diversified group is to be treated under the law is a difficult and often a technical matter, very much a task for legislators guided by qualified professionals and not by the perhaps ill-informed opinions of the judiciary. Heightened scrutiny inevitably involves substantive judgments about legislative decisions, and we doubt that the predicate for such judicial oversight is present where the classification deals with mental retardation.

Second, the distinctive legislative response, both national and state, to the plight of those who are mentally retarded demonstrates not only that they have unique problems, but also that the lawmakers have been addressing their difficulties in a manner that belies a continuing antipathy or prejudice and a corresponding need for more intrusive oversight by the judiciary. Thus, the Federal Government has not only outlawed discrimination against the mentally retarded in federally funded programs, see 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, but it has also provided the retarded with the right to receive "appropriate treatment, services, and habilitation" in a setting that is "least restrictive of [their] personal liberty." Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6010(1), (2). In addition, the Government has conditioned federal education funds on a State's assurance that retarded children will enjoy an education that, "to the maximum extent appropriate," is integrated with that of nonmentally retarded children. Education of the Handicapped Act, 20 U.S.C. 1412(5) (B). The Government has also facilitated the hiring of the mentally retarded into the federal civil service by exempting them from the requirement of competitive examination. See 5 CFR 213.3102(t) (1984). The State of Texas has similarly enacted legislation that acknowledges the special status of the mentally retarded by conferring certain rights upon them, such as "the right to live in the least restrictive setting appropriate to [their] individual needs and abilities," including "the right to live . . . in a group home." Mentally Retarded Persons Act of 1977, Tex. Rev. Civ. Stat. Ann., Art. 5547-300, 7 (Vernon Supp. 1985).

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Third, the legislative response, which could hardly have occurred and survived without public support, negates any claim that the mentally retarded are politically powerless in the sense that they have no ability to attract the attention of the lawmakers. Any minority can be said to be powerless to assert direct control over the legislature, but if that were a criterion for higher level scrutiny by the courts, much economic and social legislation would now be suspect.

Fourth, if the large and amorphous class of the mentally retarded were deemed quasi-suspect for the reasons given by the Court of Appeals, it would be difficult to find a principled way to distinguish a variety of other groups who have perhaps immutable disabilities setting them off from others, who cannot themselves mandate the desired legislative responses, and who can claim some degree of prejudice from at least part of the public at large. One need mention in this respect only the aging, the disabled, the mentally ill, and the infirm. We are reluctant to set out on that course, and we decline to do so.

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Our refusal to recognize the retarded as a quasi-suspect class does not leave them entirely unprotected from invidious discrimination. To withstand equal protection review, legislation that distinguishes between the mentally retarded and others must be rationally related to a legitimate governmental purpose. This standard, we believe, affords government the latitude necessary both to pursue policies designed to assist the retarded in realizing their full potential, and to freely and efficiently engage in activities that burden the retarded in what is essentially an incidental manner. The State may not rely on a classification whose relationship to an asserted goal is so attenuated as to render the distinction arbitrary or irrational. See Zobel v. Williams, [457 U.S. 55, 61](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=457&invol=55#61) -63 (1982); United States Dept. of Agriculture v. Moreno, [413 U.S. 528, 535](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=413&invol=528#535) (1973). Furthermore, some objectives - such as "a bare . . . desire to harm a politically unpopular group," id., at 534 - are not legitimate state interests. Beyond that, the mentally retarded, like others, have and retain their substantive constitutional rights in addition to the right to be treated equally by the law.

