

OFFICIAL TRANSCRIPT PROCEEDINGS BEFORE

THE SUPREME COURT OF THE UNITED STATES

DKT/CASE NO. 85-250

TITLE RICHARD E. LYNG, SECRETARY OF AGRICULTURE, Appellant v.
NATIVIDAD CASTILLO, ET AL.

PLACE Washington, D. C.

DATE April 29, 1986

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IN THE SUPREME COURT OF THE UNITED STATES

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RICHARD E. LYNCH, SECRETARY OF :
AGRICULTURE, :
Appellant, :
V. : No. 85-250
NATIVIDAD CASTILLO, ET AL. :

- - - - -x
Washington, D.C.
Tuesday, April 29, 1986

The above-entitled matter came on for oral
argument before the Supreme Court of the United States
at 1:36 o'clock p.m.

APPEARANCES:

JEFFREY F. MINEAR, ESQ., Assistant to the Solicitor
General, Department of Justice, Washington, D.C.; on
behalf of the appellant, pro hac vice.

MARIA NERMA MARTINEZ, ESQ., Sequin, Texas; on behalf
of the appellees.

C C N T E N T S

ORAL ARGUMENT OF:

PAGE

JEFFREY P. MINEAR, ESQ.,

on behalf of the appellant,

pro hac vice

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MARIA NERMA MARTINEZ, ESQ.,

on behalf of the appellees

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JEFFREY P. MINEAR, ESQ.,

on behalf of the appellant,

pro hac vice - rebuttal

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1 P R O C E E D I N G S

2 CHIEF JUSTICE BURGER: We will hear arguments
3 next in Lyng against Castillo.

4 Mr. Minear, I think you may proceed whenever
5 you are ready.

6 CRAL ARGUMENT OF JEFFREY P. MINEAR, ESQ.,

7 ON BEHALF OF THE APPELLANT

8 MR. MINEAR: Thank you, Mr. Chief Justice, and
9 may it please the Court, the government defends the
10 constitutionality of Section 3(i) of the Food Stamp Act,
11 which provides that parents and children or siblings who
12 live together shall be treated as a single household for
13 food stamp entitlement purposes.

14 This case is here on the government's direct
15 appeal from the United States District Court for the
16 Southern District of Texas. The District Court ruled
17 that Section 3(i) violates equal protection principles
18 by discriminating against families and by impermissibly
19 burdening family decisions to live together.

20 After briefly describing the food stamp
21 program and the facts of this case, I will explain why
22 the District Court's decision should be reversed.

23 The Food Stamp Act establishes a social
24 welfare program funded by the Department of Agriculture
25 and administered by state agencies. It supplements the

1 food purchasing power of low income households. Under
2 this program state agencies distribute food stamps to
3 needy households on the basis of standard allotments
4 that take into account household size.

5 The food stamp program has grown rapidly since
6 its creation in 1964. It is now the nation's second
7 most costly needs-based public assistance program. In
8 1983, program outlays were over \$11 billion, providing
9 assistance to over 21 million program participants.

10 The huge cost and dramatic growth of the food
11 stamp program have produced public concern over reports
12 of widespread waste and fraud. In 1981 and again in
13 1982 Congress amended the Food Stamp Act to improve
14 program efficiency and to curtail certain types of
15 frequently encountered recipient abuse.

16 Congress gave particular attention to the Food
17 Stamp Act's definition of the term "household." Prior
18 to 1981, persons who lived together but purchased and
19 prepared their meals separately could claim separate
20 household status, and thereby receive higher per capita
21 benefits. As a result families frequently
22 mischaracterized their members as separate households to
23 obtain additional food stamps.

24 Congress in response amended the household
25 definition to provide that parents and children or

1 siblings who live together shall be treated as one
2 household for food stamp entitlement purposes regardless
3 of their actual meal purchase and preparation habits.
4 Congress also provided a special exception, permitting
5 elderly and disabled parents and siblings to qualify as
6 a separate household if they in fact did separately
7 prepare their meals.

