

## IN THE SUPREME COURT OF THE UNITED STATES

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 :  
 JAMES Y. CARTER, Public Vehicle :  
 License Commissioner of the :  
 City of Chicago, :  
 :

Petitioner, :  
 :

v. :  
 :

No. 76-1171 :  
 :

LUTHER MILLER, on his own behalf :  
 and on behalf of all others :  
 similarly situated, :  
 :

Respondent. :  
 :  
 ----- :

Washington, D. C.,

Wednesday, November 30, 1977.

The above-entitled matter was resumed for argument  
 at 10:03 o'clock, a.m.

## BEFORE:

WARREN E. BURGER, Chief Justice of the United States  
 WILLIAM J. BRENNAN, JR., Associate Justice  
 POTTER STEWART, Associate Justice  
 BYRON R. WHITE, Associate Justice  
 THURGOOD MARSHALL, Associate Justice  
 LEWIS F. POWELL, JR., Associate Justice  
 WILLIAM H. REHNQUIST, Associate Justice  
 JOHN PAUL STEVENS, Associate Justice

## APPEARANCES:

[Same as heretofore noted.]

P R O C E E D I N G S

MR. CHIEF JUSTICE BURGER: We'll resume arguments in Carter against Miller.

Mr. Masur, you may proceed.

ORAL ARGUMENT OF ROBERT MASUR, ESQ.,

ON BEHALF OF THE RESPONDENT

MR. MASUR: Mr. Chief Justice, and may it please the Court:

Luther Miller is an ex-offender, who was denied a license necessary to seek employment in the City of Chicago as a public chauffeur.

Before the Court today is a question as to the constitutionality of that part of the ordinance which bars his license for life.

Unfortunately, Luther Miller's story is altogether too familiar in our society today. A man convicted of a felony prior to the time he reached twenty years of age. A man who was sentenced to serve a term in prison and who, upon release, as an adult, finds himself faced with numerous occupationally disabling requirements.

QUESTION: Would your case be any different, would the issue be any different if his conviction had been at the age of forty, let us say, instead of twenty?

MR. MASUR: No, Your Honor. The ordinance would similarly be unconstitutional.

At the very time when Mr. Miller's need for a job is most acute, at the very time when it is most important for him to attempt to establish himself as a reputable member of the society, he finds that the collateral consequences of his conviction make it difficult for him to find employment.

Such was the case for Mr. Miller. Nine and one-half years after his conviction, Miller applied for a public chauffeur's license from the City of Chicago. The license is a prerequisite for a number of common unskilled jobs in the City of Chicago, including private bus drivers, private chauffeurs, and, most typically, taxicab drivers.

Miller's application was denied because the ordinance here at question prohibits the licensure for life of anyone who is convicted of an offense involving the use of a deadly weapon.

No pardon from the executive, the State of Illinois. No certificate of rehabilitation from a court of law. No conduct, which Mr. Miller might engage in subsequent to his conviction, lawful conduct, will in any way remove that bar.

Mr. Miller's story is, therefore, both typical and atypical in our society today. It is typical because there are, in fact, numerous occupational disqualifications which are applied to ex-offenders.

It is for that reason that the American Bar Association filed its amicus brief in this case, and it is for that

reason that the ABA has generally been leading a nationwide drive to remove the kind of disabling licensure requirements which is before the Court today.

This ordinance is atypical because it is the most severe and restrictive ordinance that at least counsel for the respondent has ever encountered.

QUESTION: If your argument were sustained, I suppose the City of Chicago could revert to a policy of automatically revoking licenses for -- on the basis of conviction of a felony for those who already have them, as well as denying them, without violating equal protection.

MR. MASUR: Your Honor, our argument does not rest solely on whether or not a licensee may keep his license after conviction. The statute, the ordinance as a whole is irrational. The terms --

QUESTION: Well, what do you mean "the ordinance as a whole is irrational"? Is that what we're here to decide?

MR. MASUR: Your Honor, we are only here to decide a single specific part of the ordinance, but the ordinance --

QUESTION: But under what provision of the Constitution do you say we are empowered to decide that it is irrational?

MR. MASUR: The ordinance -- the issue before the Court is the single question as to whether or not the lifetime ban, as to Mr. Miller for conviction of an offense involving

the use of a deadly weapon, is unconstitutional.

QUESTION: Under what provision of the Constitution?

MR. MASUR: The equal protection clause and the due process clause.

QUESTION: Well, if your argument under the equal protection clause were sustained, couldn't that be cured by simply making exactly the same ban applicable to those who already have licenses?

