

CONSTITUTIONAL LAW II
FINAL EXAMINATION

SPRING 2024

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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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CONSTITUTIONAL LAW

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Question No. 1

Suncity School District maintained a policy of allowing use of its public school facilities by student clubs and activities during non-school hours provided that the club or organization comply with the District's Policy prohibiting use by any club or organization that denies membership or discriminates against any student or adult participant on the basis of race, national origin, religion, disability, sex, sexual orientation, gender, or gender identity. Several clubs regularly use school facilities including several athletics clubs, a chess club, a puzzle club, a robotics club and an environmental club. All clubs recruit members throughout the school year. A religious club applied for use of school facilities. The club requires all members to profess a belief in God, and to commit to evangelism by recruiting at least 2 students each week to attend the club's on-campus worship services, except that gay, lesbian, or self-identified "LGBTQIA" students, who are considered immoral under the religion's doctrine, are ineligible for membership. The School District denied the club's application to use school facilities, citing the club's violations of the District's nondiscrimination policy and concern that the recruitment of students for worship on campus violates the Establishment Clause of the U.S. Constitution. A student organizer of the religious club and their parents sued the school District asserting that their fundamental rights as parents, and the student's free speech rights, free exercise rights and association rights were violated by the denial of use of school facilities by the religious club.

1. Assuming justiciability and standing, analyze the Constitutional issues presented in the student's challenge to the School District's denial of use of school facilities by the religious club. State how the U.S. Supreme Court is likely to rule on each issue raised by the student, and why.
2. Assuming justiciability and standing, analyze the issues presented in the Parents' challenge to the denial of use of school facilities by the religious club. State how the U.S. Supreme Court is likely to rule on each issue raised by the Parents in this case, and why.

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Question 2

The “Holy Rollers,” a local group of avid bowlers and like-minded Christians, were looking to recruit members in hopes of joining local tournaments sanctioned by the City Parks & Recreation Department. It had been a few years since the Holy Rollers had competed in tournaments and they were looking to boost their membership and they figured that the Christmas and New Year season would be the optimal time to recruit. Holy Rollers received permission from City’s Parks & Recreation Department to temporarily display a bronze statue in the perfect form of a bowler in motion delivering a ball down the lane. The statue was placed in the lobby. In a makeshift pocket of the statue, flyers were inserted with the message, “Holy Rollers Bowling Team Beckons You” followed by a contact phone number and the email address holierthanhou.com.

Last year the director of City Parks & Recreation adopted a new “Policy on Symbols and Seasonal Displays,” which states: “Displays and symbols that depict or promote religion are not permitted in any City Parks & Recreation facilities.”

Prior to the adoption of the new policy, City Parks & Recreation had allowed access to a wide variety of public and private speakers and artists who were allowed to feature displays in the lobby. Based on the new policy, however, it denied Holy Rollers a permit for the placement of the statue without any explanation.

After it was informed by the City Attorney that the courts treat Christmas trees as secular symbols, rather than religious symbols, Parks & Recreation decided to erect a Christmas tree in the lobby of all their facilities, while continuing to prohibit Holy Rollers to display their statue.

Holy Rollers has filed suit claiming violation of the First Amendment to the United States Constitution

What arguments may Holy Rollers reasonably raise in support of its claim and what is the likely result or ruling? Discuss.

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Question 3

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

- A. A popular candidate for the office of Mayor was prosecuted for accepting bribes in violation of state law. After the second day of his trial on the bribery charges he held a press conference on the sidewalk in front of the courthouse where he told a large crowd of his supporters his prosecution was a political “witch-hunt” and that the District Attorney prosecuting the case is a “known embezzler and crook and should be removed from office immediately”. This statement was false and there was no evidence that the District Attorney had ever been an “embezzler” or charged with any theft. The District Attorney filed a suit for defamation against the candidate. What burden of proof will apply in the District Attorney’s case and why? How is the court likely to analyze and rule on the issues raised in the District Attorney’s lawsuit?
- B. A gardener doing business in Sunstate advertised that her services included design and implementation of gardens and landscaping to enhance the unique environment of each customer. A newly-wed African American couple contacted the gardener to design a garden for their new home in Sunstate. The gardener refused, stating that her rights and religious beliefs would be violated by designing a garden for an African American couple. The couple sued the gardener for violating Sunstate law prohibiting discrimination in public accommodations on the basis of race. How is the court likely to analyze and rule on the issues raised by the couple’s lawsuit?