8 These amendments to the household definition
9 were specifically designed to assure the nation's
10 limited welfare resources were efficiently distributed
11 to those in greatest need.

12 Appellee Natividad Castillo and his family
13 challenged the constitutionality of the revised
14 household definition. They claimed that the new
15 definition violated equal protection principles by
16 denying certain family members the opportunity to claim
17 separate household status. The District Court
18 consolidated their action with three other suits raising
19 similar equal protection claims.

20 The District Court ultimately held that the
21 household definition is unconstitutional, and enjoined
22 its application against the appellees. The court
23 acknowledged that Section 3(i)'s treatment of family
24 members had a rational basis, therefore it meets the
25 generally applicable equal protection requirements. The

1 court concluded, however, that family-based
2 classifications are subject to heightened scrutiny.

3 It then held without further analysis that
4 Section 3(i) violated the appellees' Fifth Amendment
5 rights.

6 QUESTION: Is there anything in the record,
7 Mr. Minear, which shows the difference in cost between
8 the two programs?

9 MR. MINEAR: It is not clear from the record,
10 but it is clear from the regulations themselves, and the
11 regulations provide, for instance, that an eight-member
12 household would receive 75 percent of the benefits that
13 would be given to eight separate households, and that
14 two four-member households receive 110 percent of the
15 benefits of the eight-member household.

16 We submit that the District Court erred in
17 concluding that Section 3(i) violates equal protection
18 principles. Instead, Section 3(i)'s household
19 definition represents a rational legislative intent to
20 improve the efficiency of the food stamp program by
21 adopting standards that as a general matter direct the
22 nation's limited welfare resources to those with the
23 greatest need.

24 We note first, as the District Court agreed,
25 that Section 3(i)'s household definition meets the

1 rational basis test. Congress enacted the revised
2 household definition in response to serious public
3 concern over the size, effectiveness, and integrity of
4 the food stamp program. The 1981 and 1982 Congressional
5 hearings revealed that from 11 to 20 percent of food
6 stamp benefits were issued in error, amounting to a
7 program loss of from \$1 to \$2 billion per year.

8 Those hearings also revealed that the practice
9 of family members falsely claiming separate household
10 status was one of the most serious forms of abuse.
11 Finally, the hearings revealed that in light of the
12 large number of families that participate in the food
13 stamp program, there is no effective and efficient means
14 for verifying family household status.

15 Congress therefore elected to redefine the
16 term "household" as a workable solution to this serious
17 and costly problem. The refined definition represents
18 the rational Congressional judgment based on thorough
19 investigation and deliberation that food stamp abuses
20 can be reduced and benefits preserved for those most in
21 need by treating family members who live together as a
22 single household.

23 Furthermore, this definition is carefully
24 tailored to provide special relief for elderly and
25 disabled parents and siblings, those family members that

1 Congress determined were most in need of special
2 treatment.

3 In short, Section 3(i)'s revised "household"
4 definition represents the type of reasonable
5 classification that is routinely employed in social
6 welfare programs. The revised definition plainly
7 withstands rational basis scrutiny, the type of scrutiny
8 this Court applies to these types of classifications.

9 Indeed, the District Court as well as all
10 other courts that considered this issue agree that the
11 "household" definition meets the rational basis test.

12 The District Court went astray in applying
13 heightened scrutiny to the Food Stamp Act's "household"
14 definition because plainly family members, the class
15 affected by the "household definition," do not represent
16 a suspect or quasi-suspect class. Furthermore, the
17 "household" definition does not result in any
18 constitutionally significant limitation on individual
19 choice in family matters.

20 Heightened scrutiny has been applied to laws
21 affecting family-based decision only when the
22 government's action directly and substantially
23 interferes with important family choices. Here, the
24 household definition does not prevent any group of
25 persons, related or unrelated, from living together, and

1 if they live together, from dining apart.

