

This question requires you to compare a Supreme Court case you studied in class with one you have not studied in class. A summary of the Supreme Court case you did not study in class is presented below and provides all of the information you need to know about this case to answer the prompts.

*Katzenbach v. McClung* (1964)

3. Beginning in 1927, the McClung family owned a restaurant that served barbecue and other foods to patrons. Their restaurant was located about eleven blocks from an interstate highway and obtained about half of its supplies from out of state. Even though the restaurant had an indoor seating capacity of over 200, it refused to seat African Americans and restricted them to take-out orders.

Congress passed the Civil Rights Act of 1964, which prohibited discrimination in places of public accommodation. It was passed based on economic activity, given the travel of African Americans between states. However, the McClungs sued to prevent the enforcement of the Civil Rights Act. They argued that because the restaurant purchased half of its food from an in-state supplier, Congress could not regulate it because its activities were local in nature.

After a district court ruled in favor of the restaurant, the federal government appealed to the Supreme Court. The Supreme Court, in a unanimous decision, held that the Civil Rights Act of 1964 was constitutional, upholding Congress' power to prohibit discrimination when it poses a significant burden to interstate commerce. The Court reasoned that because the restaurant purchased about half of its food from an out-of-state supplier and because Congress sought to resolve the problem of discrimination that was a national issue, Congress had the power to enact the legislation that regulated the restaurant.

- A. Identify the constitutional clause that is common to both *United States v. Lopez* (1995) and *Katzenbach v. McClung* (1964).
- B. Explain how the facts in *United States v. Lopez* and *Katzenbach v. McClung* resulted in different holdings.
- C. Explain how the decision in *Katzenbach v. McClung* reflects the democratic ideal of natural rights.

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Begin your response to this question at the top of a new page in the separate Free Response booklet and fill in the appropriate circle at the top of each page to indicate the question number.

4. Over time, there has been conflict between the president and Congress over their roles in domestic policy making. Develop an argument as to whether the president or Congress should have more power over domestic policy making.

Use at least one piece of evidence from one of the following foundational documents:

- *Federalist No. 51*
- *Federalist No. 70*
- Article I of the United States Constitution

In your response, you should do the following:

- ✓ Respond to the prompt with a defensible claim or thesis that establishes a line of reasoning.
- ✓ Support your claim with at least TWO pieces of specific and relevant evidence.
  - One piece of evidence must come from one of the foundational documents listed above.
  - A second piece of evidence can come from any other foundational document not used as your first piece of evidence or it may be from your knowledge of course concepts.
- ✓ Use reasoning to explain why your evidence supports your claim or thesis.
- ✓ Respond to an opposing or alternate perspective using refutation, concession, or rebuttal.

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**Question 3: SCOTUS Comparison****4 points**

- A.** Identify the constitutional clause that is common to both *United States v. Lopez* (1995) and *Katzenbach v. McClung* (1964). **1 point**

- The Commerce Clause

- B.** Explain how the facts in *United States v. Lopez* and *Katzenbach v. McClung* resulted in different holdings. **1 point**

**Acceptable responses include:**

**One point for describing** relevant information (facts or holding) about the required Supreme Court case.

- Lopez carried a firearm in a school zone.
- In the events leading to *United States v. Lopez*, a student was found guilty of violating the Gun-Free School Zones Act of 1990.
- The Supreme Court held that the national government could not regulate an activity that was not commercial and not related to interstate activity.

**OR**

**OR**

**Two points for correctly explaining** how the facts of both cases led to different holdings. **2 points**

- The regulation in *Lopez* was not subject to interstate commerce, so the Court held that was unconstitutional, while the Court held that the regulation in *Katzenbach* was constitutional because it dealt with an interstate commerce issue.
- Both cases involved people violating a federal law, but the Supreme Court held in *Katzenbach* that the government could regulate explicit economic activity, whereas in *Lopez* the Court held that the gun regulation in question was not considered to be a part of interstate commerce.
- In *United States v. Lopez*, the student was arrested for carrying a firearm to school, while in *Katzenbach v. McClung*, the restaurant owner operated a business near a state highway and received goods from another state. The activities in *Katzenbach* are commercial and connected to interstate commerce. However, in *Lopez*, Congress was regulating activity that was not commercial—possessing a firearm in school—and was not connected to interstate activity.

- C.** Explain how the decision in *Katzenbach v. McClung* reflects the democratic ideal of natural rights. **1 point**

**Acceptable explanations include the following:**

- Natural rights means that all people have certain rights that cannot be taken away, and *Katzenbach* supports this ideal by opposing the practice of discrimination.
- The decision in *Katzenbach* gives Congress the ability to pass legislation prohibiting discrimination, which is a threat to natural rights.

**Total for question 3 4 points**