MR. MASUR: No, Your Honor, because -- and I intend to get into it more completely later; but the basic -- the fact is that when you examine the ordinance as a whole, which I believe you must, and not simply isolate one specific disabling offense, the -- one can see, as was demonstrated yesterday, that the disabling offense does not serve rationally the purpose that the City articulates as its only defense, which is to protect public safety.

QUESTION: But surely Mr. Justice Rehnquist is correct, the implications of his question. So far as the equal protection clause goes, if there are no more classifications, then there cannot be invidious classifications and your equal protection clause argument would fail if Chicago treated all -- both of these classifications identically; i.e., applicants for licenses and those who already have licenses. And anybody convicted of an offense involving a gun is disqualified from a license. Then there would be no further



classifications.

MR. MASUR: There are further classifications, Your Honor, because the ordinance is a unified system, and there are people who are subject to an eight-year ban on licensure. People who have been convicted of misdemeanors involving moral turpitude, and all other felonies, other than a very select few. Those are the felonies who are only subject to an eight-year ban, and include such people as have been convicted of murder by strangulation -- that is, to say, not involving a deadly weapon.

QUESTION: Yes, but if Chicago treated both licensees and applicants precisely the same with respect to this kind of a disability, an offense involving a gun, or those disabilities involving an eight-year ban, or whatever, there would be no more classifications for you to complain about.

Would there?

MR. MASUR: I'm not sure that I am understanding, Mr. Justice Stewart. There are a number of classifications set up by the ordinance.

QUESTION: And if Chicago obliterated all of them, and treated all, both applicants and licensees, identically --

MR. MASUR: And prohibited the licensure of anybody who was convicted of any offense.

QUESTION: Whatever they wanted to do, so long as they didn't create any differences, any distinctions between

applicants and licensees.

MR. MASUR: If there were an ordinance before the Court, which it obviously isn't, if an ordinance were before the Court which involved simply saying anybody ever convicted of anything may never get a license --

QUESTION: And any licensee who was convicted of anything loses his license.

MR. MASUR: That's right. It is our position that such an ordinance would also be unconstitutional.

QUESTION: Under the equal protection clause?

MR. MASUR: Yes, Your Honor. Because that kind of a disproportionate treatment, as between somebody who was convicted of an offense 15, 20 years ago, and someone who was never actually convicted of an offense, the disproportionate result that's created is -- would violate the equal protection clause. That, for example, was --

QUESTION: You wouldn't use the Eighth Amendment while you're at it, cruel and inhuman punishment?

MR. MASUR: We raised the issue, Your Honor, in the trial court, but we have not -- we have not --

QUESTION: That's a cruel and inhuman punishment to tell a man that he can't have a license to drive a car?

MR. MASUR: My understanding of the case law, Your Honor, is that cruel and unusual punishment does not apply to licensing situations like this, although I think that it is,

in a sense, cruel and unusual.

QUESTION: Well, you just don't agree with the law.

MR. MASUR: In that particular case, perhaps not, Your Honor.

In James v. Strange, for example, where the State of Kansas had a legitimate, as recognized by the Court, a legitimate interest in recouping money from persons convicted of an offense, when the State paid for their defense. Nonetheless, this Court held, despite their legitimate interest, that the disproportionality that was involved there --

QUESTION: There were classifications in that case, weren't there?

MR. MASUR: Surely, there were classifications as between those persons and others who had not been in prison -- there are classifications here, too, Mr. Justice Stewart. There would be a classification between all people --

QUESTION: Justice Rehnquist's question was: If you prevail on your equal protection clause claim, couldn't Chicago immediately solve, say, the constitutional defect by simply treating licensees the same as applicants. And your answer is no; I don't quite understand why you say no, but I understand that your answer is no, they couldn't.

So you -- I don't want to take any more of your time.

MR. MASUR: The licensing scheme -- and it is our opinion that you cannot divorce the particular clause that's



before the Court from the entire scheme -- the licensing scheme sets up a general system to evaluate the character and reputation of every single applicant for a license.

QUESTION: Are you saying that your client can raise difficulties which you conceive to be inherent in the licensing scheme which did not affect the denial of the license to him?

MR. MASUR: The difficulties that are inherent in this licensing scheme go to the rationality of the entire scheme as applied to this particular clause.

The ordinance -- and this is Chapter 28.1-4 -- provides that "If the commissioner shall be satisfied that the applicant is of good character and reputation and is a suitable person to be entrusted with driving a public passenger vehicle he shall issue the license."