**IV**

We turn to the issue of the validity of the zoning ordinance insofar as it requires a special use permit for homes for the mentally retarded. We inquire first whether requiring a special use permit for the Featherston home in the circumstances here deprives respondents of the equal protection of the laws. If it does, there will be no occasion to decide whether the special use permit provision is facially invalid where the mentally retarded are involved, or to put it another way, whether the city may never insist on a special use permit for a home for the mentally retarded in an R-3 zone. This is the preferred course of adjudication since it enables courts to avoid making unnecessarily broad constitutional judgments…

The constitutional issue is clearly posed. The city does not require a special use permit in an R-3 zone for apartment houses, multiple dwellings, boarding and lodging houses, fraternity or sorority houses, dormitories, apartment hotels, hospitals, sanitariums, nursing homes for convalescents or the aged (other than for the insane or feebleminded or alcoholics or drug addicts), private clubs or fraternal orders, and other specified uses. It does, however, insist on a special permit for the Featherston home, and it does so, as the District Court found, because it would be a facility for the mentally retarded. May the city require the permit for this facility when other care and multiple-dwelling facilities are freely permitted?

It is true, as already pointed out, that the mentally retarded as a group are indeed different from others not sharing their misfortune, and in this respect they may be different from those who would occupy other facilities that would be permitted in an R-3 zone without a special permit. But this difference is largely irrelevant unless the Featherston home and those who would occupy it would threaten legitimate interests of the city in a way that other permitted uses such as boarding houses and hospitals would not. Because in our view the record does not reveal any rational basis for believing that the Featherston home would pose any special threat to the city's legitimate interests, we affirm the judgment below insofar as it holds the ordinance invalid as applied in this case.

The District Court found that the City Council's insistence on the permit rested on several factors. First, the Council was concerned with the negative attitude of the majority of property owners located within 200 feet of the Featherston facility, as well as with the fears of elderly residents of the neighborhood. But mere negative attitudes, or fear, unsubstantiated by factors which are properly cognizable in a zoning proceeding, are not permissible bases for treating a home for the mentally retarded differently from apartment houses, multiple dwellings, and the like…"Private biases may be outside the reach of the law, but the law cannot, directly or indirectly, give them effect." Palmore v. Sidoti, [466 U.S. 429, 433](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=466&invol=429#433) (1984).

Second, the Council had two objections to the location of the facility. It was concerned that the facility was across the street from a junior high school, and it feared that the students might harass the occupants of the Featherston home. But the school itself is attended by about 30 mentally retarded students, and denying a permit based on such vague, undifferentiated fears is again permitting some portion of the community to validate what would otherwise be an equal protection violation. The other objection to the home's location was that it was located on "a five hundred year flood plain." This concern with the possibility of a flood, however, can hardly be based on a distinction between the Featherston home and, for example, nursing homes, homes for convalescents or the aged, or sanitariums or hospitals, any of which could be located on the Featherston site without obtaining a special use permit. The same may be said of another concern of the Council - doubts about the legal responsibility for actions which the mentally retarded might take. If there is no concern about legal responsibility with respect to other uses that would be permitted in the area, such as boarding and fraternity houses, it is difficult to believe that the groups of mildly or moderately mentally retarded individuals who would live at 201 Featherston would present any different or special hazard.

Fourth, the Council was concerned with the size of the home and the number of people that would occupy it. The District Court found, and the Court of Appeals repeated, that "[i]f the potential residents of the Featherston Street home were not mentally retarded, but the home was the same in all other respects, its use would be permitted under the city's zoning ordinance." App. 93; 726 F.2d, at 200. Given this finding, there would be no restrictions on the number of people who could occupy this home as a boarding house, nursing home, family dwelling, fraternity house, or dormitory. The question is whether it is rational to treat the mentally retarded differently. It is true that they suffer disability [473 U.S. 432, 450]   not shared by others; but why this difference warrants a density regulation that others need not observe is not at all apparent…In the words of the Court of Appeals, "[t]he City never justifies its apparent view that other people can live under such `crowded' conditions when mentally retarded persons cannot." 726 F.2d, at 202.

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The short of it is that requiring the permit in this case appears to us to rest on an irrational prejudice against the mentally retarded, including those who would occupy the Featherston facility and who would live under the closely supervised and highly regulated conditions expressly provided for by state and federal law.

The judgment of the Court of Appeals is affirmed insofar as it invalidates the zoning ordinance as applied to the Featherston home. The judgment is otherwise vacated, and the case is remanded.

It is so ordered.