2 It simply allocates food stamp benefits to
3 families in light of the cooperative arrangements that
4 families generally employ. The revised definition may
5 provide financial incentive for closely related family
6 members who live together to purchase and prepare their
7 meals together as well, but it neither compels nor
8 prohibits any family-based decision. Family members
9 retain the full range of choice in structuring their
10 living and meal preparation habits.

11 QUESTION: Well, Mr. Minear, were these
12 amendments' principal purpose to prevent fraud?

13 MR. MINEAR: They were designed both to
14 prevent fraud and also to improve program efficiency.

15 QUESTION: As far as they were designed to
16 prevent fraud, is it rational to assume that families
17 are more likely to defraud the government than unrelated
18 individuals?

19 MR. MINEAR: I think it is clear that families
20 are better situated in fact to falsely claim separate
21 household status, and it also seems that family members
22 are more likely to purchase and prepare their meals
23 together. In terms of actual intent, are family members
24 more likely to create fraud? I don't think you can
25 really draw that inference, but I do think it is true

1 that they are best situation in fact to conduct
2 fraudulent activities.

3 It is also true that family members are the
4 largest component of the food stamp program. They
5 represent almost three-quarters of food stamp
6 participants. Therefore by eliminating this potential
7 for abuse from family members, we have significantly
8 reduced the potential possibility for fraud in the
9 program.

10 QUESTION: That carries with it then the
11 suggestion that it would just be impossible to prove
12 that there is fraud or collusion.

13 MR. MINEAR: I think that that's true, Your
14 Honor. The problem here --

15 QUESTION: That certainly wouldn't be true in
16 all the cases.

17 MR. MINEAR: But it would be difficult, and it
18 would be rather intrusive. If the test depends on
19 whether or not family members are in fact dining
20 together, there is no readily available method to in
21 fact prove whether or not they are dining together or
22 dining separately.

23 QUESTION: How about unrelated people?

24 MR. MINEAR: It is also true that it is
25 difficult in those cases, but --

1 QUESTION: But you certainly take all of those
2 cases on.

3 MR. MINEAR: Yes, but it is also a more
4 limited number of cases. It also seems more likely --

5 QUESTION: But a growing number.

6 MR. MINEAR: Yes, it might be a growing number
7 as well, and it might be, too, that Congress will
8 eventually determine that in fact no one should be able
9 to claim separate household status when they live
10 together. Congress has considered that possibility.
11 That has been suggested by the various federal and state
12 food stamp administrators. But Congress at present is
13 content to retain the special exception for elderly and
14 disabled persons and also for unrelated persons.

15 The "household" definition's impact on family
16 living arrangements is no different from that of a broad
17 variety of other legislative provisions that consider
18 family status in allocating public burdens and
19 benefits.

20 In sum, the revised definition of the term
21 "household" represents a permissible classification
22 designed to promote the efficiency and preserve the
23 integrity of the food stamp program.

24 Appellees defend the District Court's decision
25 on two additional grounds not relied upon by the

1 District Court. Appellees first contend that the
2 "household" definition creates an unconstitutional
3 irrebuttable presumption. That contention is mistaken.
4 The "household" definition creates a legitimate
5 legislative classification like that upheld in
6 Weinberger versus Salfi. As in Salfi, that provides for
7 distribution of benefits based on objective criteria
8 that Congress has determined relevant to its legitimate
9 welfare policy roles.

10 Appellees also contend that food stamp
11 recipients have a special right to increased benefits
12 because of the importance of a health diet. This
13 contention, not raised below, is also mistaken.
14 Appellees do not have an inherent, fundamental right to
15 federal food purchasing assistance. Congress may impose
16 limitations on food stamp benefits as on other forms of
17 social welfare benefits, to promote efficiency and to
18 prevent abuse.

