

Monterey College of Law – Hybrid  
CONSTITUTIONAL LAW I – Section 1

FALL 2024

Prof. A. Ruskell

EXAM INSTRUCTIONS

You will have three hours to complete this exam. There are two essay questions to be answered in Questions 1 and 2; Question 3 consists of four short answer questions. Each question will count for 1/3 of your exam grade.

Unless expressly stated, assume that there are no Federal or State statutes on the subjects addressed.

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evince your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines that are not pertinent to the solution of the problem.

Question No. 1

The United States president has had a tumultuous presidency over the last four years. Afraid that he will not win reelection, he decides to have his opponent in the upcoming election, an unmarried orphan, killed. To this end, he discusses the matter with his attorney general who convinces him not to use the government's resources or entities to accomplish the killing. Frustrated, the president seeks out his campaign manager and together they hatch a plot to hire a hitman to accomplish the task. The President uses his own funds to hire the hitman. The hitman accomplishes the task while his opponent is campaigning in the State of Sunshine, but is caught in the process of the killing and confesses that the president hired him. The killing causes two cases to be filed against the president- one civil and one criminal. The criminal case is brought in state criminal court in the State of Sunshine. A non-profit organization, "the justice league," a group of orphans formed to assert the legal rights of those without family to do so, files civil suit directly to the U.S. Supreme Court alleging violations of the fifth, sixth, and fourteenth amendments and various state-law tort claims on behalf of the slain opponent.

In the criminal matter, the president moves to dismiss the case against him claiming absolute immunity from prosecution. The trial court denies the motion and the appellate court and court of last resort in the Sunshine State affirm. The United States Supreme Court grants certiorari in the matter.

In the civil matter, the president moves to dismiss the action on jurisdictional grounds that it is non-justiciable.

1. In the criminal case before the United States Supreme Court, what issues will the prosecution and defense raise and how will the court likely rule and why?
2. In the civil case before the United States Supreme Court, what arguments for and against the United States Supreme Court's jurisdiction can the parties make and how is the court likely to rule and why?
3. In the civil case before the United States Supreme Court, what arguments for and against justiciability can the parties make and how is the court likely to rule and why?

Question No. 2

After voters approved an initiative enshrining the recreational use of marijuana into the Moonshine State's constitution, the Moonshine State's legislature became concerned with the recent influx of foreign corporations applying for business licenses in Moonshine State to sell marijuana and marijuana-related products. Additionally, it was concerned with residents of West Moonshine State, a neighboring State to the west of Moonshine State, moving east to Moonshine State to take advantage of its new marijuana laws and, in so doing, put pressure on its worsening housing crisis. Moreover, studies showed that the initiative had a disproportionate impact on men with several studies noting that men showed a particular propensity for dissociative behavior after prolonged use of marijuana and marijuana-related products. Accordingly, the Moonshine State's legislature passed the "Reefer Madness" bill that restricted the licensing of new marijuana businesses to those business entities that had already been conducting business in Moonshine State for five years prior to their business license applications. The law also prohibited the sale of marijuana or marijuana-related products to residents of Moonshine State who had become residents of the State within one year of the bill's passage. Finally, the law restricted the amount of marijuana or marijuana-related products that men could purchase or possess, setting specific guidelines and penalties for violation thereof.

1. Cheech, a new, male, resident of Moonshine State who moved to Moonshine State six months after it passed its initiative, brings suit due to the restrictions of Moonshine State's restrictions on the male gender. Analyze the Constitutional arguments Cheech can raise in a lawsuit to challenge the reparations law, and Moonshine State's likely responses and defenses. How should the Supreme Court rule and why?
2. The Bing Bong Corporation applied for a license to open a marijuana and marijuana-related products business in Moonshine State after it passed its initiative, but is located in a different State. Moonshine State, however, denied its permit application, citing the reefer madness bill. Bing Bong brings suit under the commerce clause and the privileges and immunities clause. Analyze the Constitutional arguments Bing Bong can raise in a lawsuit to challenge the Reefer Madness law, and the likely responses and defenses to be raised by Moonshine State. How should the Supreme Court rule and why?
3. Laura has just moved to Moonshine State, but has been denied access by every shop selling marijuana or marijuana-related products due to her having recently moved to Moonshine State. She brings suit under the privileges and immunities clause and the commerce clause. Analyze the Constitutional arguments Laura can raise in a lawsuit to challenge the Reefer Madness law, and the likely responses and defenses to be raised by Moonshine State. How should the Supreme Court rule and why?

