

Final Exam

Constitutional Law I

Dr. Leslie Griffin

December 4, 1996

You have three and one half (3 1/2) hours to complete this examination. There are three questions. The three questions are of equal weight for grading. I recommend that you spend one hour on each question.

The exam is open book. You may use your Stone, Seidman, Constitutional Law textbook and your notes and your own outline. YOU MAY NOT USE COMMERCIAL OUTLINES OR ANOTHER STUDENT'S OUTLINE.

Read the questions carefully. You should not write about constitutional issues that we have not studied in Constitutional Law I. If you are writing the exam, please write on one side of the page only and skip lines. If you are typing, please double space your answer.

In answering the questions, you must of course refer to cases but you may abbreviate the titles and you need not use proper citation form. If you are quoting from a case, include a reference to the page number in the textbook.

QUESTION ONE (60 minutes)

Congress has enacted a Handgun Violence Prevention Act as part of the Gun Control Act.

Under the Act, before a handgun dealer can sell a handgun to a buyer, the dealer must send a copy of a statement received from the buyer to the chief law enforcement officer (CLEO) of the local jurisdiction. The CLEO is then required to follow three provisions of the Act: the **background check** provision, the **statement destruction** provision, and the **letter of reasons** provision.

Background check: Once the CLEO receives the statement from the dealer, he must make a reasonable effort to ascertain within five business days whether receipt or possession of the gun would be in violation of the law. As part of this check, he must research in whatever State and local recordkeeping systems are available as well as in a national system designated by the Attorney General.

Statement Destruction: If the purchase would not violate the law, then the CLEO, within twenty business days of receiving the dealer's statement, must destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice.

Letter of Reasons: If the CLEO thinks that the purchase would violate federal or state law, and if the buyer requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within twenty business days after receipt of the request.

The local sheriff from State X (who has standing to challenge the Act) argues that the Act is unconstitutional. Is this Act constitutional? Why or why not?

DO NOT DISCUSS THE SECOND AMENDMENT.

QUESTION TWO (60 minutes)

Three physicians and three individuals in the final stages of terminal illness have challenged a State statute. The physicians state that they frequently encounter in their practices mentally competent, terminally ill patients who request assistance in the voluntary self-termination of life. Many of these patients experience chronic, intractable pain and intolerable suffering. The physicians assert that it would be consistent with the standards of good medical practice to assist patients in hastening death by prescribing drugs for patients to self-administer for that purpose. Each terminally ill individual wishes to hasten his death in a certain and humane manner and for that purpose seeks necessary medical assistance in the form of medications prescribed by his physician to be self-administered.

The physicians and patients challenge the State Penal Law, which provides in part:

A person is guilty of manslaughter in the second degree when . . . he intentionally aids another person to commit suicide.

A person is guilty of promoting a suicide attempt when he intentionally aids another person to attempt suicide.

Plaintiffs argue that this statute violates their rights under the Fourteenth Amendment to the United States Constitution, and have asked you to construct their argument. DO NOT DISCUSS ANY EQUAL PROTECTION CHALLENGE. Assume for this question that prescribing the medication would violate state penal law.

Should the Supreme Court of the United States rule in their favor?

QUESTION THREE (60 minutes)

From 1963 to 1990, the Supreme Court interpreted the Free Exercise Clause of the First Amendment to require governments to accommodate religious belief. According to the Court, government regulations imposing a substantial burden on the exercise of religion were constitutional only if they were justified by a compelling state interest. The Court so ruled in Sherbert v. Verner (1963).

In Employment Division v. Smith (1990), however, the Court rejected the Sherbert approach. In Smith the Court held that facially neutral regulations are constitutional no matter what their impact on the exercise of religion.

Congress responded to the Smith decision with the Religious Freedom Restoration Act (RFRA), which provides in part:

- (a) Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).
- (b) EXCEPTION: Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person--
 - (1) is in furtherance of a compelling governmental interest,

In the FINDINGS attached to the Religious Freedom Restoration Act, Congress stated that:

The Purposes of this Act are to restore the compelling interest test as set forth in Sherbert v. Verner.

Congress did not mention the Commerce Clause in the Act, in its findings or anywhere in the legislative history of the Act.

A church in Burns, Indiana applied to the city for a building permit to enlarge the church building. The city denied the permit under its city zoning ordinance. The church appealed the city's decision, arguing that its rights had been violated under RFRA. In response, the city has argued that RFRA is unconstitutional.

Is the Religious Freedom Restoration Act constitutional? Why or why not?