Direct Payment Housing Subsidies Count as Household Income in Determining Food Stamp Benefits: The Effect of Ruhe v. Bergland

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NOTES

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I. INTRODUCTION

The federal food stamp program first began in 1939 as a plan to distribute surplus food to needy families. In 1964, Congress enacted a revised food stamp program which expanded the scope of the program beyond allocation of surplus food. The Food Stamp Act of 1964 (the 1964 Act) embodied a federal plan to contribute money to needy families in order to increase the families' food purchasing power. After determining that the 1964 Act needed drastic reform, Congress enacted a new food stamp program in 1977. Congress intended the Food Stamp Act of 1977 (the 1977 Act) to eliminate undeserving recipients from the food stamp program.


4. See id. §§ 2011-2018 (1982). By contributing four dollars to every six dollars spent on foodstuffs, the federal government increased the food purchasing power of participating families by 67%. See id.

5. See H.R. REP. NO. 464, 95th Cong., 1st Sess. 1-3, reprinted in 1977 U.S. CODE CONG. & AD. News 1978-79. The House Committee on Agriculture determined that the 1964 Food Stamp Act was too complex and difficult to administer and, therefore, was economically inefficient. Id. at 1978. In addition, the House committee determined that fraud and abuse of program benefits was too prevalent under the 1964 Act. Id. at 1979.


8. See H.R. REP. NO. 464, 95th Cong., 1st Sess. 3-4, reprinted in 1977 U.S. CODE CONG. & AD. News 1980-81. In enacting the 1977 Act, Congress intended to eliminate 1.3 million people from the food stamp program and to reduce the food stamp benefits of another 317 million people. Id. at 1980. The House committee stated that the 1977 Act would eliminate the non-needy from the food stamp program by excluding high gross income families, students, aliens, and families with considerable assets from food stamp benefits. Id. at 1980-81.

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In an effort to eliminate undeserving recipients from the food stamp program, Congress included a provision within the 1977 Act which carefully defined the prerequisites for participation in the food stamp program. Section 5(a) of the 1977 Act provides that a household's income and financial resources shall determine eligibility and the degree of participation in the food stamp program. Section 5(d) of the 1977 Act defines household income as all income from any source, except for twelve exceptions listed in section 5(d)(1)-(12).

Vendor payments which bypass the actual recipient and flow directly to the recipient's creditor or landlord, do not count as household income for food stamp allocation purposes. However, direct payments flow directly to the actual recipient and are counted as household income, unless specifically exempted.

9. See 7 U.S.C. § 2014 (1982). Section 5(a) of the Food Stamp Act of 1977 provides that only those households whose incomes and other financial resources limit their ability to obtain a more nutritious diet are eligible for food stamp benefits. Id. § 2014(a).

10. Id.

11. Id. § 2014(d). The House Committee on Agriculture decided that, as a general rule, all income from whatever source derived should determine a household's level of food stamp benefits. H.R. REP. No. 464, 95th Cong., 1st Sess. 24, reprinted in 1977 U.S. CODE CONG. & AD. NEWS 2001. The committee intended to define household income in the broadest possible manner. Id. Exceptions to the general rule include money payable to third parties on behalf of recipients, loans, reimbursement payments, income earned by minors, irregular income, lump sum payments, and money received for the benefit of nonhousehold members. 7 U.S.C. § 2014(d)(1-12) (1982).


13. Id.


16. See supra note 14. Vendor payment recipients cannot allocate housing subsidy payments to improper areas because vendor payments bypass the actual benefit recipients. Id.


II. THE CASE

In Ruhe v. Bergland, the Fourth Circuit Court of Appeals considered whether a Department of Agriculture regulation which contains language almost identical to section 5(d) of the 1977 Act properly followed from the enabling legislation. Section 4(c) of the 1977 Act authorized the Department of Agriculture (USDA) to promulgate regulations to administer the food stamp program and to effectuate the congressional intent embodied in the program. Pursuant to this authorization, the USDA issued regulations tracking the direct-payment income inclusion provision of section 5(d)(1) of the 1977 Act. In Ruhe, the plaintiffs, Mildred S. Ruhe, Hester Hembry, and Irene O'Brien, challenged the USDA's tracking regulations as being inconsistent with the 1977 Act and in violation of the due process and equal protection clauses of the United States Constitution.

In Ruhe, the plaintiffs were residents of Arlington County, Virginia and received direct-payment housing subsidies from the county's rent assistance program. In addition, they received federal food stamps. 1977 U.S. CODE CONG. & AD. NEWS 2002-05. Direct payments include annuity payments, pension payments, retirement and disability benefits, veterans' benefits, workmen's compensation, unemployment compensation, old age and survivors' benefits, strike benefits, and general welfare assistance payments. Id.