Question 3

Write a short answer to questions A, B, C, and D; Each question is worth 25 points.

- A. James Vanderstrand buys a parcel of beachfront property in Northcastle State, USA, planning to build luxury, high-rise condominiums. Before he can do so, however, the Northcastle State legislature enacts a law restricting the building of multi-family housing within 20 miles of any coastline in the State citing noise and crowding. James brings suit alleging that the law is an unconstitutional taking of his property without compensation. How is the court likely to analyze and rule on the issues raised in James's lawsuit?
- B. Johannes, a bird enthusiast, submits his application to sponsor the addition of the "puteketeke" to Seastate's bird of the year contest. Seastate, however, rejects Johannes's application because Puteketekes are known for wetting their nests. Johannes, however, believes that Seastate has rejected his application because he was born in a country outside of the United States and brings suit in federal court under the 14<sup>th</sup> amendment. While his suit is pending trial, Seastate's contest is held without the Puteketeke and the Titmouse wins the contest. In light of all of the factors and events outlined above, would the federal court be willing to reach the merits of Johannes's claim? Discuss.
- C. Concerned with the wild fluctuations in price in the U.S. grape market, Congress passes a law restricting the amount of grapes that farmers can produce each year. Dino, a grape farmer, produces grapes on his farm up to the limit of Congress's law, but additionally produces a little extra and uses the extra grapes to produce table wine for himself and his immediate family. Dino was cited for violation of the law and brings suit alleging that the law violates the commerce clause. How is the court likely to analyze and rule on the issues raised in Dino's lawsuit?
- D. The President of the United States, after becoming embroiled in scandal is impeached. Upon presentment to the senate of the house's articles of impeachment, the senate passes a rule permitting senators to vote on whether to remove the President by proxy vote. The President brings suit arguing that the Senate's rule violates Article I of the Constitution. In light of all of the factors and events outlined above, would the federal court be willing to reach the merits of the President's claim? Discuss.

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## Brief Answer key to

### Constitutional Law Midterm Exam

Fall 2024

Profs. King (hyb Sec2), Wagner (slo), Migdal (mcl), Loo (kcl), Ruskell (hyb Sec1)

#### Question 1

1. In the criminal case, the court will have to determine whether the President's act is an official act or an unofficial act under *Trump v. USA*. Additionally, though the admission of the president's discussion with his attorney general prior to hiring the hitman would likely be inadmissible in the case, it is also the president's best evidence that the act was an official one. Whether the President could admit exculpatory evidence of official acts is an open question. The best answers will analogize to the Court's specific discussion of the various acts at issue in the case as official or unofficial.
2. In the civil case, the court does not have original jurisdiction to hear the matter as suits against the President do not fall under Article III's original jurisdiction. The best answers will include a discussion of *Marbury v. Madison*.
3. The justiciability issue here is third-party standing. Students will analyze whether the justice league has itself suffered harm, whether the aggrieved party is likely to assert its own claim, and whether it has a sufficient nexus to the person for whom it asserts associational standing such that there is an Article III case or controversy.

