Unconstitutional Conditions Doctrine

The Unconstitutional Conditions Doctrine is a rule which describes that the government cannot condition a person's receipt of a governmental benefit on the waiver of a constitutionally protected right; even if the government may withhold that benefit altogether. This doctrine further hold that the government cannot force a person to choose between two constitutionally protected rights, in exchange for discretionary benefits, where the property sought has little or no relationship to the benefit conferred. The United States Supreme Court has held in Perry v. Sindermann, 408 U.S. 593, 597 (1972):

"For at least a quarter-century, this Court has made clear that, even though a person has no "right" to a valuable governmental benefit, and even though the government may deny him the benefit for any number of reasons, there are some reasons upon which the government may not rely. It may not deny a benefit to a person on a basis that infringes his constitutionally protected interest, especially his interest in freedom of speech. For if the government could deny a benefit to a person because of his constitutionally protected speech or associations, his exercise of those freedoms would in effect be penalized and inhibited. This would allow the government to "produce a result which [it] could not command directly." *Speiser v. Randall,* 357 U. S. 513, 357 U. S. 526. Such interference with constitutional rights is impermissible."

"We have applied this general principle to denials of tax exemptions, *Speiser v. Randall, supra,* unemployment benefits, *Sherbert v. Verner,* 374 U. S. 398, 374 U. S. 404-405, and welfare payments, *Shapiro v. Thompson,* 394 U. S. 618, 394 U. S. 627 n. 6; *Graham v. Richardson,* 403 U. S. 365, 403 U. S. 374. But, most often, we have applied the principle to denials of public employment. *United Public Workers v. Mitchell,* 330 U. S. 75, 330 U. S. 100; *Wieman v. Updegraff,* 344 U. S. 183, 344 U. S. 192; *Shelton v. Tucker,* 364 U. S. 479, 364 U. S. 485-486; *Torcaso v. Watkins,* 367 U. S. 488, 367 U. S. 495-496; *Cafeteria Workers v. McElroy,* 367 U. S. 886, 367 U. S. 894; *Cramp v. Board of Public Instruction,* 368 U. S. 278, 368 U. S. 288; *Bagett v. Bullitt,* 377 U. S. 360; *Elfbrandt v. Russell,* 384 U. S. 11, 384 U. S. 17; *Keyishian v. Board of Regents,* 385 U. S. 589, 385 U. S. 605-606; *Whitehill v. Elkins,* 389 U. S. 54; *United States v. Robel,* 389 U. S. 258; *Pickering v. Board of Education,* 391 U. S. 563, 391 U. S. 568. We have applied the principle regardless of the public employee's contractual or other claim to a job. *Compare Pickering v. Board of Education, supra, with Shelton v. Tucker, supra."*