

CONSTITUTIONAL LAW I
MIDTERM EXAMINATION

Fall 2023

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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 evidence 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.

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Question No. 1

After extensive hearings, Congress made findings that animals raised for pork products are routinely confined in small or crowded enclosures, resulting in detriment to the animals' health and causing concern to consumers. Congress enacted the "Pig Protection Act" which authorizes the Secretary of Agriculture to promulgate regulations governing the treatment of animals raised for pork to ensure their safety and the health of consumers. The Act prohibits the interstate transport of any pork products that fail to comply with the Department's regulations. Pursuant to the Pig Protection Act the U.S. President directed the Secretary of Agriculture to adopt regulations governing the size of enclosures confining animals raised for pork products and to enact procedures for enforcement of the regulations including fines and penalties for violations. The Secretary adopted specific regulations mandating minimum sizes and maximum occupancy for pig enclosures, and rules for enforcement and penalties for violations. The Pork Producers Association filed a lawsuit challenging the constitutionality of both the Pig Protection Act and the regulations adopted by the Secretary of Agriculture.

1. Analyze the Constitutional issues presented, including Justiciability, in the challenge to the Pig Protection Act and whether Congress had the Constitutional authority to enact the Pig Protection Act.
2. Assuming justiciability, analyze the Constitutional issues presented in the challenge to the Secretary of Agriculture's Rules, including the Secretary's authority to adopt regulations governing the size of enclosures used to confine animals raised for pork products and imposing enforcement procedures with fines and penalties.

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Question 2

The Sunstate Legislature enacted legislation to grant reparations to the state's Japanese Citizens because of the internment of Japanese Americans during World War II. Under the new law each state resident of Japanese Ancestry was entitled to claim \$20,000 in reparations upon proof that a family member had been incarcerated in an internment facility. A Reparations Fund was created by the state and funded by a tax imposed upon all businesses and corporations doing business in Sunstate if they had ever had a Judgment entered against them in Federal Court for violating Title VII of the Civil Rights Act, the federal law which prohibits employment discrimination based on race, color, religion, sex and national origin. Title VII provides for specific remedies and maximum damages.

Analyze the following questions:

1. Ali, a Sunstate resident of Italian ancestry, objects to the reparations law as unconstitutional because Ali's Italian family members were incarcerated in an internment facility during World War II and Ali is not entitled to apply for or receive reparations under the Sunstate law. Analyze the Constitutional arguments Ali can raise in a lawsuit to challenge the reparations law, and Sunstate's likely responses and defenses.
How should the Supreme Court rule and why?
2. The Beta Corporation does business in Sunstate but is located in an adjacent state. Beta was required by Sunstate to pay the Sunstate tax for the Reparations Fund because a Judgment had been entered against Beta in 1995 in federal court in a sex discrimination case brought under Title VII of the Civil Rights Act. Beta had paid that Judgment in full for maximum damages, and objects to Sunstate's Reparations Fund tax under the Supremacy Clause, the commerce clause, and the Privileges and Immunities Clause. Analyze the Constitutional arguments Beta can raise in a lawsuit to challenge the Reparations law, and the likely responses and defenses to be raised by Sunstate.
How should the Supreme Court rule and why?

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Question 3

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

A. Frank Farmer owns a 200-acre parcel of land in State A. The land is unsuitable for farming, unlike his land located elsewhere, and is located several miles from the nearest commercial and residential areas. However, geologists have determined that there is coal underneath the parcel. Frank owns both the surface and mineral rights to the property. The State A legislature, concerned about the environmental impact of coal mining, imposes a ten-year moratorium on coal mining in State A. Frank sues the state, alleging that the moratorium is an unconstitutional taking of his property without compensation. How is the court likely to analyze and rule on the issues raised in Frank's lawsuit?