#### Question 2

1. Students will analyze Cheech's equal protection claim based on gender and apply heightened scrutiny. Is the State's interest important enough to justify its gender-based restriction?
2. Students will properly note that the privileges and immunities clause does not apply to corporations and then proceed to analyze the issue under the dormant commerce clause. The best answers will refer to the *Tennessee Wine & Spirits Retailers Association v. Thomas* and note that the durational residency prohibition is not narrowly tailored to achieve a legitimate local purpose.
3. Here, students will analyze whether the privileges and immunities clause applies. Here, it is properly applied to a state law that discriminates against out-of-staters. However, is Laura's right a fundamental right protected by the P&I clause? *Baldwin v. Fish & Game Commission of Montana* would suggest it is not as the activity is a recreational one unrelated to earning a living or other economic interests.

#### Question 3

- A. Students will determine whether this is a possessory or regulatory taking and, if a regulatory taking, has the owner been deprived of all economically viable beneficial use of the property under *Lucas*?

- B. The issue here is mootness as the contest is already over by the time the case reaches the court. However, students may note that this could be a controversy that persists but evades review as future challengers would be unlikely to have a final resolution on the matter before it reaches the supreme court.
- C. This is a *Wickard* issue testing students' knowledge of the cumulative effect doctrine in the commerce clause jurisprudence. If all grape growers similarly grew extra grapes for personal consumption, would it substantially affect interstate commerce in the aggregate?
- D. Students will properly note that the US supreme court has determined that impeachment questions are non-justiciable political questions.

1)

## 1. Criminal Case

### Justiciability

Under Article III, Section 2 of the United States Constitution, courts may only hear "cases and controversies". This has developed historically to mean that, in order to bring a claim before the court, the plaintiff must have standing, the matter must be ripe for review, and the matter cannot be moot. Original jurisdiction means that the court can hear cases between the states, between non-citizens and other states, between citizens of different states, of foreign matters. Not included within original jurisdiction are actions of the president.

### Standing

In order to have standing, the plaintiff must show they have suffered an injury, that there is a causal link between their injury and the government action, and that the court can eliminate that harm by a judicial decision.

### Injury

The plaintiff must have suffered a concrete injury, not just a theoretical one, or be under the real threat of imminent harm.

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### Causation



For there to be causation, the plaintiff must be able to show there to be a causal connection between the injury they suffered or the imminent harm, and the government action in question.

### **Redressability**

Last, the court must be able to eliminate the harm or threat of injury through adjudication.

Here, the court will be able to make the estate whole through adjudication.

### **Ripeness**

A matter will be considered ripe when it has matured to a point sufficiently to warrant judicial review. When assessing ripeness, courts will look at the fitness of the matter, that it is concrete, not speculative, and does not depend on some future contingent event, and the hardship of the party, that is, whether they will be forced to incur harm by inciting enforcement of the law in question.

This matter is ripe because the president has killed the political opponent, causing the matter to mature to a point sufficient to warrant judicial review.

### **Mootness**

A real live controversy must exist at all stages of review or a matter will be considered moot and will not be heard. There are two exceptions to this, the first arises when there is a recurring harm that is short in duration and the plaintiff would otherwise be unable to bring the claim, and the second applies when a class action lawsuit is brought.

Here, the matter will not be moot because the injury has already occurred and the criminal charges will remain live through the entire appeal.

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## **Absolute Immunity**

While in office, the president has absolute immunity for any official acts. This means that, for any action that the president takes within the scope of their position, they will be immune from any civil or criminal charges or the liability thereof. This immunity does not apply to acts that are not considered to qualify as "official acts", or from any acts that occurred prior to or after the president's time in office.

Here, the president will argue that he has absolute immunity. He will argue that the action was taken during the time of his presidency and because of that, he will be immune from civil or criminal liability. This argument is unpersuasive. Charges will be allowed against the president and the court will not allow the president to shield himself in absolute immunity.

First, in a recent Supreme Court cases dealing with absolute immunity of president Trump, the court gave heavy consideration to the attorney general's guidance for a presidents action, in determining whether they were official or not. Here, the attorney general instructs the president not to use the government's resources or entities to accomplish the killing. The attorney general is likely counseling the president not to go forward with the act as he cannot condone it. This means that the attorney general has advised the president not to go through with it.