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C. A small Public Water District changed its voting procedures for electing members of the Water District Board to allow only property owners in the Water District to vote. This resulted in eliminating the voting rights of 70% of the Latino/Hispanic voters who do not own property but who live in the Water District. Two Mexican-American voters who rent a residence in the District filed a lawsuit alleging violation of their voting rights and their rights to equal protection of the laws. How is the court likely to analyze and rule on the issues raised by the voters' lawsuit?

D. The Starburst City Water District board, a government body with duly elected board members, has for 50 years since its creation begun each of its annual water policymaking sessions with the following invocation:

“Oh Lord, bless and watch over these proceedings and everyone in this room, lest we turn wayward and sinful and fall into damnation.”

The annual sessions are open to the public and the chairperson of the board invites any and all attendees to join the board in the prayer prior to beginning the invocation. Two local adherents of the Wiccan religion attend the board's latest session and thereafter file suit complaining that the board's prayer violates the establishment clause of the U.S. Constitution. How would a court likely analyze and rule on the issues raised by the Wiccans?

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Constitutional Law Final Exam Answer Outline Spring 2024

Question 1

Question 1 raises issues about:

1. free exercise of religion and the proper analysis under *Empl. Division v. Smith* (if nondiscrimination Policy is a neutral Law generally applicable) or *Sherbert v. Verner* (if a fundamental right of Parent is being violated, or if the policy is not neutral or generally applicable);
2. Establishment clause and whether evangelizing recruitment of students to worship in public schools violates the establishment clause and secondly whether that is a compelling reason for the District to impose a Policy prohibiting it (*Kennedy v. Bremerton S.D.* case, among others, says avoiding Establishment clause violations is not a compelling gov't interest);
3. Fundamental right to parental upbringing of children : does it extend to compelling public schools to accommodate their religion by granting exemptions from nondiscrimination Policies and laws?
4. Freedom of association: can school district deny a benefit to a religious club that refuses to associate with unwanted members who disagree with its doctrine because it violates a nondiscrimination policy? (*Boy Scouts v. Dale*, etc.)
5. Free speech: does denial of use to a religious club constitute unconstitutional violation of free speech based on content and viewpoint? (*Good News Club v. Milford Central*; *Christian Legal Society v. Hastings*).

Question 2

Issue outline / comments

Students would be expected to briefly cite to the “state action” requirement as a threshold issue and note that “parks & rec” is part of city’s municipal government.

Next, the action turns to first amendment / freedom of speech and a discussion of “content-based” restrictions. It would be noted that the setting is a “public forum” (open to the public).

Content-based restrictions in a public forum setting would trigger strict scrutiny. Is this in fact a “content-based” regulation? Holy rollers position will be that this is a form of “symbolic speech” and that the regulation has the net effect of stifling there speech and viewpoint/expression. City will counter that their goal is to avoid the appearance of endorsing religion.

There is also room for a “prior restraint” challenge that holy rollers would advance. This may be coupled with a procedural due process argument.

A facial attack re overbreadth or vagueness would also be advanced by holy rollers

Students would be expected to introduce “free exercise” as an issue. This would be followed by the application of the “lemon” test in connection to the argument that the regulation does in fact promote/establish religion. Students may also cite to *Kennedy v. Bremerton S.D.*: is the “lemon test” or factors still considered, post *Bremerton*?

Question 3:

Q 3 A , 3 A asks for analysis of tort of defamation under *NY Times v. Sullivan* rule for 1st amendment as applied to the DA. Is DA a Public figure or private person? Depending on their analysis NY Times applies or not; also note NY Times public official analysis has been criticized by Justice Thomas and other members of current Supreme Court and may be overruled at some point.

Q 3 B is based on the *303 Creative v. Elenis* case re 1st amendment free speech analysis finding an exemption to the state's nondiscrimination laws for a website designer who refused to do work for a gay couple because it would compel her to engage in expression contrary to her moral or religious views. This question bases the refusal on race, a challenging question left open by *303 Creative*.