B. President Green's administration becomes enmeshed in a scandal over charges that bribes were paid to a Justice Department official to make favorable recommendations on applications for Presidential pardons. The President denies any awareness of the bribes, and also denies that any pardons were granted on applications where bribes were paid. However, under pressure from Congress and the public, the President agrees that a special prosecutor should be appointed to investigate. The law provides that normally special prosecutors are inferior officers appointed by the Attorney General. However, a law enacted during the previous administration provided that special prosecutors investigating charges of Justice Department misconduct were to be appointed by a panel made up of three federal Circuit Court judges, but only if approved also by the chairpersons of the House and Senate Judiciary Committees. President Green's administration sues in federal court to block the appointment of a special prosecutor by this method, alleging that this appointment procedure is unconstitutional and the appointment can only be made by the Attorney General. How is the court likely to analyze and rule on the issues raised by the administration's lawsuit?

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C. Vern runs a business that rents motorized scooters to clients on an hourly basis. He operates his validly licensed business out of a van that he lawfully parks near Golden Gate Park in San Francisco. Ninety percent of the people who rent equipment (scooters, helmets and protective gear) ride the scooters in the park. Business is good, and Vern often runs out of scooters to rent by noon on weekends. After a rider of one of the scooters accidentally ran into a child who darted onto a path, the parks department met with the City Council to discuss active recreational activities in the public park. Upon further consideration, the City Council enacted an ordinance prohibiting all use of wheeled sports equipment in the park between the hours of sunrise to sunset, including bicycles, roller-blades, skateboards and scooters. The ordinance also prohibits the use of such equipment on the sidewalks bordering the park. Vern's rentals immediately declined. Vern seeks injunctive relief in federal court. Would the court hold that Vern has "Standing"? Briefly discuss.

D. Val applied to and was rejected by the Advanced Aeronautics Program ("AAP") at Jupiter State University ("JSU"). The makeup of each entering AAP class at JSU was determined by a formula established by state law that took into account the academic record, quality of undergraduate education, and the ethnicity of each applicant. According to state policy, the formula was necessary to ensure that each entering class reflected the cultural diversity of the state. Val's academic record was strong, placing her in the top 20 percent of applicants. Val believed that she failed to gain admission to AAP solely because she was white, and she filed suit in federal court challenging the state's admissions policy and seeking admission to JSU's AAP. While the suit was pending, Val reapplied and was admitted to the AAP and began her first year of studies. In light of all of the factors and events outlined above, would the federal court be willing to reach the merits of Val's claim? Discuss.

Brief Answer key to MCL Draft Constitutional Law Midterm Exam 2023

Question 1:

The Answer will require a brief analysis of Justiciability and Association standing, and will include:

First, an analysis of whether Congress has power under the commerce clause to enact the “Pig Protection Act. It follows on the recent US Supreme Court case of National Pork Producers v. Ross where the Court rejected a Dormant Commerce Clause challenge to a similar law passed in CA by initiative. There the Court stated that Congress may have power to legislate in that area but did not do so, leaving the question of federal power open. Students must apply the criteria of Lopez and Morrison cases to determine if pork raising issues have sufficiently substantial effects on interstate commerce to allow congress to legislate.

Second, Whether the administrative agency (here the Dept. of Agriculture) had sufficient authority delegated to it by congress to enact regulations. This raises the application of the “Major Questions Doctrine” first announced in 2022 in West VA. V. EPA, and referenced again in Biden v. Nebraska, the student loan case in 2023 holding the President, through the Dept. of Education, lacked sufficient direction from congress to forgive student loans.

Question 2:

First, students will analyze Leon’s equal protection claim based on race requiring an analysis of strict scrutiny in government’s granting reparations, and whether it is narrowly tailored to achieve that interest.