Second, the president uses his own funds to hire the hitman. This shows that the President understood the act to be outside of the scope of his duty. The scope of duty for the President does not include killing political opponents and no court would find that the premeditated murder of a political opponent would be allowed to be considered an official act. Doing so would throw the United States republicanism into question altogether.

## **Executive Privilege**

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The president has executive privilege which means that he has the option to conceal information from the public. This concept acknowledges the inherent secrecy and confidentiality that is needed for the president to be able to carry out his duties effectively, and the need for them to have candor with the other government officials and foreign nations who they deal with. Excluded from this privilege is any criminal wrongdoing that the president is being accused of. The privilege becomes limited in these instances and the president may not be able to assert the privilege successfully in these situations.

Here, the president will be unsuccessful in asserting executive privilege. He is being accused of pre-meditated murder, among other things, for the hiring of a hitman to kill his political opponent.

## 2. Civil Case

### Justiciability

Supra.

Original jurisdiction is important here because it does not inherently allow the Supreme Court to hear cases regarding the president or their action. Under *Marbury v. Madison*, the supreme court established, through Article III, Section 2 that it was the court to say what the law is. This means interpreting the constitution and reviewing any cases dealing with a potential conflict with the constitution. Here, the president's action may not have violated the constitution, in which case the Supreme Court would not be able to hear the case under their original jurisdiction. But, the case is being brought before a state court first, which would likely allow the supreme court to hear the case on appeal.

The President will argue that the Supreme Court is of limited jurisdiction, and despite the fact that the case was brought before a state court and appealed to the Supreme Court,

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does not give them the authority to hear the case. The President will point to the express language of Article III, Section 2, which does not allow the Supreme Court to review the President's actions.

## **Standing**

Supra.

## **Injury**

Supra.

Here, the political opponent's estate will have suffered an injury by his death, carried out at the hands of the President.

## **Causation**

Supra.

The estate will point to the actions of the president, in hiring a hitman to carry out the murder, to the death of the political opponent. But for the president hiring a hitman and carrying out the act, the political opponent would still be alive.

## **Redressability**

Supra.

The court will be able to provide redressability through the theory of tort to make the estate whole. They can seek damages from the president and even ledge punitive damages against him to make sure that the conduct is deterred going forward.

## **Ripeness**

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Supra.

This matter will be ripe as the injury has already occurred, the president has carried out the killing of the political opponent.

### **Mootness**

Supra.

This matter will not be moot as the president has already killing the political opponent is dead and the president has already carried the act out.

### **3. Justiciability**

#### **Justiciability**

Supra.

#### **Standing**

Supra.

#### **Injury**

Supra.

#### **Causation**

Supra.

#### **Redressability**

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Supra.

## **Ripeness**

Supra.

## **Mootness**

Supra.

## **Third Party Standing**

Generally, a case cannot be brought on behalf of a third party. The exception to this rule arises when the third party is unable to bring the claim themselves, the claim is inextricably bound between the parties, and the third party is someone who is appropriate to bring the claim due to their connection.

Here, it's unlikely that the justice league organization is inextricably bound to the estate of the political party as third party standing requires. The justice league's purpose has some connection to the deceased politician through their association's purpose, but this requirement is akin to a pregnant woman and a doctor. Additionally, the decedent's estate would be able to bring the action, which would defeat third party standing. But, the court may take into consideration the fact that there is practically no one to bring the estate's claim.

*new just association*

## **Association Standing**

Another exception to the general rule that third parties cannot bring claims is by association standing. In these cases, an association or organization may bring the claim on behalf of its membership when (1) the individual members themselves have standing, (2) the issue is germane to the purpose of the organization, and (3) the participation of the individual members is not required.

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Here, the justice league may be able assert organization standing. First, the estate of the deceased political party will have had standing to bring the claim against the president themselves because they have suffered an injury, caused by the president, and the court can provide redressability.