Q 3 C. Voting rights: requiring property ownership as a condition of voting violates fundamental rights so analyze under strict scrutiny applies, unless denial is analyzed as not a substantial burden on voting rights; equal protection analysis requires strict scrutiny for voting system that discriminates on the basis of race and national origin;

Q 3.D: This tests the exception to the general rule that official-led prayer prior to government-run events violates the establishment clause that applies to legislative sessions. Is a water district board policymaking meeting enough like a City board meeting to meet the *Town of Greece* rule? Students will also be expected to catch the "damnation" language as falling outside of what the Court in *Town of Greece* defined as the limits of the content of legislative sessions prayers. Specifically, the court noted that "threatening damnation" falls outside of what would be permitted. Does the prayer "threaten damnation?"

1)

1. Issues Raised by the student

Here, the government actor is the school district and the club has an injury in being denied access to school facilities. The school district caused the injury and the court can redress the issue by affirming the school's decision or forcing the school to allow the club on campus.

Fundamental Rights

The Equal Protection Clause (EPC) applied to the states via the 14th Amendment, and to the federal govt via the 5th Amend, via the Due Process Clause states that no similarly situated person or class of persons shall be treated differently or discriminated against. Not all fundamental rights are enumerated in the Constitution and some rights received varying levels of scrutiny should they be infringed. Strict scrutiny places the burden on the government to prove that their infringement on a fundamental right is necessary, compelling, and narrowly tailored applied via the least restrictive means. The suspect classes that are assessed with strict scrutiny are race, national origin, alienage, and fundamental rights. Intermediate scrutiny states that the government has the burden to show that the government interests are substantially related to an important govt interest. Intermediate scrutiny is applied to quasi-suspect classes such as gender, non-marital children, and undocumented children. Rational basis scrutiny means the proponent challenging the govt action has the burden of showing the govt actions are not rationally related to a legitimate govt interest. Rational basis is applied to age, poverty, disability, etc.

Here, a public school within the Suncity School District (SSD) host a variety of clubs in its facilities. The SSD has a policy that no club can discriminate on the basis of "race,

national origin, religion, disability, sex, sexual orientation, gender, or gender identity." A religious club applied to use the facilities and was denied as the club requires its members cannot be "gay, lesbian, or self-identified LGBTQIA" as those identifications are antithetical to the religion's fundamental tenants. A student sues SSD for violating the club's fundamental rights. As SSD is treating a class of students differently based on their professed religion this would seem to violate the EPC and would receive strict scrutiny review as freedom of religion is a fundamental right enumerated in the Constitution. This means for SSD to be successful against the students' claim they would have to show their reason for denying the club access to the school facilities is necessary and compelling, their actions are narrowly tailored and applied via the least restrictive means. The school would argue that their policy is clearly written and many of the classes listed in their non-discrimination policy are also listed under strict and intermediate scrutiny reviews. The students would argue that their club is being singled out simply because of their religious beliefs and that they are a member of those protected classes as well. SSD's policy is so broad that the discriminatory intent behind the policy results in discrimination in application.

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Thus, the court would likely side in favor of the students as the school's interest is necessary and compelling, but their policy is not narrowly tailored and applied via the least restrictive means.

Free Speech

The First Amend to the Constitution states that Congress shall make no laws prohibiting the freedom of speech. This does not mean that Congress cannot regulate speech at all as there can be regulations on speech conduct and also some types of speech are less protected or unprotected forms of speech.

Here, a religious club wants to use public school facilities to spread their message. The club has strict requirements for its members as stated above. The students challenged the denial on the basis of suppression of free speech as the govt actor here, SSD, is not allowing them to speak and spread their message. If speech is infringed upon based on the content of the speech the infringement is assessed under strict scrutiny. Here the students would argue that their speech is being judged based on the content of the speech and that the charter of the club is not an area of less protected speech so that SSD would need to show that their violation is necessary and compelling, their actions are narrowly tailored and applied via the least restrictive means. SSD would argue that their policy is explicit in who cannot be discriminated against and narrowly tailor in application. SSD would argue also that they cannot allow groups on campus that would discriminate against other students by not allowing some into their club. SSD would also argue that though people do not check their free speech rights at the gate of the school, that since a public school is a govt actor, and the audience are juveniles that there is a heightened need to protect marginalized students on their campus.

F/A

(X)

Thus, a court would likely rule that a anti-discrimination policy is not narrowly tailored enough if in the application of said policy it results in religious discrimination.

