

# ***State v. Russell*, 477 N.W.2d 886 (Minn. 1991)**

**Objective:** To better understand how courts make decisions that apply laws fairly to everyone.

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## **CASE SUMMARY**

The Minnesota Supreme Court held that the statute that prescribed different penalties for possession of similar amounts of crack cocaine and powder cocaine violated the equal protection provision of the Minnesota Constitution. The statute provided that a person possessing three grams of crack cocaine was guilty of a third-degree offense, but it took possession of ten grams of powder cocaine to be guilty of a third-degree offense. The presumptive sentence for possessing three grams of crack cocaine was an executed 48 months imprisonment, but a conviction for possession of a similar amount of powder cocaine only called for a stayed 12 months of imprisonment with probation. The court concluded that there was not a rational basis to support the disparate treatment of crack cocaine—which all parties agreed was used much more heavily among African-Americans—and powder cocaine.

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## CASE STUDY

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**Facts:** In 1989, the Minnesota Legislature passed a criminal law prohibiting cocaine drug use, which created separate categories and penalties for the use of crack cocaine as compared to cocaine powder use. Here is how the law was set up:

	Minn. Stat. 152.023, subd. 2	Minn. Stat. 152.025
<b>Level of Offense</b>	3 <sup>rd</sup> Degree	5 <sup>th</sup> Degree
<b>Crime</b>	Possession of 3 or more grams of “crack” cocaine	Possession of less than 10 grams of cocaine powder
<b>Penalty</b>	up to 20 years in prison	up to 5 years in prison
<b>Sentencing Guidelines</b>	Presumptive Sentence - executed 48 months imprisonment	Presumptive Sentence - stayed 12 months of imprisonment and probation

The defendants in this case were five African-American men who were charged with possession of 3 grams of crack cocaine under Minn. Stat. 152.023, subd. 2. Defendants asked the trial court to dismiss the charges because the law had a discriminatory impact on black persons and therefore violated the equal protection guarantees of the federal and state constitutions.

**Trial Court Decision:** Judge Pamela Alexander was the trial court judge who agreed with the defendants. The trial court found that crack cocaine is used predominantly by blacks and that cocaine powder is used predominantly by whites. During the year 1988, statistics showed that of all the persons charged with possession of crack cocaine, 96.6 % were black. Of all persons charged with possession of powder cocaine, 79.6% were white. As a result a far greater percentage of blacks than whites face more severe consequences for possession of crack cocaine than their white counterparts who possess cocaine powder.

The trial court concluded that the law had a discriminatory impact on black persons and that there was no rational basis for the distinction between crack cocaine and cocaine powder in the law. Therefore the law did not apply fairly to all persons thereby violating the equal protection guarantees of the Minnesota Constitution.

Charges against the defendants were dismissed. However, the trial court did certify the question as to whether the statute is constitutional to the Minnesota Court of Appeals. Before the Minnesota Court of Appeals could rule, the Minnesota Supreme Court granted petitions by both the state and defendants to hear the case right away.

**Minnesota Supreme Court:** The issue before the Minnesota Supreme Court was whether the Minnesota cocaine law violated a guarantee of the Minnesota Constitution that all persons in

similar situations are to be treated alike. In order to make distinctions in the law there must be a reasonable basis for doing so.

The Court looked to whether there was a reasonable basis for the distinction between users of crack cocaine and users of powder cocaine. It concluded there was no good basis for the different categories. First, the legislature justified the 3 gram crack cocaine and 10 gram powder cocaine level as the levels at which street-level dealing, not merely using, took place. So the purpose of the classification was to facilitate prosecution of “street level” drug users. The Court found insufficient evidence to support this and found the distinction to be arbitrary.

Second, the legislature based the law on the fact that crack cocaine tended to be more addictive than cocaine powder thereby justifying different treatment. The Court was not persuaded and felt it was not so much the type of cocaine used as the method of ingestion (sniffed or smoked) that created the greater danger. Powder cocaine could be dissolved in water and injected intravenously achieving the same effect on the body as smoking crack cocaine. So the greater danger of crack cocaine is not a valid justification if powder cocaine could produce the same results.

Not only was there no reasonable basis for the different categories in the law, the Court also concluded that the categories had no relevance to the purpose of the law. Without more evidence that 3 grams of crack cocaine included only drug dealers, the statute could be arbitrarily punishing personal users in a more harsh way. Also it doesn't seem fair that someone who has 10 grams of powder cocaine, which could be easily converted into more than three grams of crack, should be punished only for 5<sup>th</sup> degree possession of cocaine.

The Minnesota Supreme Court affirmed the trial court's decision that Minnesota Statute Sec. 152.023, subd. 2 (1) (1989) violated the Minnesota Constitution's guarantee that all laws are to treat people fairly.

Although the Minnesota Constitution has no specific language guaranteeing equal protection of the law, Justice Simonett explained in a concurring opinion that equal protection is read into the

Constitution as an “unenumerated” constitutional right. Minn. Const. Art. 1, Sec. 16 states “The enumeration of rights in this Constitution shall not deny or impair others retained by and inherent in the people.” Article 1, Sec. 2 provides “No member of this state shall be disenfranchised or deprived of any of the rights or privileges secured to any citizen, thereof, unless by the law of the land or the judgment of his peers.” One of the inherent rights secured to a free people by Section 2 is the inherent right to “equal and impartial laws which govern the whole community and each member thereof.” Put another way, persons similarly situated are to be treated alike unless a sufficient basis exists for distinguishing among them.

## **DISCUSSION QUESTIONS**

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1. Follow Supreme Court case study format (see attached)
2. Does it appear that the Minnesota Legislature intended for the law to have a discriminatory impact? Do you think the intent of the legislature should make a difference in how the court views the law? Even if there is no intent to discriminate obvious in the wording of the law, should the court look at the impact of the law as it is enforced?  
(The dissenting opinion felt the court should review a law only if it can be shown the legislature had a discriminatory purpose as a motivating factor in its decision.)
3. How do you think the court would rule on a DWI law that had more severe penalties for drivers who got intoxicated on beer as compared to those who drank wine? Would that be a similar case as this one?
4. Can you think of other examples where a law or public policy treats people differently as it is carried out?

# **SUPREME COURT CASE STUDY GUIDE**

*State v. Russell*, 477 N.W.2d 886, (Minn. 1991)

1. What is the name of the case?
2. What are the facts of the case?
  - a. What happened?
  - b. Who was involved?
  - c. Why did they act as they did?
  - d. How did the trial court rule?
  - e. Which facts are important to the trial court? Why?
  - f. What additional facts would you like to have?
3. What is the constitutional or legal issue?
  - a. What part of the Minnesota Constitution is involved?
  - b. What question is the court being asked to answer? This is often referred to as the “legal issue.”
4. What are the arguments?
  - a. What are two reasons why the Legislature treated crack cocaine differently than powder cocaine?

- b. How did the court respond to each argument?
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- 5. What is the Supreme Court's decision?
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- 6. How do you feel about the decision?
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- 7. What will be the impact of the decision?