19 At bottom, appellees urge this Court to
20 declare the Food Stamp Act "household" definition
21 unconstitutional on public policy grounds. However, as
22 this Court has repeatedly stated, the judgment of
23 Congress on questions of social welfare policy is
24 entitled to special deference. Courts do not sit to
25 pass on policy or the wisdom of the course that Congress

1 has chosen.

2 In this case, Congress has determined that the
3 refined definition of "household" is necessary to reduce
4 serious fraud in the food stamp program, and to preserve
5 the nation's limited benefits for those with greatest
6 need. We submit that the judgment of Congress on this
7 quintessential legislative question should be respected,
8 and we therefore urge this Court to reverse the decision
9 below.

10 If there are no further questions, I would
11 like to reserve the remainder of my time.

12 CHIEF JUSTICE BURGER: Very well.

13 Ms. Martinez.

14 CRAL ARGUMENT OF MARIA NORMA MARTINEZ, ESQ.,

15 ON BEHALF OF THE APPELLEES

16 MS. MARTINEZ: Chief Justice Burger, and may
17 it please the Court, 7 USC 2012(i), the family --
18 unconstitutional --

19 QUESTION: Would you raise your voice a
20 little? We are having difficulty hearing you. Perhaps
21 lower the lectern a little bit.

22 MS. MARTINEZ: Seven USC 2012(i), the family
23 rule, unconstitutionally interferes with the appellees'
24 family choices of -- family choices of living together.
25 Not only does it interfere with the right to live

1 together. The harm caused the appellees outweighs the
2 state's interests.

3 The District Court found that the family rule,
4 the food stamp family rule put families at a distinct
5 disadvantage. Unrelated individuals could obtain
6 separate household status simply by purchasing and
7 preparing food separately. Families, no matter what,
8 could never go in and show that it was impossible for
9 them to prepare food together and show that they could
10 not possibly function as a single economic unit.

11 The only exception was for elderly and for
12 disabled parents and siblings. The appellees are eight
13 families, eight guest families and eight host families
14 that live together. There are more than 30 children
15 involved with these families. All of the appellees have
16 children, young children of their own to support. All
17 but one of them had maintained a separate household
18 before economic necessity forced them to move in with
19 their relatives.

20 There was no question that they were eligible
21 for food stamps as a separate household but for the
22 family -- Natividad Castillo and his wife and eight
23 children were migrant workers. They went up north to
24 Michigan to work in seasonal labor. When they returned
25 home, they had no income, they had no assets but one old

1 car. They had to move in with Mrs. Castillo's daughter
2 from a previous marriage. Theresa Barrera was receiving
3 food stamps. She had two children of her own, and was
4 receiving welfare.

5 The food stamp office denied the Castillo
6 family's application for food stamps. Not only did they
7 deny the application for food stamps, they refused to
8 supplement Mrs. Barrera's food stamp allotment for that
9 first month, so the Castillo family would have been left
10 without any food stamps that first month. After that
11 they would have received a reduced amount based on both
12 households' income, which in this case was Theresa
13 Barrera's welfare income, even though Ms. Barrera's
14 income was not available to the Castillos.

15 A similar thing happened to the Cody family,
16 also migrant workers, also went up to Michigan, and went
17 home and had no income. They were unemployed. They had
18 two young children. They moved in with Robert Cody's
19 mother. She had five children to support off her
20 Veterans Administration check, and she was receiving
21 food stamps.

22 Robert and Jerry Cody's food stamp application
23 was denied, and the food stamp office refused to
24 supplement Robert's mother's allotment so that Robert
25 and Jerry and two children, the two young children could

1 have food stamps for the first month.

2 Three of the appellees' families are headed by
3 women who are little more lucky. They received aid to
4 families with dependent children after they separated
5 from their husbands and moved in with relatives. Two of
6 them moved in with their parents. They had lived
7 separately. They had maintained a separate home all
8 that time, but due to the family rule they could not
9 receive food stamps separately, even though they
10 purchased and prepared separately, even though their
11 host family's income was not available to them.