Freedom of Religion

Under the First Amend of the Constitution, the freedom of religion is enumerated stating Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof. The two clauses are held intension as Congress has to continually balance not making laws that inhibit practice of religions while also not making laws that promote religion.

yes

Free Exercise

✓ The Free Exercise clause means that religious adherents are able to believe what they choose to believe and worship how they see fit. The belief is never scrutinized, only the sincerity of belief. The sincerity of belief is assessed as the religious belief must occupy a place in their lives as those parallel of orthodox adherents. Not all religious conduct is allowed as the govt may regulate religious conduct if the law/statute is a neutral law of general applicability. If so then the statutes receives rational basis review. If the statute/law is not neutral or generally applicable, then the statute/law receives strict scrutiny review.

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Here, the religious club was denied access to a SSD campus due to the fundamental tenants of their belief system. The students would argue they are just requiring members of the club to actually sincerely believe what the religion teaches. It just so happens that the tenants of the religion are antithetical to other students' way of life. The students would argue that the statute is not neutral in that every religion has tenants that one must believe to be considered an adherent of said religion. Meaning, no matter what religion applied for access to campus, they would be excluded because each religion requires people to believe certain things and behave certain ways. SSD would argue that any group that is exclusionary in the charter is discriminatory and violates their policy. SSD would argue that their policy is neutral and generally applicable in that it does not single out any religious beliefs and simply lists many of the suspect, and quasi-suspect classes, enumerated in the Constitution.

Thus, as the policy may not be exclusionary on its face, the policy is exclusionary in application and the court would likely rule that means the policy is not neutral or generally applicable. Meaning the govt has the burden of proving the necessary and compelling reason why they need to keep religions off the campus.

Freedom of Association

Freedom of association is not enumerated in the Constitution, but the Supreme Court has ruled that it is such a fundamental aspect of expression that it is treated with strict scrutiny. There are two forms of freedom of association: intimate association and expressive association. Intimate association is more protected. The ability of a populace to be with who they want in an intimate setting and also to organize for expressive purposes if fundamental to our free speech rights.

Here, a club on campus is essentially being told it cannot hold to the fundamental tenants of their religion and be allowed on campus due to the discriminatory impact on the student body. The students will claim this violates their freedom of expressive association as explained above the nature of a religious belief is that you must believe what the religion prescribes or, by definition you are not an adherent to that religion. This sort of case has been adjudicated in *San Jose USD vs FCA* where an almost identical issue arose and the court ruled in favor of Fellowship of Christian Athletes in that that FCA was allowed to remain on campus in choosing leaders of their FCA chapter that were sincere believers of the Christian faith. SSD would try to differentiate from that *FCA* case by saying the club is not already on campus and they are not telling the club who can or cannot be a leader in the group. Also, SDD would argue that the govt is allowed to infringe on discriminatory association to a certain extent. The students would argue that the "discrimination" is intimate to their purpose as a club.

Thus, as there is precedent with the court for this type of freedom of religion and freedom of association battle, the court would likely side on behalf of the club in allowing it on campus and allowing it to choose their members.

2. Issues Raise by Parents

See Fundamental rights above.

Privacy?

Here, a fundamental right of a parents is freedom of education of their children. The state cannot force a parent to educated their child in a certain way or location. The parents would claim that SSD is trying to remain so secular in their club access on campus that they have gone too far and tipped into violating a parents' right to educate their child in a non-discriminatory school. The parents would argue that SSD is to remain neutral on religion, but that they are behaving in an anti-religious fashion. SSD would argue that they are protecting students who could be harmed by feeling excluded.

Thus, the court would likely rule in favor of the parents asserting their fundamental right to educate their children in a non-discriminatory school neutral to religion.

END OF EXAM

2)

1) The Students challenge to the School District's denial of use of school facilities for the religious club

Justiciability & Standing

Under Article II of the Constitution, courts require for cause of action be justiciable there must be a case in controversy and the plaintiff must have standing. ✓

Here, the Holly Rollers (HR) a group of bowlers have brought a suit forward that claims their first amendment rights have been violated based on their religious beliefs. Therefore, there is a case in controversy and based on the content it is likely that a court will determine that they have standing.

State Actor

good The individual rights protected by the constitution apply to state actors and not private conduct. A state actor is the government or a government official. A state actor can also be inferred where a private organization is performing functions traditionally and exclusively held by the state or where a private organization is pervasively entwined.

✓ Here, the City Parks & Recreation Department (CPRD) is a department of the state that takes care of the recreational equipment and parks of the city. Therefore, CPRD is a state actor.