19. 683 F.2d 102 (4th Cir. 1982).
21. 7 U.S.C. § 2014(d) (1982). Compare id. (any gain or benefit not in the form of money payable directly to a household is excluded from food stamp income accounting) with 7 C.F.R. § 273.9(c)(1) (1984) (any gain or benefit which is not in the form of money payable directly to a household is excluded from food stamp income accounting).
22. Ruhe, 683 F.2d at 103.
24. Id.; see supra text accompanying notes 7-8 (congressional desire to exclude undeserving recipients from program).
26. 683 F.2d at 105. In Ruhe, the plaintiffs argued that the USDA regulations discriminate against recipients of direct-payment housing subsidies. Id.
27. Id. at 103. In Ruhe, the plaintiffs argued that the USDA regulations which include vendor-payment housing subsidies as household income are inconsistent with the purpose of the 1977 Act embodied in the Act's declaration of policy, 7 U.S.C. § 2011 (1982), and with the intent of Congress embodied in the legislative history. Ruhe, 683 F.2d at 104-05.
28. U.S. CONST. amend. V. The fifth amendment of the United States Constitution provides in part that no person shall be deprived of property without due process of law. Id.
29. Id. amend. XIV, § 1. The fourteenth amendment provides in part that no state shall deprive any person of equal protection of the laws. Id.
30. Ruhe, 683 F.2d at 103. In Ruhe, the plaintiffs received direct-payment housing subsidies under the Arlington County Expense Relief Program for Needy Persons. ARLINGTON COUNTY, VA. CODE §§ 44-1 to -4 (1974).
Relying upon its regulations, the USDA considered the plaintiffs' housing subsidies to be household income and decreased each plaintiff's food stamp benefits. The plaintiffs sued the USDA in the United States District Court for the Eastern District of Virginia seeking declaratory and injunctive relief. In granting the defendant's motion for summary judgment, the district court concluded that the USDA regulations were not inconsistent with the 1977 Act and were not violative of the plaintiffs' constitutional rights. The district court reasoned that since the challenged regulations contained the same language as section 5(d)(1) of the 1977 Act, the regulations were consistent with the 1977 Act. The district court further determined that a reasonable basis existed for the direct-payment income inclusion plan. Therefore, the distinction in the

received $95.73 per month from the Arlington County Program and $20.00 per month in food stamps. Id. Plaintiff O'Brien received $88.93 per month from the Arlington County Program and $42.00 per month in food stamps. Id.

33. Ruhe v. Block, 507 F. Supp. at 1293-94. See Brief for Appellee at 6, Ruhe v. Bergland, 683 F.2d 102 (4th Cir. 1982); Joint Appendix for Appellant at 48, Ruhe v. Bergland, 683 F.2d 102 (4th Cir. 1982) (affidavit of Mildred S. Ruhe); id. at 49 (affidavit of Hester Hembry); id. at 52 (affidavit of Irene O'Brien). The addition of the Arlington County money raised the plaintiffs' aggregate income and lowered plaintiffs' aggregate food stamp benefits. See Block, 507 F. Supp. at 1293-94; Brief for Appellee, supra, at 6. Plaintiff Ruhe sustained a drop in food stamp benefits of between $13.00 and $15.00 per month due to the USDA's regulatory income inclusion provisions. Block, 507 F. Supp. at 1293. Plaintiff Hembry sustained a drop of $14.00 per month in food stamp benefits. Id.
34. Block, 507 F. Supp. at 1290. The plaintiffs brought a class action on behalf of themselves and other recipients of Arlington County housing subsidy payments. Id. at 1294. The district court determined that the interests of the named plaintiffs were broad enough to protect the interests of the unnamed plaintiffs and refused to certify the class pursuant to Rule 23 of the Federal Rules of Civil Procedure. Id. at 1295; see Fed. R. Civ. P. 23.
35. Block, 507 F. Supp. at 1291. The plaintiffs sought to have the district court declare the direct-income inclusion provisions contained in section 5(d) of the 1977 Act unconstitutional and sought an injunction to prevent the USDA from including the Arlington County subsidy payments in household income for food stamp allocation purposes. Id.
36. Id. at 1299.
37. Id. at 1298; see infra text accompanying note 39.
38. Block, 507 F. Supp. at 1299; see infra text accompanying notes 40-42.
39. Block, 507 F. Supp. at 1295-96; see supra note 21 (language of USDA regulations is similar to language in the 1977 Act).
40. See Block, 507 F. Supp. at 1298. The district court determined that the proper test by which to evaluate the constitutionality of a welfare classification is the "reasonable basis" test contained in Dandridge v. Williams, 397 U.S. 471, 485 (1970). Block, 507 F. Supp. at 1298. In Dandridge, the Supreme Court held that a social welfare classification does not violate the equal protection clause of the fourteenth amendment if the classification serves a rational purpose in fulfilling a legitimate government objective. Dandridge, 397 U.S. at 485. Thus, a social welfare statute can discriminate if the statute possesses a reasonable basis in fulfilling a legitimate government objective. Id. Moreover, the district court in Block found support for the reasonable basis test in the Supreme Court's language in McGowan v. Maryland, 366 U.S. 420, 426 (1961). Block, 507 F. Supp. at 1298. In McGowan, the Supreme Court held that a statutory discrimination is not unconstitutional if any state of facts reasonably exists to justify the discriminatory classification. McGowan, 366 U.S. at 425-26.
41. See Block, 507 F. Supp. at 1298. The district court found that Congress included the vendor-payment inclusion provision in the 1977 Act because all money coming into a household which could be spent on food should constitute income for purposes of food stamp allocations. Id.
regulation between vendor payments and direct payments did not violate the plaintiffs’ equal protection rights.\footnote{42}