Second, Students will discuss preemption issues raised by a state’s taxing a company to fund reparations based on a sex discrimination judgement under a federal law, Title VII, which includes statutory remedies and maximum damages which have already been paid in full. Does the reparations law conflict with Title VII? Does it impede a federal objective? Does title VII occupy the entire field? Etc. And does the state’s reparations law violate the “Dormant Commerce Clause” by burdening interstate commerce? Students should apply the “Pike balancing test” for laws not discriminatory against interstate commerce on their face, but note that the Pike test was criticized and not applied in National Pork Producers v. Ross where the Court said Pike is really to be used as a way to determine if there has been purposeful discrimination against interstate commerce. Finally, students must point out that the Privileges and Immunities clause does not apply to corporations like Acme, but only to “citizens”. Some students may also add a due process analysis of whether or not taxing a company found liable for sex discrimination is rationally related to its legitimate interest in paying reparations for race discrimination.

Question 3: Short Answers Answer key:

- A. Students will analyze the constitutionality of the state’s regulatory “taking” of Farmer’s property by imposing a 10-year moratorium on coal mining. Under the Penn Central test and Lucas test students analyze whether Farmer has been deprived of all economically beneficial use, and under Tahoe Sierra Preservation Council v. Tahoe Regional Planning Agency in which the Court rejected a “per se” taking rule on moratoria, students will weigh relevant circumstances and determine whether this moratorium on mining constitutes a taking of Farmer’s property without just compensation.
- B. Students will analyze whether assigning the appointment of a special prosecutor to the panel of judges is constitutionally permissible. The special prosecutor is not a principal officer or other official who must be appointed by the President, so the appointment can be properly assigned to the courts. However, the scheme as structured is not constitutional because of the requirement of approval by (essentially a veto power to) the

chairpersons of the Congressional judiciary committees is not provided for by the Constitution, and that aspect of the scheme must therefore be struck down; however, the appointment by the panel of judges is constitutional and will be upheld. Substantial partial credit will be given for an answer that identifies the issues and analysis correctly but concludes that the entire appointment provision must be struck down. This is consistent with the principles discussed in *United States v. Artherex (2021)* in the supplement.

- C. Has Vern suffered a cognizable injury, such that “standing” would be conferred? Students would be expected to call upon all of the threshold “Justiciability” or “Case/Controversy” concepts and to address the issue of “Standing” and the appropriate form (here, likely “Third Party” Standing). The impact of the ordinance appears to have resulted in disruption to Vern’s profession livelihood, thus leading to monetary harm (lost profits?). The recreational scooter clients/riders are also impacted, but the problem arises as to defining this group - this is the pathway to 3d P Standing.
- D. This question tests in the area of mootness as one of the considerations relative to “Justiciability” and more specifically, the “Mootness Doctrine. As a set rule, there must be a live controversy at both the inception phase of a lawsuit/controversy and throughout the course of litigation (i.e., and ongoing dispute). Here, Val’s reapplication and subsequent acceptance into AAP would render her claim moot. Val is not a class representative in a class action suit and the facts do not indicate that there are other similarly situated aggrieved parties.

1)

Justiciability

Under *Marbury v. Madison* the court was granted the ability to judicially review certain legislative and executive actions. The court can review a broad range of actions but some determinations first need to be made and these are known as the justiciability doctrines such as standing, ripeness, mootness, advisory opinion, political question, Eleventh Amendment, and more.

Standing

For a case to be heard it must have standing and that standing must be present through the entirety of the case, including appeals. Standing is made up of three parts including injury in fact, causation, and redressability.

Here, Congress passed the Pig Protection Act (PPA) so as to set some minimum standards for pork farmers throughout the nation. The Pork Producers Association (P) filed suit against the Secretary of Ag (SoA) alleging harm to their ability to comply with the regulations, sell their product across state lines, and made a productive living as pork producers. This would constitute an injury in fact. The harm caused to P is a direct result of the PPA passed by Congress and enacted by the SoA, thus there is a causal nexus between the harm to P by the government. Lastly, if the PPA was or the regulations set by the SoA were modified or enjoined from taking effect the harm to P would be mitigated, thus a ruling by the federal court would redress the harm(s) to P.

Thus, P has standing to file suit against the SoA.

explain on nature of the harm

Organizational Standing

Association

✓ Standing may also be conveyed to a organization if there is harm to one of the members, the issue is germane to the purpose of the organization, and if the members of the organization do not need to participate in the legal action or results.