Second, the justice league asserts legal rights for those without a family to do so. Here, the deceased political opponent was an unmarried orphan, who does not have any family members to bring a suit on their behalf. These situations, among others, are exactly the type that the justice league was assembled to handle.

Third, the participation of the decedent's estate will not be necessary here for the justice league to bring the claim.

Its likely that the justice league will be able to bring this claim under association standing.

2)

1

Cheech

Individual Rights

The 14th amendment disallows discriminatory laws to be passed by the state. A law that is discriminatory on its face will be analyzed utilizing strict scrutiny meaning it must be narrowly tailored for a legitimate government interest, the burden on the law maker to prove their law is constitutional. However if a law is not discriminatory on its face but it has a disparate impact then the law must be analyzed for intent and causality, if the law is intentional and has been deemed to be the direct causation of the discrimination it too must be analyzed from the lens of strict scrutiny if the intent and causation are missing then the law will be analyzed on a rational basis theory, placing the burden on the petitioner to prove the law has no rational basis towards its purpose. Lastly a law facially discriminatory based on sex will be analyzed under intermediate scrutiny. Here Cheech contests Montana State's (MT) law which restricted the amount marijuana and marijuana related products that men could purchase or possess. On its face the State's law discriminates against men. Here the court would utilize Intermediate scrutiny which requires the law to be for a substantial government interest, the burden would be on the government to prove their law was constitutional. Here the State made their law based on several studies showing that men who used marijuana long term showed a propensity for disorderly behavior, the state would argue the law was for the general welfare of the citizens of the state. Cheech (C) would argue these studies might show an impact on male tendencies but it is not rational reason to believe that such a restrictive and blatantly discriminatory policy will provide the government with the relief sought which initially connected the Refer Madness Bill which sought to reduce the number of citizens encroaching on the city. Since there is not a clear nexus between the discrimination and

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the intent of the bill and subsequent law, it cannot be a substantial government interest. Thus the court would rule in favor of C because the government has not met the burden of a substantial government interest for a facially discriminatory law.

2

### Dormant Commerce Clause

The dormant commerce clause is implied from the commerce clause. The commerce clause gives congress the right to regulate interstate commerce (ISC). However, states do not have the same rights to regulate ISC in order for a state law to go into effect it must pass an intermediate scrutiny test. It must (1) be a legitimate government interest and there must not be a less restrictive measure available for utilization to allow the state to apply the restriction. An Exception is if the state is a market participant or if congress allows the rule. Here The Bing Bong Corporation (BC) applied for license to operate a marijuana business in the Moonshine State (State) to take advantage of their new laws allowing for the recreational use of marijuana. The State has a legitimate concern with regards of the influx of new citizens and the housing shortage, so they created a new bill the "Refer Madness" bill which limited the licensing to business who had been operating in the State for five years prior to applying for their marijuana licenses. This new bill is a direct regulation on these companies' rights to participate in interstate commerce, and the State biased the bill towards their own citizens. An argument can be made that it was for a good cause, to relieve the current crisis caused by over population, this is legitimate. However an opponent can argue this is not the least restrictive measure the state could have taken to relieve their housing crisis, for example they could have provided bills to stimulate property development, or they could have made a bill that was less restrictive to out of state business applicants, a bill that could have apportioned limitations universally as

opposed towards biasing their own citizens. Thus this law would be unconstitutional under the dormant commerce clause.

Privilege and Immunity Clause

The Privileges and Immunities Clause

Disallows state or local laws to discriminate or create an undue burden against an individual's substantive economic rights from out of state. This law would not be applicable to businesses under the privileges and immunities clause, because this clause only applies to citizens, not organizations

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The Commerce Clause encompasses the Privileges and Immunities Clause both are designed to prevent states from discriminating against out of state citizens' rights. Statd supra the commerce clause prevents the state from creating laws which discriminate against interstate commerce and the Privileges and Immunities clause prevents states from discriminating against out of state citizen's substantial rights.