On appeal to the Fourth Circuit Court of Appeals,\footnote{43} the plaintiffs argued that the district court erred in interpreting the 1977 Act\footnote{44} and that the legislative history accompanying the 1980 amendments\footnote{45} to the 1977 Act clearly showed that Congress did not intend to distinguish between vendor payments and direct payments.\footnote{46} In addition, the plaintiffs argued that the regulatory distinction between vendor payments and direct payments for food stamp allocation purposes unconstitutionally discriminated against recipients of direct-payment subsidies.\footnote{47}

In rejecting the plaintiffs’ argument that the USDA regulations were inconsistent with the 1977 Act,\footnote{48} the court of appeals found that the 1977 Act specifically authorized the direct-payment and vendor-payment distinction as well as the USDA’s household income inclusion regulations.\footnote{49} Concurring with the district court’s decision,\footnote{50} the court of appeals held that the similarity between the language in the 1977 Act and the language in the USDA regulation was probative evidence that the regulation was consistent with the Act.\footnote{51} The \textit{Ruhe} court stated that Congress had implicitly approved of the USDA’s statutory construction of the 1977 Act by not seeking to alter the regulation after the USDA district court held that this determination by the House committee was a reasonable basis for the 1977 Act’s provisions. \textit{Id.} \footnote{42} at 1299; see supra notes 29, 40-41.


\textit{Id.} at 103; see infra text accompanying notes 50-51, 53-55. \footnote{49}. \textit{Ruhee}, 683 F.2d at 105-06. \footnote{46}. \textit{Id.} at 105; see supra note 21 (the language of USDA regulations is similar to the language in 1977 Act).

\textit{Ruhe}, 683 F.2d at 105-06. \footnote{48}. \textit{Id.} at 105; see infra text accompanying notes 50-51, 53-55. \footnote{49}. \textit{Block}, 507 F. Supp. at 1295-96. \footnote{50}. \textit{Ruhe}, 683 F.2d at 103-04; see supra note 21 (the language of USDA regulations is similar to the language in 1977 Act).
promulgated and published the regulation. Further, the court of appeals found that the USDA brought its construction of the 1977 Act to the attention of the public and Congress. The Ruhe court determined that Congress would have shown any dissatisfaction with the USDA regulation by amending the regulation’s enabling statute. The court of appeals noted that the 1980 amendments to the 1977 Act did not alter section 5(d)(1) of the 1977 Act. Therefore, the court of appeals held that the USDA had discerned the congressional intent.

In addition, the court of appeals held that since the USDA had correctly discerned congressional intent, the plaintiffs’ use of legislative history as evidence was not controlling on the question of the propriety of the direct-payment income inclusion provision. The plaintiffs introduced two items of legislative history to suggest that Congress did not intend to distinguish between vendor payments and direct payments for food stamp allocation purposes. Furthermore, the plaintiffs argued that the House Agriculture Committee’s Report which accompanied the 1977 Act indicated that Congress did not intend for housing subsidies to be considered as household income. However, the Ruhe court disregarded the 1977 House report and held that legislative history should not control on statutory construction questions when the statutory language itself is clear.

