

United States Supreme Court Opinion in *Swedenburg v. Kelly*

In an Opinion issued on May 16, 2005,<sup>1</sup> the United States Supreme Court reviewed cases from Michigan and New York<sup>2</sup> that required the Court to resolve the following question:

Does a State's regulatory scheme that permits in-state wineries directly to ship alcohol to consumers but restricts the ability of out-of-state wineries to do so violate the dormant Commerce Clause [of the United States Constitution] in light of Sec. 2 of the 21<sup>st</sup> Amendment [to the United States Constitution]?

The Court held as follows:

We hold that the laws in both States [Michigan and New York] discriminate against interstate commerce in violation of the Commerce Clause, Art. I, § 8, cl. 3, and that the discrimination is neither authorized nor permitted by the Twenty-first Amendment. Accordingly, we affirm the judgment of the Court of Appeals for the Sixth Circuit, which invalidated the Michigan laws; and we reverse the judgment of the Court of Appeals for the Second Circuit, which upheld the New York laws.

At the conclusion of the Court's discussion, the Court ordered and directed as follows:

We affirm the judgment of the Court of Appeals for the Sixth Circuit; and we reverse the judgment of the Court of Appeals for the Second Circuit and remand the case for further proceedings consistent with our opinion.

Until further proceedings have been fully completed following remand, including the determination of a remedy, the case is not finally concluded.

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<sup>1</sup> The United States Supreme Court Opinion resolving the Michigan and New York cases is found under the case name *Granholm, Governor of Michigan, et al v. Heald et al.*

<sup>2</sup> The New York case that was considered with the *Granholm* case is entitled *Swedenburg et al v. Kelly, Chairman, New York Division of Alcoholic Beverage Control, State Liquor Authority, et al.*