In general states may not create laws which unfairly prevent out of state citizens from participating in state activities due to their length of stay in the state, because that would be in direct violation of interstate commerce, defined supra. Here Laura moved to the State recently and because of her new status as a citizen ever marijuana shop is refusing to sale her legal marijuana. In some ways this law seems to act as a bill of attainder (which unfairly punishes a party with a law without a substantial cause), restricting "citizens from purchasing marijuana products" who have not lived in the state for a year. Here this law directly prevents interstate commerce, which the state is not allowed to do without a legitimate reason substantially related to government interest. Laura has rights under the

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both the commerce clause and privileges and immunities clauses to participate in commerce, the Privileges and Immunities clause specifically disallows the state to enact a law that places time restrictions on access to commerce. Thus the law would be deemed unconstitutional

REALLY ABOUT WHETHER  
SUCH A LAW  
IS REASONABLE  
OR NOT

3)

## A. James v. Northcastle State Legislature

### Justiciability

Under Article III, Section 2 of the United States Constitution, courts may only hear "cases and controversies". This has developed historically to mean that, in order to bring a claim before the court, the plaintiff must have standing, the matter must be ripe for review, and the matter cannot be moot.

### Standing

In order to have standing, the plaintiff must show they have suffered an injury, that there is a causal link between their injury and the government action, and that the court can eliminate that harm by a judicial decision.

### Injury

*Concrete to harm*

The plaintiff must have suffered a concrete injury, not just a theoretical one, or be under the real threat of imminent harm.

Here, James has been deprived of the economic benefit of his land due to the regulation that restricts his building on it.

### Causation

For there to be causation, the plaintiff must be able to show there to be a causal connection between the injury they suffered or the imminent harm, and the government action in question.



Here, but for the building restriction, James would be able to carry out his development plan and would potentially benefit economically. Had Northcastle not enacted the land use restriction, James would have been able to build his condos.

### **Redressability**

Last, the court must be able to eliminate the harm or threat of injury through adjudication.

Here, the court can either strike down the regulation as unconstitutional, allowing James to construct the condos, or they can force the government to pay him just compensation for the loss in value.

### **Ripeness**

A matter will be considered ripe when it has matured to a point sufficiently to warrant judicial review. When assessing ripeness, courts will look at the fitness of the matter, that it is concrete, not speculative, and does not depend on some future contingent event, and the hardship of the party, that is, whether they will be forced to incur harm by inciting enforcement of the law in question.

Here, this matter is not speculative or contingent on some future event. James is currently restricted from being able to build his condos.

### **Mootness**

A real live controversy must exist at all stages of review or a matter will be considered moot and will not be heard. There are two exceptions to this, the first arises when there is a recurring harm that is short in duration and the plaintiff would otherwise be unable to bring the claim, and the second applies when a class action lawsuit is brought.

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Here, there are no facts to suggest that the law will be repealed or that the matter will otherwise become moot during the review.

## **Taking**

Under the power of eminent domain, contained within the Fifth Amendment, the government may take private property, so long as it is for a public purpose and the landowner receives just compensation. What constitutes a public purpose has been interpreted loosely and has even been found as stretch as far as taking private property and giving it to a private entity because of the potential for economic growth and development that the private entity has planned. Just compensation is simply the fair market value of the property. Historically, two different types of takings have developed, those where actual possession has been taken, called a physical taking, and an inverse condemnation, where the property has been deprived of all economic value due to government regulation. Here, because James is challenging a regulation, this will not be a physical taking.

## **Inverse Condemnation**

Under the theory of regulatory taking or inverse condemnation, whenever the government enacts a regulation that deprives the land of all economic value, a taking will have occurred despite the fact that government did not actually exercise eminent domain. To determine whether a regulatory taking has occurred, courts will look at (1) the investment backed expectations of the landowner, (2) the diminution in value of the land as a result of the regulation, and (3) the purpose and benefit of the government regulation.