52. Ruhe, 683 F.2d at 104-05.
53. Id. at 105.
54. Id. The Ruhe court relied on the Supreme Court’s ruling in Apex Hosiery Co. v. Leader, 310 U.S. 469, 487-89 (1940), and held that the USDA construed the 1977 Act correctly. Ruhe, 683 F.2d at 104. In Apex Hosiery, the Supreme Court held that when Congress does not seek to alter an agency’s regulation after the agency has construed a federal statute, courts should presume that the agency has discerned congressional intent correctly. Apex Hosiery Co., 310 U.S. at 489.
55. Ruhe, 683 F.2d at 105; see id. at 104 n.3; see also supra notes 8 & 54 and accompanying text (congressional intent in 1977 Food Stamp Act).
56. See infra note 58 (explaining plaintiffs’ legislative history evidence).
57. Ruhe, 683 F.2d at 104-05.
58. Id. The plaintiffs introduced two reports, issued by the House Committee on Agriculture in 1977 and 1980, which tended to show that some members of the House committee disagreed with direct-payment income inclusion. Id. at 104. One report suggests that housing subsidies generally should not constitute household income for food stamp purposes. H.R. REP. No. 464, 95th Cong., 1st Sess. 32, reprinted in 1977 U.S. CODE CONG. & AD. NEWS 2009; see supra note 58 (congressional intent behind housing subsidy payment income inclusion).
60. Ruhe, 683 F.2d at 104. The Fourth Circuit Court of Appeals relied on two Supreme Court opinions in holding that legislative histories and other extrinsic evidence pertaining to the 1977 Act were irrelevant: United States v. Rutherford, 442 U.S. 544, 551-52 (1979) (courts should imply exceptions to clearly delineated statutes only when such action is essential to prevent absurd results or consequences which vary with the policy of the enactment as a whole); United States v. Lexington Mill & Elevator Co., 232 U.S. 399, 409 (1914) (if a statute’s plain and unambiguous language contains the legislative purpose, courts have a duty to give the statute effect according to its terms). The court of appeals in Ruhe found that the 1977 Act’s plain and unambiguous language contained the legislative purpose and determined that reliance upon this language would not create absurd or unreasonable results. Ruhe, 683 F.2d at 104.
In addition to the 1977 legislative history, the plaintiffs argued that the House Agriculture Committee's Report concerning the 1980 amendments to the 1977 Act demonstrated that Congress did not intend to distinguish direct payments from vendor payments. The plaintiffs identified specific language in the committee's report which suggested that the USDA should revise its regulations to abolish the inequity of the vendor-payment and direct-payment distinction. The court of appeals disregarded the 1980 House report on the ground that while the opinions of a later Congress should receive substantial deference, the intent of the earlier enacting Congress, as contained in the plain meaning of the statute in question, should control. The Ruhe court found additional support for disregarding the 1980 House report. In a letter written by Congressman Thomas S. Foley, Chairman of the House Agriculture Committee, to Congressman Joseph L. Fisher of Arlington County, Chairman Foley stated that any change in the direct-payment income inclusion provision would require legislative action.

Finally, the court of appeals rejected the plaintiffs' argument that the USDA regulations violated the equal protection guarantees of the United States Constitution. The Ruhe court noted that since the USDA regulations and the 1977 Act contained almost identical language, an attack on the constitutionality of the regulation was also an attack on the enabling statute. The court of appeals held that the statutory distinction between vendor payments and direct payments was not unconstitutional merely because the distinction resulted in an inequitable allocation of food stamps to the plaintiffs. The Ruhe court relied on the Supreme

62. Ruhe, 683 F.2d at 104.
64. Ruhe, 683 F.2d at 105.
65. Id.; see United States v. Rutherford, 442 U.S. 544, 551 (1979) (subsequent legislative history irrelevant when intent of enacting Congress is clear); Moore v. Harris, 623 F.2d 908, 921-22 (4th Cir. 1980) (intent of earlier Congress which enacted statute controls).
66. Ruhe, 683 F.2d at 105; see Letter from House Agriculture Committee Chairman, Thomas S. Foley, to Congressman Joseph L. Fisher (September 7, 1979), reprinted in Joint Appendix for Appellant at 71, Ruhe v. Bergland, 683 F.2d 102 (4th Cir. 1982).
67. Ruhe, 683 F.2d at 105; see infra text accompanying notes 69-71.
68. Ruhe, 683 F.2d at 105; see supra text accompanying note 21 (USDA regulation identical to 1977 Act).
69. Ruhe, 683 F.2d at 105. The court of appeals held that the direct-payment income inclusion provisions contained in the 1977 Act did not violate the plaintiffs' equal protection rights because a reasonable basis existed for the statute. Id.; see Dandridge v. Williams, 397 U.S. 471, 485 (1969) (statutory classification that creates inequality in benefit allotments does not violate equal protection clause if classification possesses reasonable basis); Lindsley v. Natural Carbonic Gas Co., 220 U.S.
Court’s decision in *Dandridge v. Williams* to conclude that a statutory classification that creates inequality in benefit allotments does not violate the equal protection clause of the United States Constitution if a “reasonable basis” exists for the classification. The court of appeals found that the reasonable basis test was the appropriate mechanism for determining the constitutionality of the direct-income inclusion provision. The court of appeals applied the *Dandridge* reasonable basis test to the facts in *Ruhe* and determined that the inherent lack of government control over the expenditure of direct-payment housing subsidies as compared with the government control over vendor-payment housing subsidies provided a reasonable basis for distinguishing between the two programs. Since the 1977 Act’s direct-payment inclusion provision possessed a reasonable basis, the court of appeals concluded that the 1977 Act did not violate the plaintiffs’ constitutional rights.