Freedom of Association

The Government may not prohibit or punish a group membership unless the law meets strict scrutiny and is necessary for compelling a government interest. The government

must prove that the group is involved in illegal activities, 2) members or group knew of illegal acts by others, or 3) acted with specific intent in furtherance of an illegal act.

Here, there are no facts that indicate that the group HR is engaged or has engaged in any illegal activity. They have complied thus far with the new rule created by the CPRD and not put up the statue of the bowler. Therefore, it is likely that the courts will determine that HR is a legitimate group and has the freedoms and protections to associate with each other.

SO, IS
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a
violation?

Freedom of Religion

The 1st Amendment has a prohibition on the establishment of a religion and it provides protection for the free exercise of religion. These protections are also applied to the states through the 14th Amendment. In the Ballard case, the courts decided that a court can determine only whether beliefs are sincerely held and not if they are true.

Establishment Clause

The Establishment Clause prohibits the government from enacting laws respecting the establishment of a religion. If the law appears to have a sect preference it is invalid unless the government can show it is necessary to promote a compelling state interest. If there is no sect preference then the law is subject to the Lemon Test. (See discussion of validity of lemon test below)

Here, the CPRD has set a rule that states, "Displays and symbols that depict or promote religion are not permitted in ant city parks and recreation facilities." This rule on its face does not appear to have a sect preference since it bans all religious symbols that would promote a religious group. Therefore, the rule is likely to be viewed as having no sect preference and is subject to the lemon test.

No Sect Preference - Lemon Test

3) The lemon test states that the law is valid only if the rule has a 1) secular purpose, 2) The assistance must neither promote nor inhibit religion, and 3) there is no excessive entanglement between church and state. This was the rule that the USSC used for many years. That was until recently when the USSC decided the Kennedy case where they stated that they would no longer use the Lemon Test. This decision however, did not provide a new test to determine whether a law is valid or not. So for the purposes of this exam, the Lemon test will be sufficient.

The rule has a secular purpose

F/A
⊕ Here, the CPRD is likely to argue that they created the rule to as a ban on all religious symbols and is not specific to any group. The CPRD has adopted this new policy recently and is making changes with what they allow as a seasonal display. Therefore, the rule is likely to be seen as secular since it is a ban on all religions and does not single out any group or denomination. Thus, the rule has a secular purpose.

The assistance must neither promote nor inhibit religion

F/A
⊕ Here, the rule by CPRD does not appear to promote nor inhibit religion. The rule simply does not allow any religious symbols to exist in a public place that is affiliated with the CPRD. Although HR is likely to argue that CPRD used to allow religious symbols to be displayed and the new rule on its face inhibits religion and therefore should not be allowed to stand. However, since the rule does not inhibit a specific group or religious belief that argument will likely not stand since it inhibits all religions and not just one. Thus, it does not promote nor inhibit religion.

No excessive entanglement between church and state

The prompt does not provide any facts that would indicate that CPRD is entangled in another religious organization or group that would entangle their decision making.

F/A
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However, HR will likely raise that they allow Christmas trees to be displayed in their parks and rec. departments. Christmas tree can be considered by many to be a symbol of many Christian religions. However, it is likely not to stand since the CPRD is not promoting the christian religion and they view the tree as a secular symbol and are not promoting it as a religious one. Thus, there is no excessive entanglement between church and state.

Therefore, the rule passes the Lemon Test.

Free Exercise Clause

The Free Exercise Clause prohibits the government from punishing someone on the basis of their religion. In the Smith case, the courts determined that the Free Exercise Clause is not violated if the law is neutral, has a general application, and doesn't burden religious conduct.

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Here, the religious bowling club HR sought to display a bronze statue in the perfect form of a bowler in the lobby of the parks and rec. department. The statue had an accompanying message written on flyers that said, "Holy Rollers Bowling Team Beckons You" as well as their contact information. They had previously received permission to display the statue in the lobby but later were denied based on the new law that was introduced last year. Although the Holy Rollers members are "like-minded christians" they are not a religious group, they are a bowling club. Further, the statue they had provided was of a bowler in motion delivering a ball down a lane. Nothing about the statue indicates that it is a religious symbol at all. The CPRD is likely to argue that the statue with the flyers may demonstrate religious symbolism since many religions "beckon" new members to join their religious groups. Further, the name Holy Rollers may lead many to see the group as a religious group trying to recruit new members to their

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congregations. However, this argument is likely to fail since there is no indication that the statue or the flyers are trying to get members to join a religious group.

