

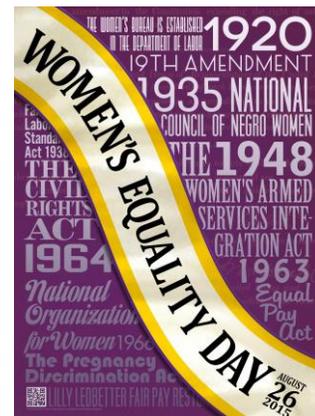


Sharron and Joseph Frontiero

Women's Equality Day
26 August 2015
"Celebrating Women's Right to Vote."
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Frontiero v. Richardson

In 1968, Sharon Frontiero joined the Air Force as a nurse and was commissioned as a lieutenant. She was stationed at Maxwell AFB in Montgomery, AL. Her husband, Joseph Frontiero, whom she had married in 1969, was a student at Huntingdon College in Montgomery. Under legislation providing for housing allowances and medical and dental



benefits for service members, the government automatically recognized wives of male service members as dependents, rendering them immediately eligible for these benefits. However, Frontiero was denied benefits for her husband because men were not immediately assumed to be dependent on their wives. In order to receive these benefits, women officers had to prove that their husbands were dependent on them for more than half of their support. Although Joseph was a full-time student, he was also a veteran who received monthly benefits of \$205. Because his living expenses were \$354 per month, they were considered too low to make him eligible for dependent benefits. Having been denied these additional benefits, the Frontieros sued the Secretary of Defense, Elliot Richardson, in 1970. They alleged that the difference in treatment for spouses of male and female dependents constituted discrimination under the Fifth Amendment's Due Process Clause, part of which states that a person cannot "be deprived of life, liberty, or property, without due process of law." The district court, sitting as a three-judge panel, rejected their claim in 1972, finding no constitutional violation. Because there was no legislative history behind the statutes with which the court could determine congressional intent, the court assumed that the administrative savings from not requiring men to justify dependent benefit eligibility for their spouses provided a rational basis for this law. In January 1973, the case was appealed directly to the U.S. Supreme Court. In an 8-1 decision delivered that May, the Supreme Court reversed the decision of the lower court. It held that the legislation providing different criteria for benefit eligibility depending upon gender for the sake administrative convenience violated the Due Process Clause. Justice William Brennan, who wrote the judgment of the court, also noted that the government could not prove that it was saving money and that many female spouses of male service members earned enough income to disqualify them for benefits. On a broader scale, however, the justices could not agree to adopt a strict scrutiny standard. Only four of the nine justices determined that gender, like race, is an inherently suspect classification and thus subject to a strict scrutiny test of judicial review. This is the toughest standard of judicial review employed by the courts, requiring the government to provide a compelling interest for the legislation at issue and to demonstrate that the law has been narrowly tailored to achieve its compelling purpose. Some of the justices were reluctant to adopt strict scrutiny because the Equal Rights Amendment (ERA) had been approved by Congress the previous year and was before the states for ratification, and thus they did not want to pre-empt a major political decision. Three of the justices concurred in the result, with two of the three applying a much less burdensome rational basis test that only required the government to show some reasonable basis for its legislation. The other justice simply concluded that the statutes in question violated the Constitution. Justice William Rehnquist dissented, relying upon the reasoning of the lower court that had ruled in favor of the government. By the time the Supreme Court rendered its decision, Frontiero had returned to civilian life. Although the Frontieros were successful in having the extra benefits statutes revised, women's rights advocates were disappointed that the court did not establish gender as an inherently suspect category requiring the strictest standard of review, as it already had with race. The court's failure to obtain a majority as to the appropriate standard of review in cases of alleged gender discrimination was remedied in the case of *Craig v. Boren*, 429 U.S. 190 (1976). While rejecting the strict scrutiny standard, the court in *Craig v. Boren* adopted an "intermediate scrutiny" standard somewhere between the strict scrutiny standard and the rational-basis test. Under this new intermediate standard, classifications based upon gender must be substantially related to an important governmental interest. (From Encyclopedia of Alabama, <http://www.encyclopediaofalabama.org/article/h-3162>)

Resources

- Library of Congress: <http://memory.loc.gov/ammem/naw/nawshome.html>
- National Women's Equality Day: <http://www.nationalwomensequalityday.com/>
- National Women's History Museum: <http://www.nwhm.org/>
- National Women's History Project: <http://www.nwhp.org/resources/commemorations/womens-equality-day/>
- Public Broadcasting Service: <http://www.pbs.org/stantonanthony/resources/index.html>
- Rutgers: <http://ecssba.rutgers.edu/index.html>
- Wikipedia: https://en.wikipedia.org/wiki/Women%27s_Equality_Day

<http://www.fofweb.com/History/MainPrintPage.asp?iPin=AWHD0104&DataType=Women>

http://www.pbs.org/wnet/supremecourt/rights/landmark_frontiero.html

https://en.wikipedia.org/wiki/Frontiero_v._Richardson