Here, the P is a organization that represents all pork producers. The PPA would harm all of P's members and pork production is germane to the purpose of the organization.

Thus, standing would also be conferred to P via organizational standing.

in what manner?

Ripeness

Timing issue

grip | Ripeness is the doctrine that determines if an issue is being brought before the court in the proper time. When looking to if an issue is ripe or not there needs to be a present cognizable harm/issue that the court can address. Ripeness also looks to if a ruling is withheld from a plaintiff what effect would that have. A plaintiff does not need to wait for a harm to occur as under the Declaratory Judgement act if a law is passed and has yet to be implemented, but a harm when the law is set to take effect is substantially proven, then a court may issue declaratory relief prior to the harm taking place.

⊕ Here, the PPA is pass and the regulations are set to take effect, but there are no actual harms/fines/penalties to any pork producers. The pork farmers do not have to wait until they are fined to file suit as they can request the court make a declaratory judgement enjoining the PPA regulations.

Thus, the issue within the suit by P is ripe for judicial review.

Mootness

✓ Mootness is the doctrine that the harm is still present at all stages of the judicial review. There are some exceptions to mootness such as wrongs capable of repetition yet evading review, voluntary cessation of an act, and a class member ceasing to be harmed. None of these exceptions are present here.

✓ Here, the case is not moot as the harm is impending before all pork producers and their ability to grow and sell pork. The act is passed and pork producers who are not able to have time to comply will be imminently penalized or fined.

Thus, the case is not moot.

Advisory opinion

An advisory opinion is when another branch of government that has an actual dispute with imminent harms are asking for the court to review.

✓ Here, P is not simply asking the court for review and P is also not part of the legislative or executive branch.

Thus, the case filed by P is not an advisory opinion.

Political Question

✓ A political question is when there is a conflict between the branches of government and those branches are asking the court to give their opinion on any resulting issues. The

court will refrain from giving an opinion so as to let the government branches work things out between themselves via political process.

Here, there is a harm and P has standing and the case is not a conflict between branches.

Thus, this issue between P and the SoA is not a political question.

Congressional Authority

The issue here is whether Congress has the authority to pass the PPA as it will be enacted.

② *Necessary and Proper Clause*

Congress has the authority to enact all laws necessary and proper (N&P) to the execution of all of Congress's enumerated powers.

Here, the N&P clause is not a power source directly, but gives Congress the roadmap from which to direct their powers.

Thus, Congress has the authority to regulate commerce via the N&P clause. *OK*

① *Commerce Clause*

The Commerce Clause (CC) gives Congress the authority to regulate commerce ✓
✓ between the states, foreign governments, and Indian tribes. In *U.S. v. Lopez* Congress was limited to regulating the channels, instrumentalities, and any important interstate activities. ✓

If the activities are economic in nature then Congress is allowed to regulate the intrastate activity if, in aggregate, the activity substantially affects interstate commerce. If not economic in nature, intrastate activities will be upheld if there is a Congressional finding that the intrastate activities substantially affect interstate commerce.

Here, the PPA prohibits all interstate activity regarding pork produced outside of the regulations set forth by the SoA. Congress has the authority to regulate pork products traveling between states and all pork produced within states would, in aggregate, effect interstate commerce.

Thus, Congress has the authority under the CC to regulate pork production.

Taxing Powers

Congress has the broad authority to lay and collect taxes, imposts, excises as long as the taxes are uniform across all states. The taxes must be reasonably related to raising revenue or in an area Congress has the authority to regulate.

Here, the PPA states that any violations of the PPA will subject farmers to fines and penalties. Though the language is not a "tax" in *Sebilius* the health care penalty was not deemed to be a penalty but was upheld as a tax.

Thus, based on case precedent and the broad taxing powers Congress has the authority to pass the PPA.

Supremacy Clause

The constitution and the enumerated powers are the supreme law of the land and preempt any state regulations. If Congress has acted in an area then the state are not able to make law contradicting federal law.