Therefore, it is likely that the free exercise clause has been infringed.

Equal Protection Clause

The Equal Protection Clause of the 5th Amendment is applied to the states through the 14th Amendment. Prohibits states from treating similarly placed persons or class of persons differently. There are three different classes; suspect, quasi-suspect, and non-suspect.

Here, the group being discriminated against is a group of bowlers that are "like-minded Christians." HR claim that their group is being discriminated against by the CPRD for not allowing them to display a bronze statue of a bowler in a parks and rec. department lobby while allowing Christmas trees to be displayed in the lobbies. HR will likely argue that Christmas trees are a depiction of a religious symbol, since they are commonly associated with the Christian holiday Christmas. (Hence the name, "Christmas Tree") Since the group HR is a bowling group it falls under the non-suspect class which is a rational basis test.

Rational Basis Test

Rational basis test is the regulation is rationally related to a legitimate government purpose.

Here, the CPRD is likely to argue that they created the rule so their would be no confusion that they are affiliated with any specific religion or belief system. Thus they claim to have a rational basis for not allowing any form of religious symbol into the lobbies of the CPRD. However, it is likely to not meet a rational basis test, since the

statue in question does not depict a religious symbol but rather a bowler performing a perfect bowl.

Thus, the CPRD fails the rational basis test when applied to these facts.

Conclusion

It is likely that the courts will determine that HR will be allowed to display their statue in the lobby.

END OF EXAM

3)

Question A

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Conclusion: The District Attorney will be successful in a defamation lawsuit against the popular Candidate

Issue: Does The district attorney meet all the element for a successful defamation suit?

Defamation is a less protected form of defamation. It is a tort which involves an alleged injury to the plaintiff's reputation within the community. Truth is an absolute defense to the tort of defamation. Under New York Times V. Sullivan if a plaintiff who is a public figure, defamation requires an additional showing of clear and convincing evidence and that the defendant knew of the falsity of the statement, and that they acted with actual malice. Malice is the intent to harm, or the reckless disregard for the truth.

Issue: Is District attorney a Public Figure?

Rule: A public Figure is one who is elected representative, or some one who holds themselves out to be a person of notoriety. or gained notoriety

Here, The District Attorney is an elected official. He holds himself out on hot topics. The district attorney is a person with well notoriety in the community. C will argue that He is not a public official so that D can not win his Defamation case.

Therefore, District Attorney would be would be considered a public official.

Issue: Can P demonstrate that he acted with Actual malice?

✓ Rule: Actual malice, is the act of speaking without regard for the truth, with the intent to purposefully harm the reputation of the plaintiff, or with such reckless disregard of the truth.

F/A Analysis: Here, The District attorney (D) could prove that the statement that the Candidate (C) made was False stating that D was an embezzler and crook and that he should be removed from office. The statements that C made would be false statements that were made with malicious intent to hurt D in the eyes of the community. D will argue that that he will be entitled to Intentional Infliction of Emotional Distress by proving that there was Actual malice

Excellent!

Conclusion : The District Attorney will prevail in his defamation case against C

Question B

(20)

✓ Conclusion: The couples law suit will be dismissed and the Gardener will be successful due to her religious beliefs under the Free exercise Clause.

Issue What defense can the gardener make?

✓ Rule: The Free Exercise Clause prohibits the government from punishing someone on the basis of the person's religious beliefs. The free exercise clause does not protect all religiously motivated conduct like in the case of Employment division V Smith. The use of Peyote was not allowed to be used for religious purposes. Neutral laws of general applicability will be upheld if the law is rationally related to a legitimate government interest & is Navarro tailored to that interest. States Must Act with Religious neutrality (Mater Piece Cake Shop).

✓ Analysis Here, The Gardener will argue that she has the right to refuse service to people due to her religious beliefs. The Newly wed Couple will argue that they are being

discriminated Because ,they are a hated race because they are African Americans and that they are being discriminated. If a court ordered the gardener to do the newly wed African American yard for an important government interest for there were no less other possible restrictive means this would be strict scrutiny because ~~we~~ a dealing with the fundamental right of the Gardener freedom to exercise her religious beliefs. This fact pattern is very similar to the Master Piece Cake Shop and it was Ruled that the government Must Act with Religious neutrality toward religion. Attacking the Gardener Religious Belief would be against want the founding fathers were trying to protect in the constitution for that reason the couples law suit would be dismissed.