12 One of the appellees' families, Cecilia
13 Villafranca, moved in with her brother. She had been
14 receiving food stamps, but due to the family rule, she
15 would not have received anything because of her
16 brother's income because both families were deemed to be
17 one household.

18 Two of the families were headed by men. Elias
19 Ruiz, his wife, and two children moved in with Elias's
20 mother and her son. They didn't need any help other
21 than a place to live until Mr. Ruiz became unemployed
22 and his wife became too ill to work and was
23 hospitalized. They then applied for food stamps and
24 could not get them because of the family rules.

25 Gregorio Alvarado and his wife and three young

1 children moved in with Gregoric's sister and
2 brother-in-law and their children. Gregoric was
3 unemployed. His wife was also too ill to work. They
4 couldn't get food stamps as a separate household.

5 And finally, Sylvia Nieto, the only one who
6 had not maintained a separate household. Sylvia Nieto
7 was an adult woman with a child to support. She was
8 disabled, received supplemental security income
9 benefits. The benefits she used to support herself and
10 her son. She had been receiving food stamps as a
11 separate household until the family rule came into
12 effect.

13 The family rule, whereas it might be
14 reasonable to believe that families are more likely to
15 purchase and prepare food together, it is not reasonable
16 to believe that these families would commit fraud, would
17 like so they could obtain separate household status.
18 That is why, that is one of the reasons why the family
19 rule is irrational.

20 When people like the appellees, people who
21 have no place to go, have no money, have children to
22 support, show up at their relatives' home, the relative,
23 who is slightly better off because they have a place to
24 live, who may not be that much better off, because they
25 may also be on welfare, as Theresa Barrera was, has a

1 hard choice to make. Do they allow their relatives in
2 and deprive their own spouse and children? Even someone
3 who is better off will have to think about that.

4 And if they do allow them in and then find out
5 that they cannot support, either partially or
6 completely, their relatives, they will have to decide
7 whether to deprive their own family so that the
8 relatives can stay with them. That would be a hard
9 choice for anyone, but a lot harder for somebody who is
10 barely existing, for somebody who is on welfare.

11 And the guest families, the guest family is
12 the one that of course will suffer the most. They will
13 have no control over their situation. They will have
14 children to support. If their host, if their relatives
15 allow them in, the guest family will have to -- mercy.
16 If the host family refuses to do more, the guest will
17 only have a place to stay. If the host family refuses
18 to apply for food stamps, the guest family cannot obtain
19 food stamps on their own.

20 And it isn't that unlikely that someone would
21 refuse to apply for food stamps. Disclosures about
22 employment, wages, all other resources such as life
23 insurance and death insurance, burial insurance,
24 everything is required to be reported for food stamp
25 eligibility, and this information is routinely verified

1 by the food stamp office, employers, neighbors, anyone
2 who knows the circumstances of the applicants can be
3 used to verify the information.

4 The food stamp office also uses announced home
5 visits to determine if the information is correct. If
6 the family is slightly better off and has a car worth
7 \$6,001, the aggregation of resources would make them
8 ineligible for food stamps. Even if this family owed
9 \$5,900 on that car, the fair market value of the car is
10 what is used. A first family vehicle will receive a
11 \$4,500 exemption. It would still make them ineligible
12 for food stamps.

13 The joining of resources such as two cars
14 would cause these people to be ineligible for food
15 stamps also. A car in places like rural Texas is a
16 necessity. It is not a luxury. It could not be
17 considered a luxury as it would be in a city. Farm
18 workers need their cars so they can get to and from the
19 fields. Places like Harlingen, Texas, where Robert Cady
20 lives, does not have mass public transportation. You
21 need a car so you can work.