Here, James has purchased beachfront property, which is typically very valuable and costly. James is a developer and is planning to construct luxury high-rise condominiums along the coast. It is very likely that James has invested substantial time and capital in the

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procuring of the beachfront property and in the planning of the high rise development. The court will give heavy consideration to the substantial investment backed expectations of James.

Next, the court will look at the diminution in value of the property. Here, it would be difficult to say that the property has not substantially decreased in value from what value James could have realized, had he been able to build the condos. At the same time, the beachfront property is likely still valuable, as single-family residences, and a litany of other purposes can still be borne from the land. But, James has not only lost the ability to carryout his plan, if he chose to sell the property, the price would likely reflect the reduction in value due to the building restriction.

Under the last element, the court would likely give heavy consideration to the surrounding area. Is the surrounding area comprised of sleepy coastal towns, or are there already condos nearby? This would bear consideration because, if the area is already noisy, or if there is no development nearby, or no other neighbors, then it would not matter that the noise level would likely increase. There is the potential that there is environmental impact from the noise, which could also be taken into consideration. In short, if there is a substantial reason to avoid noise and crowding, then the regulation would not likely qualify as a taking.

If the regulation does not have a substantial purpose, then the scales would likely tip in James' favor.

## **B. Johannes v. Seastate**

### **Justiciability**

Supra.

## Standing

Supra,

## Injury

Supra.

Here, Johannes is asserting that he was not able to participate in the contest because of discrimination. Therefore, the injury he will point to is being discriminated against and not being able to participate in a contest as a result.

## Causation

Supra.

Here, but for Seastate rejecting Johanne's application, he would have been able to participate in the contest, which is the injury he claims. There is causal connection here.

## Redressability

Supra.

It is unclear exactly what the court could do to offer Johannes redressability. Potentially, Johannes would be able to recover money damages, but that does not cure his issue of not being able to participate in the contest. For the sake of argument, we will say that money damages offer Johannes redressability.

## Ripeness

Supra.



Johannes missed out on a contest that he wanted to participate in, in what he alleges was due to discrimination. Under Johannes claim, he has been discriminated against and has suffered harm as a result.

### **Mootness**

Supra.

Here, as mentioned above, the contest is already occurred and, because of this, it is unlikely that the case will survive the mootness test. Like a student who brings an entry/application claim against a law school, but later graduates before the claim can be brought, this matter will likely be moot.

### **Equal Protection**

The government, including the states, may not discriminate against people who are similarly situated. Said in another way, the government may not treat similarly situated people differently. If the government does discriminate, the discrimination may be deemed unconstitutional depending on the class that is being discriminated against and the purpose of the law. There are three classes of people when reviewing under equal protection, which each have a corresponding standard of review to apply.

### **Suspect Class & Strict Scrutiny**

For race, alienage, and origin, which fall under the suspect class, the most sensitive class, the government will have to carry the burden to show that the law passes the strict scrutiny standard for the law to survive. Strict scrutiny requires the government to show that the law is necessary for a compelling government interest and that it is narrowly tailored to achieve that goal, that it is the least restrictive means of doing so. This level of scrutiny is incredibly difficult to prove and in most cases the law is effectively presumed to violate equal protection.

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If Johannes cases reaches the merit, he may have a claim against equal protection, because he was treated differently because he is an alien. But, as mentioned above, there is likely no redressability for Johannes and the matter is likely moot.

### **Quasi-Suspect & Intermediate Scrutiny**

The Quasi-Suspect class includes sex and legitimacy and requires the government again to carry the burden in meeting the intermediate scrutiny standard. This standard requires the government to show that the law is substantially related to an important government interest. It is a lower standard than strict scrutiny.

Here, if Johannes cases reaches the merit, he would be asserting nationality or origin, which is not included in this class.