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Conclusion: The couples law suit will be dismissed and the Gardener will be successful due to her religious beliefs under the Free exercise Clause.

Question 3.

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Article three section 2 of the united states Constitution Grants the supreme court Jurisdiction over all matters in which there is a case and contravercy. This has been interpreted to show that the plaintiff has standing to have this case litigated, meaning that they demonstrated that they, the agrived party, have suffered injury in fact, that the defendant knew caused their injury , and the court can fashion some type of redress.

Issue: Whether P can demonstrate that he suffered an injury in fact?

Rule: An injury in fact requires a showing that the plaintiff be harmed in some way by the defendants actions

Here The Mexican american voters have an injury in fact for they can not vote which is a fundamental right to our constitution

Issue: Can P demonstrate that the defendant caused the Injury?

Rule : Causation demonstrates that there is a logical Nexis between the injury and the actions of defendant.

Analysis: Here the mexican-Americans will argue that the nexis of their injury is the direct result of only allowing property owners to vote because they do not own proerty.

Issue: Can the Mexican Americans demonstrate that the court could redress their injury

Rule: Redressability refers to the court ability to to fashion some kind of relief for the plaintiff.

Here, a court ruling would redress the issues of voting rights to see if the 2 Mexican Americans can Vote.

Injury in fact Causation and redress Conclusion: Here the Mexican americans will be able to meet the requirments by demostrating above.

Monotones/ Ripeness:

Issue: Whether the matter set for adjudication is sufficiently ripe, or is it moot?

Rule: A matter is not availabe for adjudication if it is insufficiently ripe, or if its Moot. A matter is moot if the acutual contracvercy is resolved,or if redress can not be fassiond as a result of how the parties currently sit.

Here the case is ripe and ready for adjudication and the case is not moot.

Government Actor: Questions of Constitutional appropriation require that the government has committed some wrong;there must be government Conduct.

Here, The public water district change voting procedures. This would be considered a government actor acting on behalf of the state to further an important interest in the election process.

Conclusion: The Government Actor has been met.

Standard review a court would apply

The Court uses strict scrutiny standard when a suspect classification or a fundamental right is involved, in order for strict scrutiny will apply. A law will only be upheld if it is necessary to achieve a compelling interest.

governing ()
Voting is a fundamental right the water board district only wanted property owners to vote. Putting on restrictions to make it hard for some one to vote is usually invalid, It is important to make sure that our election process is valid but over restricting making it impossible for 70% of the latino/ hispanic owners do not own property. Such a regulation would be a violation of the Fundamental right to vote. Also The Mexican Americans will argue that their equal protection right have also been violated as well, for they are being treated differently and are being discriminated against for not having the necessary land to vote as a requirement by the water District Bord.

Conclusion The Court would rule that the changed voting procedures violate the mexican American right to vote and their equal protection right as well.

Question D: (no)

Issue: Has the Starburst City water Board violate the establishment clause?

Rule: Establishment Clause compels the government to pursue a [✓]coerce of neutrality toward religion. In determining whether a particular action will be seen as sponsorship of religion

✓ Analysis : The Supreme Court has indicated it will consider [✓]historical practices and the understanding of the founding fathers. Usually government action that prefers on religion over another violates the establishment clause. ~~We~~ do have a government actor that would be the City water District Board which is a government body. The two local adherents say that the Board Prayer violates the establishment clause because prayer is [✓]inducing a religion which would violate the establishment clause. Prayers in general at the beginning of business meeting, Football games have been seen as a tradition to our historical practices. The founding Fathers wanted to make a government that would respect all forms of religions and traditions held by different religious groups. "In god we trust" is printed on all American currency in the United States and has not violated the Establishment Clause. God has been a important role in historical practices and would be deemed valid to make such a prayer at the beginning of government meeting or even a foot all game on a public school ground before or after a game. In the Case of Kennedy V. Bremerton School, The Supreme court ruled that it would be unconstitutional to deny any person the right to freely exercise the religious beliefs.

Conclusion: A court would rule that the Establishment Clause would not be violated by a simple prayer because, of the historical practices of our religious beliefs that the founding Fathers wanted to protect.

END OF EXAM