### III. Analysis

In affirming the decision of the district court, the *Ruhe* court relied on the “plain meaning rule” of statutory construction. The plain meaning rule is a principle of statutory construction that courts generally will not consider a statutory classification unconstitutional if the classification serves a legitimate governmental function and is not arbitrary or capricious in application. Few classifications are per se unconstitutional. For example, the Supreme Court, in *Muller v. Oregon*, 208 U.S. 412, 421-22 (1908), held that sex could serve as a basis for statutory classification in determining maximum allowable working hours. However, in *Adkins v. Children’s Hosp.*, 261 U.S. 525, 532 (1923), the Supreme Court held that sex could not serve as a basis for statutory classification in determining allowable working wages. In evaluating whether a statutory classification is unconstitutional, courts routinely consider the practical application of the classification as well as the nature of the classification itself.

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61, 78 (1911) (classification having some reasonable basis does not offend equal protection clause merely because in practice classification results in some inequality). Courts generally will not consider a statutory classification unconstitutional if the classification serves a legitimate governmental function and is not arbitrary and capricious in application. *M. Forkosch, Constitutional Law* 520 (2d ed. 1969). Few classifications are per se unconstitutional. *See id.* For example, the Supreme Court, in *Muller v. Oregon*, 208 U.S. 412, 421-22 (1908), held that sex could serve as a basis for statutory classification in determining maximum allowable working hours. However, in *Adkins v. Children’s Hosp.*, 261 U.S. 525, 532 (1923), the Supreme Court held that sex could not serve as a basis for statutory classification in determining allowable working wages. In evaluating whether a statutory classification is unconstitutional, courts routinely consider the practical application of the classification as well as the nature of the classification itself. *Forkosch, supra*, at 519-21.


71. *Ruhe*, 683 F.2d at 105-06; *see Dandridge*, 397 U.S. at 485 (a welfare classification which fulfills a legitimate governmental objective and is not arbitrary and capricious does not violate equal protection); *see supra* note 40 (explaining *Dandridge* reasonable basis test); *see also supra* note 69 (illustrating application of reasonable basis test).

72. *Ruhe*, 683 F.2d at 105. The court of appeals determined that the *Dandridge* test was appropriate because *Dandridge* dealt specifically with a welfare classification that faced an equal protection clause challenge. *Id.*; *see Dandridge*, 397 U.S. at 485 (reasonable basis test).

73. *Ruhe*, 683 F.2d at 106; *see Richardson v. Belcher*, 404 U.S. 78, 84 (1971) (a statute is not unconstitutional if statutory goals are legitimate and classification is rationally related to achievement of those goals); *Dandridge*, 397 U.S. at 485 (classifications that have reasonable bases do not offend the Constitution). *See generally L. Tribe, American Constitutional Law* 991-1102 (1978); *Tussman & Tenbroeck, The Equal Protection of the Laws*, 37 Calif. L. Rev. 341, 348-51 (1949); *Note, Legislative Purpose, Rationality and Equal Protection*, 82 Yale L.J. 123, 128-32 (1972).

74. *Ruhe*, 683 F.2d at 106.

75. *Id.*

76. *Id.* at 104. The Fourth Circuit Court of Appeals cited prior Supreme Court opinions in support of its use of the plain meaning rule. *See supra* note 60; *see also* TVA v. Hill, 437 U.S. 153, 184 n.29 (1978) (courts need not refer to legislative history when statutory language is clear); *Luria Bros. & Co. v. Allen*, 672 F.2d 347, 357 (3d Cir. 1982) (if statutory language is plain, judicial inquiry...
meaning rule provides that if a statute's plain and unambiguous language gives a clear indication of the legislative purpose behind the statute's enactment, courts must construe the statute with deference only toward the express terms in the statute.\textsuperscript{77} In effect, the plain meaning rule renders a statute's legislative history irrelevant in statutory construction when congressional intent is clearly manifest in the words of the statute.\textsuperscript{78} In relying upon the plain meaning rule, the court of appeals refused to allow the plaintiffs' legislative history evidence to control.\textsuperscript{79} The Ruhe court construed the 1977 Act only with regard to the statute's plain and unambiguous language.\textsuperscript{80} Although judicial support for the plain meaning rule has wavered over the years,\textsuperscript{81} today most federal circuit courts accept the rule and avoid reliance upon legislative history when the statutory language is clear.\textsuperscript{82}

Although the plain meaning rule is appropriate in statutory construction when a statute is unambiguous on its face,\textsuperscript{83} courts routinely give a statute a conservative or liberal construction when the statute's subject matter so demands.\textsuperscript{84} Generally, courts strictly construe statutes which
stand in derogation of either the common law or human rights. However, most courts give public welfare statutes a liberal construction.

By recognizing the public welfare interests of the 1977 Act and construing the Act liberally, the Ruhe court could have determined that Congress did not intend for direct-payment housing subsidies to be included as household income. However, a court cannot construe a statute beyond the limits of congressional intent. Regardless of any preference that a court might have toward construing a statute in derogation of the common law strictly or toward construing a public welfare statute liberally, courts must give overriding deference to the statute's clear and unambiguous meaning. Therefore, the plain meaning rule takes precedence over other statutory construction devices.

