

**03-1274 SWEDENBURG V. KELLY**

DECISION BELOW: 358 F3d 223

LOWER COURT CASE NUMBER: 02-9511, 03-7089

**QUESTION PRESENTED:**

1. Does New York's discriminatory and protectionist prohibition against direct interstate shipment of wine to consumers violate the Commerce Clause of the U.S. Constitution; and if so, is it "saved" by the 21st Amendment?
2. Does New York's discriminatory and protectionist prohibition against direct interstate shipment of wine to consumers violate the Privileges and Immunities Clause of the U.S. Constitution?

**CONSOLIDATED WITH 03-1116 AND 03-1120 FOR ONE HOUR ORAL ARGUMENT. LIMITED TO THE FOLLOWING QUESTION: "Does a State's regulatory scheme that permits in-state wineries directly to ship alcohol to consumers but restricts the ability of out-of-state wineries to do so violate the dormant Commerce Clause in light of Sec. 2 of the 21st Amendment?"**

**CERT. GRANTED 5/24/2004**