### **General Class & Rational Basis**

Discrimination against any other group, not included in the suspect or quasi suspect classes will have to meet the lowest standard, rational basis. Under the rational basis test, the burden is on the plaintiff to show that the law is not rationally related to a legitimate government interest. Rational basis is extremely difficult to prove and the law will likely stand unless it is completely erroneous.

Here, if Johannes cases reaches the merit, he would be asserting nationality or origin, which is not included in this class.

### **Privileges and Immunities**

Under the privileges and immunities clause, states cannot deprive non-citizens of the privileges and benefits that it affords its own citizens. This means that the state cannot discriminate against non-citizens, especially if it deprives them of some economic interest or infringes upon a fundamental right.

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Here, if Johannes cases reaches the merit, he may assert a violation of privileges and immunities. But, this argument would likely fail because states have the authority to regulate things like hunting and fishing within the scope of the privileges and immunities clause.

### C. Dino v. United States

#### Justiciability

Supra.

#### Standing

Supra.

#### Injury

Supra.

Here, Dino has suffered an injury in the form of a violation alleging that he exceeded his quota for grapes.

#### Causation

Supra.

Here, but for the law in place establishing quotas for grape growing, Dino would have been able to keep his extra grapes and would not have incurred a violation.

#### Redressability

Just to go  
Alabama

Supra.

Here, the court could invalidate the law, effectively nullifying the violation, which would eliminate the harm to Dino.

### **Ripeness**

Supra.

Here, Dino has received a violation as a result of infraction of the law, which makes the matter ripe for review.

### **Mootness**

Supra.

There are no facts to suggest that the law would not be enforced, or would be repealed during the review.

### **Commerce Clause**

Under the Commerce Clause, the Congress has authority to regulate interstate commerce between the Indian tribes, foreign nations, and the several states. This includes the channels, such as roads and rivers, instrumentalities, such as vehicles and boats, and anything that has a substantial effect on interstate commerce. Additionally, Congress can regulate local intra-state commerce so long as, taken in the aggregate, the action has an affect on interstate commerce. The limitation to this power is that, Congress may not force parties to participate in interstate commerce.

These facts are similar to the case of Wickard v. Fillburn where a wheat farmer grew additional wheat for his own use and was charged with a violation of exceeding his quota. In that case, the Supreme Court established that Congress may regulate interstate

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commerce in instances where, although the act seems minor, when taken in the aggregate, there will be a sufficient impact on interstate commerce. Given how analogous that case is to the facts presented here, it is likely that the court will find Congress within its authority.

Now, had Congress ordered an agency to collect the additional grapes, exceeding a growing quota, without offering compensation, Dino may have a separate claim.

#### **D. President v. United States**

##### **Justiciability**

Supra.

##### **Standing**

Supra.

##### **Injury**

Supra.

Here, the president is being impeached

##### **Causation**

Supra.

##### **Redressability**

Supra.

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Just go to  
independent



## **Ripeness**

Supra.

## **Mootness**

Supra.

## **Political Question**

The courts will not hear cases of a political nature, meaning that the issue deals with matters committed to the other branches of the government, or when the court is incapable of providing relief through adjudication. This includes matters of impeachment.

Here, because the power of impeachment is committed to another branch of government, and because the court would not likely be able to provide relief through adjudication, the court will not have be able to hear the case as this is a political question.

## **Bicameralism**

The federal system of bicameralism requires involvement of the House and Senate, together comprising the Congress, for either to take certain action. Said in another way, neither of the individual parts of Congress, the House or the Senate may take certain action without involvement of the other. This form of bicameralism serves as a checks and balance for the branch, restricting them from acting rogue individually.

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Here, the president could challenge that the Senate has exceeded its authority in acting without the House in allowing vote by proxy. That is did not act with the requisite bicameralism and therefore the vote was unconstitutional as it exceeded the Senate's authority and relieved the branches of a necessary checks and balance.

**END OF EXAM**