Congress enacted the Food Stamp Act to promote the general welfare and safeguard the health and well-being of the nation's households by raising levels of nutrition among low-income households.


See supra notes 60, 65 & 76 (explaining plain meaning rule; see also supra text accompanying notes 77-78 (controlling weight that plain meaning of statute possesses over legislative history). See generally Murphy, supra note 76, at 1299; Jones, The Plain Meaning Rule and Extrinsic Aids in the Interpretation of Federal Statutes, 25 WASH. U.L.Q. 2, 6 (1939).

91. See United States v. Rutherford, 442 U.S. 544, 551-52 (1979) (plain meaning rule); see also supra notes 60, 65 & 76 (explaining plain meaning rule); see supra text accompanying notes 77-78 (explaining controlling weight of plain meaning rule).
the court of appeals refused to liberally construe the 1977 Act beyond the Act's plain and unambiguous language. Since Congress' intent was clear from the language of the Act, the Ruhe court did not have the option of liberally construing the 1977 Act.

In addition, the court of appeals correctly refused to consider the 1977 House Agriculture Committee's Report as controlling on the issue of congressional intent. The Ruhe court's determination that the 1977 Act was unambiguous on its face rendered any consideration of the Act's legislative history impermissible. While most federal circuit courts would agree with the Fourth Circuit's treatment of the 1977 Act's legislative history, a few circuit courts have held that legislative history is probative evidence even when the statute in question contains plain and unambiguous language. Even the United States Supreme Court has wavered on the amount of deference that the plain meaning rule deserves. In Caminetti v. United States, the Supreme Court stated that when the language of a statute is plain, no duty of statutory construction arises and courts should look only toward the language of the statute in determining congressional intent. However, in Harrison v. Northern Trust Co., the Supreme Court modified the Caminetti rule by suggesting that no rule forbids the use of legislative history, regardless of how clear a statute's words may appear.

92. Ruhe, 683 F.2d at 104.
93. Id.; see also supra text accompanying notes 49-54 (intent of Congress in the 1977 Act).
94. Ruhe, 683 F.2d at 104; see supra notes 81 & 89 (explaining the court's duty in statutory construction when the statute is clear and unambiguous); see also supra text accompanying notes 49-54, 60, 89-90 (Ruhe court's obligation under plain meaning rule to disregard legislative history and liberal construction of statute).
95. Ruhe, 683 F.2d at 104.
96. Id. See generally Jones, supra note 90, at 6-10.
98. March v. United States, 506 F.2d 1306, 1313-14 (D.C. Cir. 1974) (plain meaning rule does not preclude consideration of legislative history); Schiaffo v. Helstoski, 492 F.2d 413, 428 (3d Cir. 1974) (court applied the plain meaning rule but accepted legislative history to construe the plain and unambiguous statute); Cabell v. Markham, 148 F.2d 737, 739 (2d Cir.), aff'd sub nom. Markham v. Cabell, 326 U.S. 404 (1945) (mere words contained in a statute do not always manifest or embody the intent of enacting Congress). See generally H. FRANKFURTER, BENCHMARKS 204 (1967) (Justice Frankfurter's opinions on the use of the plain meaning rule to the exclusion of other statutory construction devices).
100. 242 U.S. 470, 471, 478-79 (1917).
101. Id. at 485.
102. 317 U.S. 476 (1943).
103. Id. at 479.
In refusing to consider the 1980 House Agriculture Committee's Report, the Ruhe court held that subsequent legislative history does not afford assistance in discerning the congressional intent embodied in earlier statutes.\textsuperscript{104} The court of appeals was consistent with its earlier decision in Moore v. Harris\textsuperscript{105} in determining that subsequent legislative history lacks probative value in statutory construction.\textsuperscript{106} In Moore, the Fourth Circuit Court of Appeals held that legislative history, subsequent to the passage of the Coal Mine Health and Safety Act of 1969,\textsuperscript{107} was unpersuasive in discerning the intent of the enacting Congress.\textsuperscript{108} In Moore, the court of appeals determined that the enacting Congress' intent is controlling with regard to questions of statutory construction.\textsuperscript{109} While most circuit courts find subsequent legislation useful in determining prior congressional intent, no circuit court places much probative weight on subsequent legislative history.\textsuperscript{110}