[Concurring opinion of Justice Stevens omitted.]

JUSTICE MARSHALL, with whom JUSTICE BRENNAN and JUSTICE BLACKMUN join, concurring in the judgment in part and dissenting in part.

…The Court holds the ordinance invalid on rational-basis grounds and disclaims that anything special, in the form of heightened scrutiny, is taking place. Yet Cleburne's ordinance surely would be valid under the traditional rational-basis test applicable to economic and commercial regulation. In my view, it is important to articulate, as the Court does not, the facts and principles that justify subjecting this zoning ordinance to the searching review - the heightened scrutiny - that actually leads to its invalidation. Moreover, in invalidating Cleburne's exclusion of the "feebleminded" only as applied to respondents, rather than on its face, the Court radically departs from our equal protection precedents. Because I dissent from this novel and truncated remedy, and because I cannot accept the Court's disclaimer that no "more exacting standard" than ordinary rational-basis review is being applied, ante, at 442, I write separately.

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I have long believed the level of scrutiny employed in an equal protection case should vary with "the constitutional and societal importance of the interest adversely affected and the recognized invidiousness of the basis upon which the particular classification is drawn." San Antonio Independent School District v. Rodriguez, [411 U.S. 1, 99](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=411&invol=1#99) (1973) (MARSHALL, J., dissenting…When a zoning ordinance works to exclude the retarded from all residential districts in a community, these two considerations require that the ordinance be convincingly justified as substantially furthering legitimate and important purposes…

First, the interest of the retarded in establishing group homes is substantial. The right to "establish a home" has long been cherished as one of the fundamental liberties embraced by the Due Process Clause. See Meyer v. Nebraska, [262 U.S. 390, 399](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=262&invol=390#399) (1923). For retarded adults, this right means living together in group homes, for as deinstitutionalization has progressed, group homes have become the primary means by which retarded adults can enter life in the community…Excluding group homes deprives the retarded of much of what makes for human freedom and fulfillment - the ability to form bonds and take part in the life of a community

Second, the mentally retarded have been subject to a "lengthy and tragic history," University of California Regents v. Bakke, [438 U.S. 265, 303](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=438&invol=265#303) (1978) (opinion of POWELL, J.), of segregation and discrimination that can only be called grotesque. During much of the 19th century, mental retardation was viewed as neither curable nor dangerous and the retarded were largely left to their own devices. By the latter part of the century and during the first decades of the new one, however, social views of the retarded underwent a radical transformation. Fueled by the rising tide of Social Darwinism, the "science" of eugenics, and the extreme xenophobia of those years, [7](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=473&invol=432" \l "ff7) leading medical authorities and others began to portray the "feebleminded" as a "menace to society and civilization . . . responsible in a large degree for many, if not all, of our social problems." A regime of state-mandated segregation and degradation soon emerged that in its virulence and bigotry rivaled, and indeed paralleled, the worst excesses of Jim Crow.

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In light of the importance of the interest at stake and the history of discrimination the retarded have suffered, the Equal Protection Clause requires us to do more than review the distinctions drawn by Cleburne's zoning ordinance as if they appeared in a taxing statute or in economic or commercial legislation. [17](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=473&invol=432" \l "f17) The searching scrutiny I would give to restrictions [473 U.S. 432, 465]   on the ability of the retarded to establish community group homes leads me to conclude that Cleburne's vague generalizations for classifying the "feeble-minded" with drug addicts, alcoholics, and the insane, and excluding them where the elderly, the ill, the boarder, and the transient are allowed, are not substantial or important enough to overcome the suspicion that the ordinance rests on impermissible assumptions or outmoded and perhaps invidious stereotypes. See Plyler v. Doe, [457 U.S. 202](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=457&invol=202) (1982); Roberts v. United States Jaycees, [468 U.S. 609](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=468&invol=609) (1984); Mississippi University for Women v. Hogan, [458 U.S. 718](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=458&invol=718) (1982); Mills v. Habluetzel, [456 U.S. 91](http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=456&invol=91) (1982).