✓ Here, Congress passed the PPA that applies to all states. States, on an individual basis are not allowed to make laws that would contradict or inhibit Congressional action. Thus, P could not rally state legislatures to pass laws allowing pork producers to produce pork outside of the laws of the PPA.

Thus, the PPA is the supreme law of the land.

Authority properly delegated?

Anti-Commandeering

The Anti-Commandeering Doctrine (ACD) states that the federal government is not allowed to force states to enact or adopt federal laws. Conversely states are not allowed to tax or impeded the federal government's actions.

Here, P may have an argument that Congress is forcing, beyond the point of coercion, states to adopt the PPA. Congress can regulate individuals and states, but cannot regulate how states regulate their citizens. By effectively shutting down interstate pork commerce by not allowing for pork producers time to retrofit their farms/operations, Congress may be commandeering the states poweres.

Thus, P would likely want to include and argument for ACD in their court filing.

Eleventh Amendment

The 11th Amendment prohibits individuals from suing the federal government without consent.

Here, the P is suing not Congress, but the individual SoA because the SoA was tasked with setting the regulations of the PPA.

Thus, the suit is proper as P is bring suit against an individual and not the legislature in general.

END OF EXAM

2)

#1 Ali's Suit

For a case to be heard it must have standing and that standing must be present through the entirety of the case, including appeals. Standing is made up of three parts including injury in fact, causation, and redressability.

Here, Ali and Beta Corp are harmed by the actions of Sunstate. Ali is being directly discriminated against and Beta Corp is suffering direct financial harms due to Sunstate's actions. A court ruling enjoining SS's actions would redress both Ali and Beta's harms.

Thus, both Ali and Beta have standing.

Equal Protection Clause (EPC)

The EPC states that states are to treat all similarly situated people and classes of people the with the same protections. The constitutional right that is violated is what determines the level of scrutiny used in the judicial determination. If the suit involves race, alienage, national origin, or a fundamental right then strict scrutiny is used and the government must so that the governmental purpose is necessary and compelling and narrowly tailored. If a suspect class is involved (gender, non-marital children, and undocumented children) then intermediate scrutiny is involved and the government must show that there is a substantially important government interest and no nondiscriminatory alternatives are possible. If a non-suspect (age, disability, poverty, etc) class is involved then only rational basis is used and the burden is on the plaintiff to show that there is not reasonably legitimate governmental purpose.

Here, Sunstate (SS) is singling out Japanese Americans who are relative of people who were interned during WWII. Japanese Americans were not the only race of people

Ali' case

interned during WWII as the USA was fighting a multi-front war with Japan, Germany, and Italy. As this is clearly dealing with race, strict scrutiny will be used and the the government must so that the governmental purpose is necessary and compelling and narrowly tailored. Ali will have a good chance to show that the USA government kept good records of who was interned and that those interned were not only of Japanese lineage. Also, SS law is facially discriminatory and thus presumptively unconstitutional. Ali can argue that the USA government should simply provide lists to states of who they interned and allow states to render the reparations to all that were affected, not just those of Japanese ancestry.

apply test and 1-R-A-C ? ?

due to what? Favoring Japanese?

SS will defend itself by saying Congress has not regulated in this area regarding reparations, thus under the Tenth Amendment police powers, when Congress is silent, a state may police its one people as long as there is substantial reason that the act is for the health, safety, and welfare of its people. SS will argue that families who were interned lost generational levels of wealth and the only way to set some of those wrongs right is to raise funds from individuals who are already proved to be in violation of well settled Title VII law. Generating these funds for families are reasonably related to the health and welfare of many families within SS who lost so much as a result of the government's actions. Lastly, will argue that the vast majority of people who were affected by the internment were Japanese Americans and that this reparation program is just a starting point and that other races/classifications of people will be brought into the program if the reparations program is a success. SS will say that the past record of discrimination can only begin to be righted by offering reparations to those who were most broadly affected, that being Japanese Americans. As all states were guilty of the internment, the past discrimination can only be righted in this fashion.