22 The government justifies the family rule as
23 necessary to prevent fraud and abuse. It is the same
24 justification that was used for the unrelated persons
25 provision in United States Department of Agriculture

1 versus Moreno. In that case, the government said that
2 Congress reasonably believed that unrelated persons were
3 more likely to commit fraud so that they could obtain
4 household status so they could obtain food stamps, so
5 that they could participate in the food stamp program,
6 and that it was administratively inefficient for the
7 food stamp agency to determine when the unrelated people
8 were committing fraud.

9 They argued that college students live
10 together and were voluntarily poor. They didn't report
11 the income they received from the outside, and it was
12 extremely difficult, maybe impossible for that
13 determination of fraud to be made. The Court found in
14 Moreno that the unrelated persons provision served not
15 to exclude those that were intent, those that were most
16 likely to abuse the food stamp program, but only those
17 who were so destitute that they could not alter their
18 living conditions so they could retain the eligibility
19 for food stamps.

20 The same thing happens here. The family rule
21 causes people that have no place to go to become
22 ineligible for food stamps or receive the reduced
23 amount, an amount that is not based on their resources.
24 And alternatives, alternative provisions can be made if
25 it were to be conceded that there is a problem with

1 fraud by families, the burden could be placed on the
2 family to show why they could not function as a single
3 economic unit or why they could not purchase and prepare
4 food together. Problems like health problems,
5 contagious diseases, where they could not purchase and
6 prepare food together, are things that can be determined
7 from the initial application and initial food stamp
8 interview.

9 Differential work schedules. Presently from
10 the food stamp application and from the initial
11 interview. Questions about where a person works, their
12 employer, the hours worked, and verification of that is
13 made. From that they could find out about differential
14 work schedules that make it impossible for people to
15 purchase and prepare food together. Inadequate kitchen
16 facilities where, because of the inadequacies of a poor
17 family kitchen they cannot purchase and prepare
18 together. That determination can be made from
19 questions.

20 And it isn't unlikely that a poor family will
21 have an inadequate kitchen, will have a stove that is
22 two burners instead of what is considered the usual
23 stove with four burners with an oven. That they will
24 not have refrigeration. That they will not have other
25 than a small table, if they have a table at all, with

1 two chairs, if they have two chairs at all.

2 These people cannot purchase and prepare, they
3 certainly cannot prepare food together.

4 QUESTION: Ms. Martinez, could I ask you one
5 question? Do you think the statute would be
6 constitutional if it established a presumption that the
7 related families did purchase and prepare food together,
8 but that unrelated families did not, and then there
9 would be a burden on the particular family to show that
10 on a regular basis they acted contrary to the
11 presumption?

12 MS. MARTINEZ: Yes, I believe so. At least
13 that the family be given an opportunity that they do not
14 purchase and prepare food together.

15 QUESTION: How does the agency follow up on
16 determining -- say they have an initial interview, and
17 they describe their living arrangements, and they take
18 it at face value. How is this normally checked later on
19 to see if -- for example, an unrelated family, that they
20 really are separate?

21 MS. MARTINEZ: It is not in the record, but
22 for unrelated families, they generally take the
23 statement of the unrelated person.

24 QUESTION: And that is the end of the inquiry?

25 MS. MARTINEZ: And that is generally the end

1 of it.

2 QUESTION: And of course in the related family
3 situation there just wouldn't be any followup at all
4 under the rules now because they are just presumed to
5 always share their food together.

6 MS. MARTINEZ: That is right.

7 The harm done to the children. The majority
8 of food stamp recipients are families with children.
9 Children in this case would suffer from hunger. In
10 Plyler versus Doe, this Court looked at the hard cost to
11 children after saying, after repeating that education is
12 not a fundamental right, and that alien status is not a
13 suspect classification. The Court looked at the harm
14 done to the children. The denial of an education caused
15 them such a hardship that the state's interest in
16 conserving money, the state's interest in keeping the
17 legal immigrants out did not outweigh the harm done to
18 the children.