As part of that decision that the Commissioner must make in every single case, the Commissioner is empowered to look into an applicant's employment history, his reputation in the community, his physical qualifications, whatever the Commissioner deems relevant for character and fitness.

There is, therefore, an evaluative mechanism to deal with every single applicant, except -- and that is licensees and applicants alike -- except as far as Mr. Miller is concerned, and the other few people who are barred for life by this ordinance.

The licensing scheme here, established by the Chicago

Public Chauffeur's Ordinance, creates a crazy quilt of categories and disabilities, similar or identical offenses are treated differently, past employment is sometimes relevant and sometimes it isn't relevant. Character and fitness is always relevant, except when it isn't.

Thus, Luther Miller, who was convicted 13 years ago of an offense involving the use of a deadly weapon, but a licensee who was convicted yesterday may retain his license.

Someone convicted of murder by strangulation, kidnapping for ransom, battery, may be licensed after eight years; Miller may never be licensed. And people with drunk driving records have no disability whatsoever.

QUESTION: I beg your pardon?

MR. MASUR: People with drunk driving histories have no presumptive disability whatsoever.

QUESTION: Oh, presumptive, well --

MR. MASUR: That's right.

QUESTION: You left it out before; you left out a word.

I'm sure it was accidental.

MR. MASUR: Yes. Yes. Presumably every applicant's past history can be evaluated by the Commissioner. That's what makes this ordinance so irrational. We are not saying to this Court that the Commissioner may not consider --

QUESTION: Are you alleging that in the State of

Illinois the Commissioner investigates every applicant for a chauffeur's driver's license, as to his character, his employment, et cetera?

MR. MASUR: Yes, Your Honor, that's what the ordinance provides.

QUESTION: And how many of those a year?

MR. MASUR: Your Honor, I have no idea.

QUESTION: Up in the thousands!

MR. MASUR: This is only in the City of Chicago, Mr. Justice Marshall.

QUESTION: In the City of Chicago, how many taxis do you have? Thousands.

MR. MASUR: Probably.

QUESTION: Impossible -- you don't really assume that they -- all you do is you go down here and you take a license and you answer some questions. Isn't that a fact?

MR. MASUR: Your Honor, there's nothing to that effect in the record. All I'm --

QUESTION: That's what I'm asking you. Are you saying that that's actually the practice?

MR. MASUR: I don't know, Your Honor, the -- what the law sets out, this is what you are to do.

QUESTION: Is it that you don't know what the practice is?

MR. MASUR: This case was --

QUESTION: Is it that you don't know?

MR. MASUR: Yes, Your Honor.

Yesterday the issue that was discussed most before the Court was the issue as to the distinction between licensees and applicants. And the Court -- the Commissioner admitted that the only purpose for the public chauffeur's ordinance was to protect the public safety.

At the same time the Commissioner admitted that the treatment of licensees had no relevance to the question of public safety; and, indeed, that the scheme turns reality on its head. That recent convictions become far more relevant as to safety than past convictions.

QUESTION: Is it your position that a statutory scheme of this kind is unconstitutional because it protects the public against some of the hazards but not all of the hazards of having ex-felons driving taxicabs?

MR. MASUR: No, Your Honor. It's our position that the irrational classifications created by this ordinance, and the disproportionate results that follow from it, do not in fact -- are not in fact rationally related to the only articulated purpose for the ordinance, which is to protect the public safety.

QUESTION: I don't -- your contention, therefore, is that the City Council of Chicago, which is the body that enacted this ordinance -- right?

MR. MASUR: Yes, sir.

QUESTION: -- are crazy. Is that it?

MR. MASUR: No, Your Honor, I think --

QUESTION: They are not rational, and that's a definition of lunacy, so --

MR. MASUR: I think that this ordinance is not rational. This ordinance, Your Honor, I think, is properly viewed within the context of traditional offender disabilities that have been imposed upon people who once committed a crime. Traditionally those disabilities grew out of a societal desire to ostracize, to continue to ostracize, in fact to prohibit the re-integration of offenders into society.

QUESTION: But our law is full of examples in every State of the Union, I would be almost certain, and very, perhaps very, very unwisely, as you and the ABA and others say; but lack of wisdom doesn't mean unconstitutionality.

MR. MASUR: Well, first of all, the -- although there are numerous laws across the country --

QUESTION: All sorts of disabilities imposed upon convicted felons.