In applying the reasonable basis test,\textsuperscript{111} the Ruhe court found that the direct-payment income inclusion provision of the 1977 Act did not violate the plaintiffs' constitutional rights.\textsuperscript{112} The Ruhe court found that the government's desire to exclude undeserving food stamp recipients from the food stamp program by counting all spendable income as household income for food stamp allocation purposes was a reasonable basis for the income inclusion provisions of the 1977 Act.\textsuperscript{113} However, the reasonable basis used by the court of appeals, although correct in theory,\textsuperscript{114} is not persuasive when considered in light of the factual situation in Ruhe.\textsuperscript{115} The court of appeals assumed that the plaintiffs would have allocated

\begin{footnotes}
\item 104. Ruhe, 683 F.2d at 105.
\item 105. 623 F.2d 908 (4th Cir. 1980).
\item 106. Ruhe, 683 F.2d at 104-05; see infra text accompanying notes 107-09.
\item 108. Moore, 623 F.2d at 921-22.
\item 109. Id.
\item 110. See Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 380-81 (1969) (subsequent legislation declaring the legislative intent deserves great weight in statutory construction); National Small Shipments Traffic Conference, Inc. v. Civil Aeronautics Bd., 618 F.2d 819, 828 (D.C. Cir. 1980) (subsequent legislative history on the intent of a prior Congress may not be conclusive); Nevada Power Co. v. Watt, 515 F. Supp. 307, 324 (D. Utah 1981), aff'd, 711 F.2d 913 (10th Cir. 1983) (by implication, statutory construction in light of subsequent legislative history can conflict with the intent of the enacting Congress). \textit{But see} Director, Office of Workers' Compensation Programs, U.S. Dep't of Labor v. Clinchfield Coal Co., 574 F.2d 1167, 1169 (4th Cir. 1978) (per curiam) (subsequent legislative history is useful to consider degree of protection afforded by statute).
\item 111. Ruhe, 683 F.2d at 105-06; see supra text accompanying notes 67-74.
\item 112. See Dandridge, 397 U.S. at 485.
\item 113. Ruhe, 683 F.2d at 105-06.
\item 114. See Richardson v. Belcher, 404 U.S. 78, 84 (1971) (if statutory goals are legitimate and classification is rationally related to achievement of those goals, the statute has a reasonable basis). In Ruhe, the Fourth Circuit Court of Appeals determined that the lack of governmental control over the Arlington County subsidies could lead to misallocation of the housing funds to other areas. Ruhe, 683 F.2d at 106. \textit{See generally} L. Tribe, supra note 73, at 991-95.
\item 115. See infra text accompanying notes 118-19 & 121.
\end{footnotes}
their housing subsidies to other areas, including food expenditures, if the 1977 Act had not included direct-payment housing subsidies within the household income accounting scheme. Although the court of appeals never expressly made this assumption, it is implicit within the court's holding and is crucial to the court's finding of a reasonable basis behind the direct-payment income inclusion provision. Relying upon the assumption that the plaintiffs would have allocated their housing subsidies to other areas, the Ruhe court determined that the direct-payment income inclusion provision of the 1977 Act created an incentive for recipient families to spend their direct-payment housing subsidies on rent only.

The Ruhe court's assumption that, if given the chance, the plaintiffs would misallocate their housing subsidy funds, is questionable and fails to consider that the high cost of rental housing in Arlington County was a substantial incentive in persuading the plaintiffs to spend their housing subsidies only on rent. If the Ruhe court's assumption is incorrect, the direct-payment income inclusion provision of the 1977 Act lacks a reasonable basis. Therefore, the Ruhe court's holding that section 5(d) does not violate the equal protection clause of the United States Constitution is premised upon a tenuous and suspect assumption. If the Ruhe court's assumption is incorrect and the direct-payment provision lacks a reasonable basis, the direct-payment income inclusion provision

116. Ruhe, 683 F.2d at 106. By determining that recipient control of the housing subsidies made the direct-payment inclusion provisions of the USDA regulations reasonable, the court of appeals implicitly suggested that, if the recipients had the opportunity to misappropriate the subsidies fraudulently, the recipients would do so. Id. Evidence offered in Ruhe does not support this suggestion. See infra text accompanying notes 120-22.

117. Ruhe, 683 F.2d at 105-06.

118. Id. at 105; see infra text accompanying note 121.

119. Ruhe, 683 F.2d at 106.

120. See Ruhe v. Block, 507 F. Supp. 1290, 1293-94 (E.D. Va. 1981), aff'd sub nom. Ruhe v. Bergland, 683 F.2d 102 (4th Cir. 1982). Plaintiff Ruhe received $80.89 per month to assist in paying her monthly rent of $241.00. Id. at 1293. Plaintiff Hembry received $95.73 per month to assist in paying her monthly rent of $176.00. Id. Plaintiff O'Brien received $88.93 per month to assist in paying her monthly rent of $252.00. Id. at 1294. All three plaintiffs lived alone. Id. at 1293.

121. See supra notes 40, 69, 71 & 73. Under the Dandridge reasonable basis test, a statutory classification is not violative of the equal protection clause if the classification fulfills a legitimate governmental objective and is not arbitrary or capricious; see also Dandridge, 397 U.S. at 485; Ruhe, 683 F.2d at 104-05. If the Ruhe court's assumption is incorrect, the direct-payment income inclusion provision fails to fulfill any governmental objectives because the plaintiffs would not need additional stimuli to force proper allocation of the subsidy payments to rent. Furthermore, if the Ruhe court's assumption is incorrect, the direct-payment income inclusion provision discriminates arbitrarily between direct-payment recipients and vendor-payment recipients.