Dominant CC ?

Privileges & Immunities Clause (PIC)

Need full-blown EP. Analysis 1-R-A-C ? ?

also apply to Corp. — possibly to Ali
Applies to Ali

The PIC prohibits states from enacting a law relating to fundamental rights or important economic activities that are biased against out of state citizens if their actions are not substantially related to important government activities. The analysis changes according to if the act is facially discriminatory (presumptively unconstitutional), discriminatory in application, or non-discriminatory.

Here, the act by SS is facially discriminatory against all businesses who have ever violated Title VII of the Civil Rights Act. This allows companies who simply do business in SS and who are guilty of past violations to pay for reparations of SS citizens. This is presumptively unconstitutional as it is facially discriminatory against out of state businesses who have to pay for SS reparations of only SS citizens and not those in the states where the business are located. SS would argue that reparations are important government purposed and SS has to raise funding somehow to pay for this act. Being substantially important to right past wrongs this is the most non-discriminatory method SS can find.

Thus, due to the SS act being facially discriminatory, the act would likely be deemed unconstitutional and Ali would have a good case via the PIC argument.

Dormant Commerce Clause (DCC)

OK When Congress is silent on an area of commerce law, states are allowed to enact laws regarding commerce as long as those laws do not discriminate against out of states and the benefits to the state outweigh the burdens on commerce.

✓ Here, SS created a new area of reparations law that discriminates against out of state businesses who are doing business in SS and are guilty of past wrongs regarding Title VII. Ali could argue that SS enacting this law would quash all business in SS as any business who has any past ruling against them in Title VII would immediately pull out of SS so as

to not have to pay the hefty fines. Ali would have a good argument as the out of state businesses would have all negative and no tangible positive, meaning if an out of state business had employees who may benefit from the reparations, but as they are not citizens of SS, the business would have to pay fines none of which would benefit the employees of the company. SS would argue that they burden on out of state businesses is slight and that the only way to right past wrongs is to fine present wrongdoers like those who have a connection to the state and have violated Title VII.

Thus, Ali would argue that the act discriminates against out of state businesses and SS would argue that the benefit to the state outweighs the burden on interstate commerce.

Conclusion

The Supreme court should likely rule that SS violates the EPC, the PIC, and, possibly the DCC as it treats similarly situated people (those who are related to people who were interned) differently based on race. Under strict scrutiny it is easy to see that SS could easily get all the records of those in the state that were interned and include all those people in the reparations program. As this act is not appropriately narrowly tailored it would fail strict scrutiny analysis and thus would be deemed unconstitutional.

#2 Beta Corp

Beta Corporation (BC) would not have a claim under PIC as that only applies to citizens and not to corporations.

Commerce Clause

The Commerce Clause (CC) gives Congress the authority to regulate commerce between the states, foreign governments, and Indian tribes. In *U.S. v. Lopez* Congress was limited to regulating the channels, instrumentalities, and any important interstate activities. ✓ If the activities are economic in nature then Congress is allowed to regulate the intrastate activity if, in aggregate, the activity substantially affects interstate commerce. If not economic in nature, intrastate activities will be upheld if there is a Congressional finding that the intrastate activities substantially affect interstate commerce.

Here, BC would argue that SS is acting outside of their powers by essentially taxing businesses who are show to have violated the Title VII act in the past. Assuming those violations were judicial findings and those businesses had already paid compensation as part of those past wrongs, this would be a sort of double jeopardy in the sense that the past wrongs the businesses had already been tasked with righting are not having to further right those past wrongs. The CC argument here is not on point for BC as the reparations act is by a state and states have a 10th Amendment (see DCC discussion above) police power and Congress is silent on the issue of reparations.

Thus, BC would not have a solid CC argument.

Supremacy Clause

The constitution and the enumerated powers are the supreme law of the land and preempt any state regulations. If Congress has acted in an area then the state are not able to make law contradicting federal law.

