

U.S. Supreme Court

Garrity v. New Jersey, 385 U.S. 493 (1967)

Garrity v. New Jersey

No. 13

Argued November 10, 1966

Decided January 16, 1967

385 U.S. 493

Syllabus

Appellants, police officers in certain New Jersey boroughs, were questioned during the course of a state investigation concerning alleged traffic ticket "fixing." Each officer was first warned that: anything he said might be used against him in a state criminal proceeding; he could refuse to answer if the disclosure would tend to incriminate him; if he refused to answer, he would be subject to removal from office. The officers' answers to the questions were used over their objections in subsequent prosecutions, which resulted in their convictions. The State Supreme Court, on appeal, upheld the convictions despite the claim that the statements of the officers were coerced by reason of the fact that, if they refused to answer, they could, under the New Jersey forfeiture of office statute, lose their positions. That statute provides that a public employee shall be removed from office if he refuses to testify or answer any material question before any commission or body which has the right to inquire about matters relating to his office or employment on the ground that his answer may incriminate him. On the ground that the only real issue in the case was the voluntariness of the statements, the State Supreme Court declined to pass upon the constitutionality of the statute, though the statute was considered relevant for the bearing it had on the voluntary character of the statements used to convict the officers. The officers appealed to this Court under 28 U.S.C. § 1257(2), and the question of jurisdiction was postponed to a hearing on the merits.

Held:

1. The forfeiture of office statute is too tangentially involved to satisfy the requirements of 28 U.S. C. § 1257(2). The only bearing it had was whether, valid or not, the choice between being discharged under it for refusal to answer and self-incrimination rendered the statements products of coercion. The appeal is dismissed, the papers are treated as a petition for certiorari, and certiorari is granted. Pp. [385 U. S. 495-496](#).
2. The threat of removal from public office under the forfeiture of office statute to induce the petitioners to forgo the privilege against self-incrimination secured by the Fourteenth Amendment rendered the resulting statements involuntary, and therefore inadmissible in the state criminal proceedings. Pp. [385 U. S. 496-500](#).

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(a) The choice given petitioners either to forfeit their jobs or to incriminate themselves constituted coercion. Pp. [385 U. S. 496-498](#).

(b) Whether there was a "waiver" is a federal question. P. [385 U. S. 498](#).

(c) Where the choice is "between the rock and the whirlpool" (*Frost Trucking Co. v. Railroad Comm'r*, [271 U. S. 583](#), [271 U. S. 593](#)), the decision to "waive" one or the other is made under duress. P. [385 U. S. 498](#).

Appeal dismissed, and certiorari granted; 44 N.J. 209, 207 A.2d 689; 44 N.J. 259, 208 A.2d 146, reversed.