SUPREME COURT OF LOUISIANA

No. 95-CA-2189

JODY W. MANUEL, STACY P. FORET, BURKE G. PIERROTTI AND WENDELL J. MANUEL

Versus

STATE OF LOUISIANA ET AL

LEMMON, J., Dissenting

I dissent for the reasons assigned by Justice Victory and for the following additional reasons.

The standard for determining the constitutionality of a statute that sets up a classification on any basis not enumerated in Section 3 is whether the classification under the presumptively constitutional statute furthers any legitimate governmental interest, and the opponent has the burden of proof. On the other hand, the standard for determining the constitutionality of a classification based on age is stated expressly in La. Const. art. I, §3 -- the classification cannot "arbitrarily, capriciously or unreasonably discriminate." Because "age" discrimination is specifically enumerated in Section 3 and because an age classification must have a non-arbitrary basis, the burden of proof is on the proponent of constitutionality to show that the statute setting up such a classification substantially furthers a legitimate governmental interest.

The principal difference in the standards is in the placement of the burden of proof, although a classification on a basis enumerated in Section 3 requires that the legitimate governmental interest be a substantial reason for the classification rather than merely an incidental consideration.

The statute at issue in this case is a minimum drinking age statute. The issue is

whether establishing the minimum drinking age at an age higher than the age of majority substantially furthers the legitimate governmental interest of promoting highway safety. The pertinent inquiry is made by comparing the category composed of persons from eighteen to twenty years of age with the category composed of persons twenty-one years of age and older. The majority errs in comparing the eighteen-to-twenty age group with numerous other three-year age groups for the purpose of determining the legislative arbitrariness in fixing the minimum drinking age at twenty-one. The focus should be on the reasonableness of the Legislature's drawing the line at the specific age higher than eighteen, and the State has the burden of proof.

The State introduced national statistics showing an over-involvement of the age group classified under the Louisiana statutes in alcohol-related highway injuries and state statistics showing that the group represents five percent of all licensed drivers, but are involved in ten percent of all alcohol-related accidents. A National Highway Transportation Safety Administration study estimated that highway fatalities have been reduced by twelve percent because of the minimum drinking age laws. Louisiana can certainly use these and the other national and state statistics and reports, which were undertaken for the specific purpose of evaluating this minimum drinking age, as a non-arbitrary basis for establishing a reasonable minimum drinking age in this state, rather than reverting back to the lowest minimum drinking age in the nation.

I have difficulty in finding arbitrary a classification establishing a minimum drinking age that every other state has established in order to substantially further the legitimate governmental objective of promoting highway safety. Moreover, there is undeniable logic in the theory that prohibiting drinking by younger drivers who are inexperienced both at driving and at drinking would surely promote highway safety.

While I conclude that the State proved furtherance of a legitimate government

interest in establishing the minimum drinking age at twenty-one, I have a great deal of problems with the numerous and arguably illogical exceptions that allow persons under twenty-one to possess and consume alcoholic beverages. However, because the majority pretermitted this problem, I merely dissent from the decision on the basis set forth by the majority and reserve judgment on the problem with the exceptions.