⌈ Here, BC would be appealing to federal clauses where this is a state action. ⌋ ? The supremacy clause states that federal law is the law of the land, but federal law is silent on this issue of reparations. SS would argue this point is moot as BC is appealing to a power-source that does not apply to state actions in this case.

Thus, BC would not likely find favor with the supreme court on a supremacy clause argument.

Contacts Clause (ConC)

The ConC states that states are not allowed to interfere with existing contacts. The contracts must be in existence and not future contracts.

Here, SS enacted the reparations act that undoubtedly interferes with many contracts within SS. BC could claim that SS violated the ConC as SS fundamentally changed the way any business who has violated, or may violate, Title VII. This interferes with BC in state contracts as well as any other business, presumably many, in the same position as BC.

Thus, BC has a strong argument that SS violated the ConC.

Conclusion

The supreme court should rule against SS, not for the arguments BC was making but for the arguments Ali was making above as those are more directly applicable to this action. BC's best argument is a ConC argument.

END OF EXAM

3)

A)

20

Congress can enact legislation that takes [✓]property if it is for the health, safety, welfare, and morals of the state. If there is found to be a taking the Government must provide just compensation. Here, Frank, a farmer, owns a piece of farm land that is unsuitable for farming. Despite this Geologists have found coal underneath the parcel which could lead to some profits for Frank since he owns the surface and mineral rights to the property. Despite this the State A legislature has enacted a ten-year moratorium on coal mining in State A. State A legitimizes its decision based on its raised concerns about the environmental impact of coal mining. Frank will likely allege that this land is several miles from any commercial or residential areas and therefore will not affect the current local populace. The parcel of land is also unsuitable for any farming and thus is useless to Frank. Frank could reap financial benefit from mining coal on the un-farmable parcel. Further, Frank will likely argue that State A's moratorium will deny multiple potential jobs that would be created following the mining of the future coal mine, thus affecting the potential of State A's residents of obtaining a job.

Frank
Test

Lucas
Test
7

State A's likely arguments are that coal is an inefficient way of obtaining energy due to the hazardous conditions created to mine it and the greenhouse gases that it creates when it is used to create energy. The State A will argue that the environment will be drastically effected by the coal mining operation and will be hazardous to the health and welfare of the people who currently reside in State A. Further, State A may argue that a moral reason to deny the excavating of Coal is to ensure a safe planet for the generations that will come after them. For now there is only one planet to call home and it is the moral duty of State A to preserve it in good condition for the future of humanity, therefore the takings is justified.

time and therefore has suffered due to the direct legislation created by the City Council. Further, this injury is a direct result of the ordinance passed by the City Council banning all wheeled sports equipment from the park and sidewalks from sunrise to sunset. The facts state that the decline in sales was immediately after the City Council's ordinance. Therefore, the injury incurred was caused by the defendant. This economic loss is redressable by the courts since Vern seeks an injunctive relief. This can be dealt with in federal court which will provide Vern compensation for the loss incurred based on the ordinance enacted by the City Council.

Vern has standing to bring forward the issue at hand.

20 D)

If the matter has already been addressed and is no longer at issue, the federal courts will consider the case moot and will deny review of the case. Here, Val is has brought forward a suit against JSU since she was denied admission to the Advanced Aeronautics Program. Val believes that she was denied admission based on her skin color. The facts state that JSU uses ethnicity in its application process to make its decisions on accepted applicants. Val appropriately filed suit in federal court challenging the state's admission policy and seeking admission to JSU's AAP. However, the following application cycle, Val reapplied to JSU's AAP and was then admitted. Therefore, Val's lawsuit against JSU is now moot since when she reapplied the following year she was accepted into the AAP program. Since Val reapplied to JSU and was accepted this time, there is no case at issue to discuss and the matter has already been resolved.

no longer
in issue

Therefore, the court would not be willing to reach the merits of Val's claim since the lawsuit is now moot.

END OF EXAM