19 Yes, the Court said that education is not a
20 mere welfare benefit. But food stamps -- and in reality
21 for a lot of these people if you don't get food stamps
22 you don't get food. You don't eat. Food stamps are
23 crucial to life. Food stamps are a necessity. Other
24 welfare benefits you may be able to do without for a
25 while. Without food, you won't be able to do without.

1 The children in this case, if deprived, or
2 when deprived of the necessary food during the years of
3 development of their minds and bodies, can end up in the
4 worst situation, can be harmed a lot more than the
5 children in Plyler were. The children in Plyler perhaps
6 could receive remedial education. Children in this
7 case, once they are harmed by lack of food,
8 malnutrition, stunting of their growth, mental and
9 physical, can become permanently disabled. They may
10 never be able -- they may be educationally disabled.
11 They will become a burden on society, economically
12 dependent for the rest of their life.

13 This regulation, this limitation is not only
14 substantial, because deprivation of food is substantial,
15 although families are not prohibited from living
16 together, the effect of this rule will cause them not to
17 live together. Once the host family finds they cannot
18 eat if the guest comes in, the effect is, they cannot
19 live together.

20 For all of these reasons, the appellees ask
21 that the Court affirm the District Court's decision. If
22 there are no further questions.

23 CHIEF JUSTICE BURGER: Do you have anything
24 further, Mr. Minear?

25 CRAL ARGUMENT OF JEFFREY P. MINEAR, ESQ.,

1 CN BEHALF OF THE APPELLANT - REBUTTAL

2 MR. MINEAR: Just a few minutes, Mr. Chief
3 Justice, and may it please the Court. The regrettable
4 problem here is, the government's resources for welfare
5 are limited, and in order to provide maximum use of
6 those limited resources, certain broad categories and
7 general characteristics must be used in order to
8 distribute these social welfare benefits, and it simply
9 is not effective to expend those limited resources on
10 case by case determinations when in fact those resources
11 can be directed to the persons themselves who need
12 them.

13 QUESTION: What about the unrelated families?
14 You would be saving a lot of money if you didn't do
15 those case by case.

16 MR. MINEAR: That might be right, Your Honor.
17 However, those are a much smaller portion of the total
18 number of food stamp recipients in the program.
19 Therefore what Congress in fact is doing is directing
20 its limited resources to those areas where there is the
21 greatest possible need for special exceptions, and that
22 was in fact Congress's thinking, in fact, preserving
23 this separate household status for unrelated persons and
24 the elderly and the disabled.

25 QUESTION: Mr. Minear, what about aid based on

1 indigent children, aid to dependent children?

2 MR. MINEAR: Yes, sir.

3 QUESTION: Are food stamps also being given to
4 families who receive that sort of aid?

5 MR. MINEAR: Yes, Your Honor. Food stamps are
6 available under both programs.

7 QUESTION: What about the program with respect
8 to disabled persons?

9 MR. MINEAR: That is correct also.
10 Supplemental social security --

11 QUESTION: If you add all three together and
12 they gave them to a family, you would come to some
13 limit? I suppose you do.

14 MR. MINEAR: I am not certain about the
15 regulations here, but I believe it might be -- some of
16 those sources of income might be treated as income for
17 the food stamp program.

18 QUESTION: But the greater the number of
19 children and the greater the number of disabled people,
20 of course, the greater the aid. Is that correct?

21 MR. MINEAR: Yes, that's right, Your Honor.
22 In fact, this was the subject of a 1981 hearing. One of
23 the things that the GAC pointed out was that in fact in
24 larger family groups families often receive aid from a
25 number of -- food aid from a number of different

1 sources, including the school lunch program and also the
2 breakfast program that is provided in a number of
3 schools, and as a result of this, in fact, some food
4 stamp families did receive more aid than the average
5 family spent on food purchases.

6 Now, I think this is probably the exceptional
7 case, but nevertheless this was one of the concerns that
8 went into Congress's determination in amending the
9 "household" definition.