122. See Ruhe, 683 F.2d at 106. In Ruhe, the court of appeals suggested that the reasonable basis underlying the direct-payment income inclusion provision stems from the food stamp recipient's control of cash in direct-payment subsidies and the lack of control in vendor-payment subsidies. Id. Implicit within the Ruhe rational basis is the assumption that direct-payment recipients will misallocate the subsidy funds if possible. See supra text accompanying notes 116-19 (explanation of the court of appeals' assumptions in Ruhe).
of the 1977 Act violates the plaintiffs' equal protection rights. 123

IV. Conclusion

In Ruhe, the Fourth Circuit Court of Appeals correctly construed and applied a statute of questionable constitutionality. 124 The treatment of legislative history by the court of appeals was sound. 125 The court properly discerned the congressional intent behind the 1977 Food Stamp Act. 126 The Ruhe court correctly construed section 5(d) of the Act in light of the 1977 Act’s plain and unambiguous language. 127 The Ruhe court applied the plain meaning rule properly, 128 and held that the legislative history presented as evidence by the plaintiffs was irrelevant. 129 However, the court of appeals could have erred in finding that a reasonable basis 130 existed for the direct-payment income inclusion provision and in subsequently determining that section 5(d) of the 1977 Act does not violate the equal protection clause of the Constitution. 131

After Ruhe, recipients of direct-payment housing subsidies and food stamps in the Fourth Circuit will receive diminished food stamp benefits. 132 Good faith and proper allocation of all subsidy money toward housing costs will not relieve direct-payment recipients from a reduction in their food stamp benefits. 133 Such recipients must weigh the aggregate benefits of participation in both the direct-payment subsidy program and the food stamp program. As a result of the Ruhe decision, the recipients may be forced to participate in only one program. By implicitly forcing some recipients of direct housing subsidies to choose between participation in either the housing subsidy or the food stamp program, the direct-payment income inclusion scheme is inconsistent with the declared pol-

123. See supra note 120. Due to the high cost of rental housing in Arlington County, the plaintiffs were not likely to divert the housing subsidy money to other areas. Id. The reasonable basis behind the 1977 Act’s direct-payment income inclusion provision does not exist in the context of the Ruhe facts. See Ruhe, 683 F.2d at 103.

124. Ruhe, 683 F.2d at 104-06; see supra text accompanying notes 76, 79-80, 95-96, 104-06 (explaining the Ruhe court’s use of the plain meaning rule).

125. See supra note 76 (support for Ruhe court’s use of the plain meaning rule and treatment of legislative history evidence); see supra text accompanying notes 76-82 (the Ruhe court’s use of the plain meaning rule).

126. See Ruhe, 683 F.2d at 105; see also supra note 122.

127. See supra text accompanying notes 91-92, 95-96.

128. Ruhe, 683 F.2d at 103-05; see supra text accompanying notes 76-82.

129. Ruhe, 683 F.2d at 104-05; see supra text accompanying notes 60-63 & 78.

130. Ruhe, 683 F.2d at 105-06; see supra text accompanying notes 70-74, 112-13 (the Ruhe court’s application of reasonable basis test).

131. Ruhe, 683 F.2d at 105-06; see supra text accompanying notes 114-16, 120-23 (criticism of the Ruhe court’s reasonable basis finding).

132. Ruhe, 683 F.2d at 103-06. But see 7 C.F.R. § 273.9(c)(1)(ii) (1984) (direct housing subsidy payments paid to recipients of experimental housing subsidy programs in Green Bay, Wisconsin and South Bend, Indiana do not count as household income for food stamp allocation purposes).

133. See 7 C.F.R. § 273.9(c)(1) (1984) (USDA regulation defining household income inclusion plan). The USDA regulation is strict and contains no good faith exceptions. Id.
icy of the 1977 Act. The *Ruhe* decision illustrates a problem in the income accounting procedure of the 1977 Act. The problem in the accounting procedure encourages local governments administering direct-payment subsidy programs to enact vendor-payment subsidy programs. If the Arlington County housing subsidy plan utilized a vendor-payment mechanism, recipients, such as the plaintiffs in *Ruhe*, would not suffer reduced food stamp benefits.

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134. See 7 U.S.C. § 2011 (1982). Congress declared that the 1977 Food Stamp Act's purpose is to promote the general welfare and to safeguard the well-being of the nation's population by raising levels of nutrition among low-income households. *Id.*

135. See 7 C.F.R. § 273.9(c)(1)(i) (1984). By enacting vendor-payment housing subsidy programs in place of direct-payment housing subsidy programs, local governments assist residents in need of housing assistance without depriving residents of food stamp assistance. *Id.*

136. *Id.*

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