MR. MASUR: That's correct, Your Honor, but the fact is that most of those disability ordinances and statutes are nowhere near as severe as this, and in fact the general trend in the country is to remove them or to --

QUESTION: By legislative action, right?



MR. MASUR: By legislative action.

QUESTION: Perhaps that's very, very wise, as you say. But that does not have anything to do with the constitutionality of those laws.

MR. MASUR: But this ordinance, Your Honor, it is our contention that --

QUESTION: Well, your contention is that this one isn't, I know. I understand.

MR. MASUR: -- that this is irrational.

Take, for example, the Commissioner says this is for the public safety. And for the public safety we must ban people for life who committed an offense 13, 20 years ago.

He chooses, first of all, to ban people convicted of the use of a deadly weapon. As our brief establishes, you could be convicted of the most minor misdemeanor and fall within this lifetime ban.

In addition, the lifetime ban includes people convicted of incest, or of the infamous crime against nature -- which I believe is sodomy.

QUESTION: Mr. Masur, just to pursue Justice Rehnquist's question before, <sup>do</sup> you really have standing to complain about other people who are included in the ordinance, who committed less serious offenses than your client did? Now, we're dealing with the question of whether the ordinance can constitutionally be applied to one who committed armed

robbery. Is it, therefore, relevant to ask about people who may have been convicted of unlawful possession of a hunting knife, or something like that?

MR. MASUR: I believe it is, Your Honor, because the ordinance as a whole -- we're not asking the Court to declare unconstitutional that part of the ordinance which is not before it, clearly; but the ordinance as a whole goes a long way in establishing whether or not in fact this is a rational scheme that the City has set up, as applied to my client, Luther Miller.

And it is our contention that if the Court looks at the ordinance as a whole, examines the categories that it establishes --

QUESTION: Well, say we agree with you that it's irrational to include incest; would that entitle your client to relief?

MR. MASUR: Not simply that, Your Honor, I agree. However, the fact --

QUESTION: Or say we agree it's irrational to include misdemeanors involving a deadly weapon; would that entitle your client to relief?

MR. MASUR: The fact that these offenses are included in a lifetime ban is an indication that what was motivating the City Council, the intent behind this ordinance is not as the Commissioner has argued before this Court, but

that there was some attempt to pick out, to choose those offenses which the City Council was morally upset by, and to ostracize those people for life. In that sense, the inclusion of the armed robbery or the use of the deadly weapon within there falls -- it's some indication that in fact this is not at all necessary, as they indicate, to protect the public safety.

In addition, Mr. Justice Stevens, the City has the evaluative mechanism for every single applicant to determine --

QUESTION: Well, they could have done a better job, that's true. But assume they had mixed motives, assume some members of the Council thought they really ought to punish people who have ever done anything wrong in society, so don't let them ever drive a cab.

But some members of the Council thought there's also a safety problem here, and people who have committed armed robbery do pose a greater threat to the safety of passengers than others do. Would the mixed motivation deprive the ordinance of rationality?

MR. MASUR: Not in and of itself, but the mixed motivation has led to an ordinance which is not in fact rationally -- does not in fact rationally further the goals which they have established.

It is also disproportionate, Mr. Justice Stevens, in the sense that they have chosen certain crimes and there's

a lifetime bar. In fact, the City, in its opening brief, on page 28, says something to the effect that: admittedly, the decision as to whether or not to impose a five-year ban or a ten-year ban or a lifetime ban, is somewhat arbitrary. And those are the Commissioner's words.

Well, if it were a five-year ban or a ten-year ban, Mr. Miller would now be eligible for a license.

QUESTION: It's your position that the City in this case justified every single one of the provisions of this ordinance?

MR. MASUR: No, Your Honor. It is --

QUESTION: I thought that's what you said.

MR. MASUR: No, Your Honor, --

QUESTION: You said that it showed what their motive is.

MR. MASUR: What I'm suggesting to the Court is that the -- by looking at the ordinance as a whole, one can ascertain that in fact this ordinance was not established for the sole purpose which they have -- the Commissioner has articulated today. That as a general licensing scheme, it is irrational.

As to all other licensing provisions in the City of Chicago, they simply rely on a character and fitness standard.

QUESTION: And my question again is: that requires the City to justify each provision as being "rational".



MR.MASUR: Well, it is true --

QUESTION: Is that the burden of proof you want to put on the City?

MR. MASUR: I don't think it's a burden of --

QUESTION: Or is that the burden you want us to put on the City?