10 QUESTION: May I just ask another question
11 just to get it straight in my mind? If you have, say, a
12 married couple that live together, and they qualify on
13 an income basis, they presumably -- in fact, they
14 definitely are held to be one household, and yet they
15 get the same amount of --

16 MR. MINEAR: Yes.

17 QUESTION: -- whereas if two unrelated persons
18 lived together and they came in and filed the
19 appropriate applications and made a representation that
20 one worked a night shift and the other a day shift, so
21 they purchased their food and prepared it separately,
22 they would then get a somewhat larger benefit.

23 MR. MINEAR: That is generally true. To be
24 slightly more accurate about this, since 1978, the
25 regulations provided that husbands and wives in fact

1 would be treated as a single household. That was a
2 regulatory provision that has been in force for almost
3 ten years. In addition, the definition of a spouse
4 provided that persons who are unrelated who are living
5 together, who hold themselves out as a spouse even
6 though they are not married, in fact would be treated as
7 a single household.

8 QUESTION: Say they come in and say they don't
9 do that, they just happen to live in the same facility,
10 and they work different hours and so forth. So they
11 then would qualify as unrelated persons. Say they were
12 the same sex.

13 MR. MINEAR: They would be eligible --

14 QUESTION: Make it simple. Say they are the
15 same sex.

16 MR. MINEAR: Sure. They would be eligible to
17 in fact apply for food stamps on that basis.

18 QUESTION: And then after they apply and they
19 are granted initial, what kind of followup is there to
20 find out, well, maybe their hours changed and they now
21 have decided they could eat at the same time?

22 MR. MINEAR: The regulations provide for three
23 types of documentation in these matters, first
24 documentary evidence which might in fact indicate that
25 two persons worked different shifts. They can provide

1 their work schedules to the food stamp office.

2 QUESTION: You say they qualify initially. I
3 am asking what happens, say, 30 days later. Is there
4 any periodic followup to be sure they --

5 MR. MINEAR: Yes. Yes, Your Honor, there is.
6 There is a periodic rechecking of the qualifications to
7 make sure that these people continue to apply. I am not
8 sure if it is done on a monthly or a quarterly basis,
9 but it is --

10 QUESTION: And so that only has to be done for
11 the unrelated persons.

12 MR. MINEAR: Yes, Your Honor.

13 QUESTION: I think I missed your first point.
14 What is the interest of the government in deciding
15 whether people should live together or not?

16 MR. MINEAR: Well, the government has no
17 interest in whether they should live together or not.
18 It is simply a question of how food stamps should be
19 allocated once they make that decision.

20 QUESTION: Doesn't that depend on whether they
21 live together or not?

22 MR. MINEAR: Well, yes, Your Honor.

23 QUESTION: And what interest does the federal
24 government have in whether people live together or not?

25 MR. MINEAR: Well, Your Honor, this is --

1 QUESTION: Does the federal government have
2 the right to say that you must get rid of your
3 children?

4 MR. MINEAR: No, Your Honor, it does not.
5 This is similar to the Califano v. Jobst case, where in
6 fact this is an indirect burden on the family living
7 arrangements. In Califano v. Jobst --

8 QUESTION: Well, what are they going to do
9 next?

10 MS. MARTINEZ: Well, Your Honor, I simply
11 can't answer that question. If there are no further
12 questions.

13 CHIEF JUSTICE BURGER: Thank you, counsel.
14 The case is submitted.

15 (Whereupon, at 2:15 o'clock p.m., the case in
16 the above-entitled matter was submitted.)
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CERTIFICATION

Alderson Reporting Company, Inc., hereby certifies that the attached pages represents an accurate transcription of electronic sound recording of the oral argument before the Supreme Court of The United States in the Matter of:

#85-250 - RICHARD E. LYNG, SECRETARY OF AGRICULTURE, Appellant V.

NATIVIDAD CASTILLO, ET AL.

and that these attached pages constitutes the original transcript of the proceedings for the records of the court.

BY Paul A. Richardson

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