

Bowers v hardwick

Law



Bowers v. Hardwick United States Supreme Court Opinion This case, Bowers v. Hardwick, originated when Michael Hardwick was targeted by a police officer for harassment in Georgia. A houseguest of Hardwick's let the officer into his home, where Hardwick was found engaging in oral sex with his partner, who was another male. Michael Hardwick was arrested and charged of sodomy. After charges were later dropped, Hardwick brought his case to the Supreme Court to have the sodomy law declared unconstitutional. Justice White delivered the opinion of the Court. Justice Burger, Powell, Rehnquist, and O'Conner joined, filing concurring opinions. In Justice White's opinion, or while delivering it, he mentioned a lot of steps that were taken by Michael Hardwick to have his case at the Supreme Court. Justice White also mentioned and compared past court cases that might had relevance or helped make his opinion more valid. The key issue that was focused on by Justice White was whether or not the Federal Constitution grants a fundamental right upon homosexuals to engage in sodomy. There were still laws in many states that made sodomy illegal, and have been in place for a very long time. When making his way to presenting his opinion of the Supreme Court, Justice White went through prior cases such as Loving v. Virginia, Roe v. Wade, Eisenstadt v. Baird, and many more; because the Court of Appeals and Hardwick claimed that these cases construed the Constitution to grant a right of privacy that stretch forth to homosexual sodomy. After reviewing prior cases and accepting the decisions in those cases, Justice White thought none of the rights announced in the previous cases bears any relevance or relation to Hardwick's claim that it is a constitutional right of homosexuals to engage in acts of sodomy. Due to sodomy being a criminal offense at common law and was forbidden by the <https://assignbuster.com/bowers-v-hardwick/>

laws of the first 13 states when they approved the Bill of Rights, Justice White found it impossible to grant a fundamental right to homosexuals to engage in acts of consensual sodomy. Hardwick relied on Stanley v. Georgia to affirm that the result should be different where homosexual conduct occurs in the privacy of the home. Since Stanley v. Georgia had support from the first amendment Hardwick thought he had another claim. However, as seen by Justice White, illegal conduct is not always immunized when it happens inside the home. For example, possession and use of illegal drugs, do not escape the law when committed at home. Since Justice White was unpersuaded that the sodomy laws of the states should be invalidated based on the claims and he did not agree, the judgment of the Court of Appeals is reversed. Chief Justice Burger and Justice Powell also shared the same opinion, as Justice White read the opinion of the Court. Chief Justice Burger's view was that there is no such thing as a fundamental right to commit homosexual sodomy in constitutional terms. Although Chief Justice Burger had a concurring opinion with the Court, he went back in history to support the laws against sodomy. Justice Burger talked about the condemnation of homosexual practices is firmly rooted in Judeas-Christian moral and ethical standards, and that homosexual sodomy was a capital crime under Roman law. Justice Powell also joined the opinion of the Court. Justice Powell agreed also that there is no fundamental right for claims by Hardwick to exist. In a difference of opinion, Justice Blackmun, Justice Brennan, Justice Marshall, and Justice Stevens join. These justices do not believe this case is about a fundamental right to engage in homosexual sodomy. They believe the law in Georgia in which Hardwick was arrested for denies individuals the right to decide for themselves whether to engage in particular forms of sex, either

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private or consensual. The Justices believed that Hardwick's claim should be viewed with an emphasis to the constitutional right to privacy. Georgia's law was heavily scrutinized and dissected. Georgia Legislature never assumed that homosexuals are so different from other that laws must be set for homosexuals to coexist with heterosexuals. Georgia basically gave a definition, "stating a person who commits the offense of sodomy when he performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another." Hardwick's claim involves an unconstitutional intrusion into his privacy and his right of intimate relation had nothing to do with his sexual orientation. There was also a disagreement with the Court's refusal to study Georgia's law and consider it as a violation of the Eighth or Ninth Amendments, or even the Equal Protection Clause which is based on the Fourteenth Amendment. The Court constantly played on the fact that the right to privacy was construed in two ways. The decision of Hardwick is recognized as a privacy interest in which he made and the place in which Hardwick engaged in his activity both imply the right to privacy. "The fact that individuals define themselves in a significant way through their intimate sexual relationships with others suggests, in a Nation as diverse as ours, that there may be many "right" ways of conducting those relationships, and that much of the richness of a relationship will come from the freedom an individual has to choose the form and nature of these intensely personal bonds." The Court is basically saying that it refused to notice the fundamental interest all people have in controlling the nature of their sexual relationships. Due to the activity that was conducted in Hardwick's home, the Fourth Amendment played an important role. The Fourth Amendment was not defined by the Court as being a violation for <https://assignbuster.com/bowers-v-hardwick/>

breaking a person's door, a going through their belongings. It was defined as an invasion of his indefensible right of personal security, personal liberty and personal property. Neither Georgia's law nor Georgia's prosecutor provided insufficient evidence and validity to support the conclusion that homosexual sodomy is considered unacceptable behavior in the state of Georgia. In result of this Court of Opinion, the Court ordered the dismissal of Hardwick's complaint because Michael Hardwick had alleged a constitutional claim well enough to withstand a motion to dismiss.