MR. MASUR: I don't -- no, Your Honor, but the fact is, of course, that the City has ignored all of the other provisions in the ordinance, other than the immediate one before; and that is, in my opinion, because --

QUESTION: Well, then you say that the City now has to justify each one, including incest?

MR.MASUR: I believe that the City, in coming before the Court and saying to the Court: the purpose of this ordinance is public safety -- is required to come to the Court and say: the position of Mr. Miller within that scheme is a rational -- he is being rationally treated as related to all other people. That this is the sole purpose of the ordinance, public safety; it is proper therefore to --

QUESTION: Because you couldn't rationally deny a license to a person guilty of incest, you can't hold your man responsible.

That's your argument.

MR. MASUR: I don't believe it is, Mr. Justice Marshall.



QUESTION: Suppose the only prohibition were the one that applies to your man here, and there were no others in the ordinance, would you still say it was unconstitutional?

MR. MASUR: Mr. Chief Justice, in saying if only armed robberies could not get a license and everybody else was eligible for licensure, would it be rational? No, I believe it would not be rational. Because the City Council would be in the position of setting out one group of persons, a classification, and treating them radically differently from all other identically or similarly situated people, and not just that the treatment is different but that the disproportionality of the treatment is so great.

On the one hand, somebody is eligible immediately for licensure; on the other hand, Miller is barred for life.

QUESTION: Now, you said it wouldn't be rational, does that -- that has nothing to do, does it, with whether or not it's constitutional?

MR. MASUR: As I understand the equal protection clause --

QUESTION: I don't think the equal protection clause has much to do with rationality, does it? It has to do with classification.

MR. MASUR: And if the classifications are not rational --

QUESTION: No, no, if they are invidiously discrimin-

atory?

Rationality as a criterion of constitutionality went out about forty years ago. I thought. Perhaps I misunderstood.

MR. MASUR: Well, perhaps I chose the wrong word. I believe that it would be invidiously discriminatory as well, Mr. Justice Stewart, to set up the licensing scheme that looked like that.

As I indicated before, and I think it is appropriate for the Court to look to the history of discrimination that has been imposed on ex-offenders. Ex-offenders, as a group, are people who have no political power indeed to -- until very recently, in most States they were denied the right to vote. Because they are in that position, they are subject to this kind of an ordinance, which allows the City to say to a person, "If you have done something once, the rest of your life is meaningless in terms, at least, of seeking employment through any licensing agency in the City of Chicago."

I think that it is important, therefore, that the Court look to -- carefully at the ordinance, and not simply to see whether there is a -- whether there is a line that somehow might be acceptable here.

The ordinance, as the ABA points out, and as presidential commissions have pointed out, is contrary to good public policy. Most States, or many States, including Illinois,

have rejected the presumptions behind this kind of an ordinance. In Illinois, all licensing schemes provide that a conviction may be taken into account -- which we have never denied here -- but they may not, in and of themselves, be presumptive bars.

The City of Chicago, for all purposes, except this ordinance and one or two others, does exactly the same.

To deny a person the right to seek employment, which is, after all, if not a fundamental right under this Court's holding, certainly a very important right, is certainly unwise and in fact, in our opinion, unjust.

I believe that there is substantial precedent from this Court to establish the unconstitutionality of this ordinance. This is -- the ordinance is disproportionate in the sense that James v. Strange was.

Schwara vs. Board of Bar Examiners establishes that in order to consider somebody for a license -- in that case it was a bar license -- one must look at their present fitness for licensure.

QUESTION: Was that an equal protection case?

MR. MASUR: It was decided under the due process clause, Mr. Justice Stewart, but in In re Griffiths, which was an equal protection case, the Court cited and relied upon Schwara, and again condemned undifferentiated bars to employment.

We believe the ordinance here before the Court is

unconstitutional, that indeed without wishing to engage in hyperbole, that it is contrary to many of the notions which govern our society; which is to say that an individual ought to have the right and the opportunity to seek -- to improve and to advance himself. And that to hold against him because of a serious mistake which he made as a youth, or as a young man, is contrary to the notions on which we generally govern ourselves.

QUESTION: Mr. Masur, --

MR. MASUR: Yes, sir?

QUESTION: -- may I ask you two questions?

First, you attack the classification between licensees and applicants on the ground that the justification for the ordinance does not justify that classification.

Well, perhaps the classification could be justified by some other consideration that generally -- your opponent argues that the right to a job should be more respected in the case of one who has the job than one who is merely seeking the job. What do you say about the validity of that general justification for this kind of distinction? I think he acknowledged that it was not supported by case law -- except to the extent that hearings are provided in Roth and so forth.

