



U. S Repatriation Program

U.S. Citizens Rights Summary of Supreme Court cases

Although the word "travel" does not appear in the Constitution, the right to travel from state to state is embedded in Supreme Court caselaw. As the Court recently clarified in its 1999 decision, *Saenz v Roe*, the "**right to travel**" embraces three different components: (1) the right of a citizen of one state to enter and leave another state, (2) the right to be treated as a welcome visitor and not an unfriendly alien while temporarily present in a second state, and (3) for those travelers who elect to become residents of another state, the right to be treated like other citizens of that state. The first of these rights, depending upon which Supreme Court justices you ask, has its source either in the commerce clause or the privileges and immunities clause of the Fourteenth Amendment. The second has its source in the privileges and immunities clause of Article IV, Section 2. The third right, the one considered in the cases on this page, is based, the Court says in *Saenz* in the Fourteenth Amendment: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

Shapiro v. Thompson (1968) ***Shapiro v. Thompson (1969)*** considered the constitutionality of a state law that established a one-year residency requirement for welfare recipients. The Court struck down the law, finding it a violation of the "right to travel" (really, more the right to migrate). The Court said it had "no reason to ascribe the source to any particular constitutional provision," relying instead on the "fundamental rights" prong of equal protection analysis. In a subsequent case, the Court upheld residency requirement for in-state tuition benefits. In so doing, the Court distinguished *Shapiro*, which it said involved access to "basic necessities of life."

In *Zobel v. Williams* (*Zobel v. Williams (1982)*), the Court, 8 to 1, struck down a Alaska scheme that distributed royalties from the state's mineral revenues to state residents based on the length of state residency. Residents received \$50 in benefits for each year they lived in Alaska. Various justices offered three different reasons for invalidating the plan.

Finally, in *Saenz v. Roe* (*Saenz v. Roe (1999)*), the Court breathed new life into the Citizenship Clause of the Fourteenth Amendment in finding that clause to be violated by a California law that set lower welfare benefits for newer residents than for long-term residents. The Court says the clause "does not allow for degrees of citizenship based on length of residence."

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