Well, you haven't really attacked the classification in general terms, apart from the fact that it doesn't -- that it isn't related specifically to the justification for this

ordinance. Do you accept the validity of his distinction otherwise or not?

MR. MASUR: No, Your Honor, I -- the Commissioner suggests two justifications for that distinction between licensees and applicants. One of them is a track record, and, as we point out, a licensee in fact may not have a track record at all. Indeed, the irony is that the licensee, even if he has a track record, here is a person who commits a crime while he's a licensee.

In addition, the track record argument doesn't deal with the fact that an applicant may have an employment history, not driving a cab generally, but equally long or longer than the cab driver. And finally, even if -- and this turns more to his argument that essentially there is an interest involved -- even if the licensee has more of an interest in taking his -- in keeping his license, than the applicant does in getting it, there is no justification in case law for imposing differential standards as between licensees and applicants. And, indeed, even if the interest is there, the disproportionate result, in light of the fact that the licensee has just committed a crime and my client committed a crime 13 years ago, the disproportionate result makes it irrational.

QUESTION: My second question, perhaps I shouldn't ask, is the Luther Miller in this case the same as in Miller v.



Toomey?

MR. MASUR: I believe so, Your Honor.

Thank you very much.

MR. CHIEF JUSTICE BURGER: You have anything further,  
Mr. Quinlan?

REBUTTAL ARGUMENT OF WILLIAM R. QUINLAN, ESQ.,

ON BEHALF OF THE PETITIONER

MR. QUINLAN: Just a few comments, Mr. Chief  
Justice.

In response to Justice Stevens' question of yesterday and today, with the differential treatment, it's our feeling that there has been some misconception in what the burden of the City is here, and primarily who has the burden.

I think we'd all agree, if we're talking about equal protection, then the burden is primarily not that of the legislative body or the City in establishing justification for the classification, it is presumed to be valid. And then the second issue is whether or not there really is any justification for treating the two classifications or two parties differently.

And we submit that there is a basis for treating them differently, and that primarily is because one has status of being on the job or having a license, and has a greater interest, and that must be considered in terms of this Court's rulings in Roth and Sindermann, in terms of making

sure that it is not arbitrarily deprived and they are entitled to a hearing, and they are entitled to more rights and more consideration.

This has been traditionally the case in all instances in dealing with individuals who have employment and individuals who don't have employment; that their rights, that is, the rights of the individual on the job, are greater than the rights of the individual not on the job. That does not suggest that they can be arbitrarily dealt with, but they are dealt with differently.

And we are submitting that the test or the burden of the City is not to demonstrate there is not invidious discrimination, and that there is a rational relationship, but this is conclusively related to public safety.

But our burden is really to show that there is some reason for treating the classes differently, and the burden is on the other side to show that there is no reason. And we submit that there is reason for treating the parties differently.

And what we have here also is a two-tier problem. The first problem is to determine whether or not it is reasonable to treat people who are convicted of a crime dealing with a weapon differently than others. We submit it is related to the goal of protecting the traveling public in cabs. That has been accepted by the court below, and we

think it is rational to submit that that is related to it.

Secondly, is there any basis for treating licensees, that is incumbents, and applicants differently? We submit yes, that the rights and the interests at stake are different, and that in the case of incumbents or licensees, Roth, Sindermann require that they be given further rights and further benefits than do applicants, or are applicants entitled to receive.

QUESTION: You still say the only reason is protection of the public?

MR. QUINLAN: I beg your pardon, sir?

QUESTION: Safety of the public is the only reason?

MR. QUINLAN: No, I say that's the goal to be achieved by this is the safety of the traveling public, yes, sir.

QUESTION: Well, what other rule -- you don't have any other reason?

MR. QUINLAN: For the particular classification?

QUESTION: For denying licenses to convicted people.

MR. QUINLAN: Well, that would be the reason for the classification. That is the justification for it. It also applies to narcotics as well as the others --

QUESTION: And incest.

MR. QUINLAN: And incest -- well, rape, not incest

primarily.

QUESTION: But I mean ---

MR. QUINLAN: But the reason for that is that's a peculiar problem with cabs ---

QUESTION: There are very few cab drivers that drive their families around.

[Laughter.]

MR. QUINLAN: That might be a unique situation, yes, sir.

Thank you.

MR. CHIEF JUSTICE BURGER: Thank you, gentlemen.

The case is submitted.

[Whereupon, at 10:39 o'clock, a.m., the case in the above-entitled matter was submitted.]

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