

Exam #1

Due: Monday, 10/16 by 10AM

The following exam consists of 8 short answer questions, 1 essay question, and 1 hypothetical response. You have one week to work on it and submit it in a word document or pdf format via Blackboard. You may rely on your textbook, class notes, and powerpoints from class to support your answers. Be sure to reference cases specifically and cite them in your writing. If you do rely on any outside sources, be sure to cite those sources as well, but you do not need to otherwise cite your course materials. Include one works cited page in APA Style at the end of your exam. The more specific and supported your answers are, the better. By turning in this exam, you are agreeing that this is your original work, that you did not work with another student to answer these questions, and that you did not use AI supported technology to craft your answers.

Short Answers – 6.5 Points Each

(2 to 4 sentences each)

1. Explain the “rule of four.”
2. What are the two things that must exist for a court to have the ability to review a case? Connected to this is justiciability. Identify two components of justiciability and explain how they can limit judicial power.
3. What is the significance of the *Flast* Test?
4. Why does the Supreme Court have the power of judicial review? What case determined this and why?
5. What is the standard for proving libel? How is this standard different for private vs. public citizens?
6. How was the Second Amendment incorporated? Describe this in the context of two key cases that shifted the Second Amendment to interpreting it as an individual right rather than a collective right.
7. The Court has been more willing to regulate speech during times of war compared to times of peace. Identify two cases that show this pattern and explain how their rationale was different.
8. Why has the Court been more willing to regulate broadcast media than print media?

Essay Question – 20 Points (ONLY ANSWER ONE)

PICK ONE the following essay questions and answer it in approximately 200-250 words.

Note: You do not need to answer both.

Bill of Rights Incorporation

The Supreme Court has never adhered to a view of complete incorporation of the Bill of Rights to the states, but instead has embraced a policy known as selective incorporation. Which clauses were used to try and extend the Bill of Rights to the states and how were they unsuccessful or successful? Be specific about the clauses, the amendments they are found in, and the cases that are key to selective incorporation. What do you believe was the intended application of the Bill of Rights? Explain.

OR

Interpreting the Constitution

Your text outlines the different methods to interpreting the U.S. Constitution. Identify and briefly explain what these methods are. In your opinion, what is the best way for a Supreme Court Justice to go about interpreting the Constitution? (It can also be a combination of approaches). Defend your position with an explanation of your reasoning and an example of how this approach can appropriately interpret a case. Be sure to cite the case (it can be one discussed in class thus far or any other Supreme Court case where you believe a justice utilized this approach when interpreting the Constitution). Alternatively, you could use a prior case example to show how *NOT* interpreting the Constitution in this manner was problematic.

Hypothetical Question – 28 Points

Hypothetical – A Brief to the U.S. Supreme Court

Scenario: In Clifton Texas district judge Phil Collins runs a formal courtroom where he believes in “swift justice” and ruling with an “iron fist.” Collins also begins every day with a prayer that asks God to allow him to act judiciously and fairly when dealing with defendants. These prayers are read by different members of the clergy each week. The pool of clergy includes several Presbyterian ministers and a few Catholic priests, but is mostly comprised of Southern Baptist ministers from the surrounding counties and the nearby city of Waco. Judge Collins also had a replica of the Ten Commandments made on stone tablets, which he hung himself behind his bench so everyone in the courtroom can see them. Of choosing to place the tablets there, he has said that “we must all realize that no matter what our laws may be, we all live under God’s law and must follow it without question.” While some have said he should remove them, Collins has refused to do so.

On October 3, 2022, Patrick Bateman went before Judge Collins to defend himself against the accusation of robbing two gas stations. Judge Collins began by having a local Southern Baptist pastor, Jesse Gemstone, read the invocation. After he read the prayer, Bateman’s attorney objected, saying the prayer was a violation of the Establishment Clause of the First Amendment. He also objected to the Ten Commandments in the courtroom. His argument was that it was a violation of his client’s rights to be subjected to such prayers when he was not Christian, and his beliefs did not include praying to God or following the Ten Commandments. He argued that for justice to be conducted fairly in this courtroom the prayers must be stopped and the Ten Commandments must be taken down. Collins overruled the objections and noted that even though Bateman was not a Christian, these were ideals by which all “red blooded Americans” should live. Because Bateman had waived his right to a jury trial, Judge Collins was in charge of deciding the case, and he found him guilty. After telling him “thou shall not steal”, Bateman was sentenced to 3 years in a state prison. On appeal, Bateman’s attorney argued that the trial was unfair and biased because it was conducted under the backings of Christian tenets which Bateman did not recognize, and which was a direct violation of the Establishment Clause. The appeals court in Texas affirmed the conviction and said there was no First Amendment violation. The case was eventually appealed to the U.S. Supreme Court.

Prompt: You are a Supreme Court Justice tasked with deciding if the Establishment Clause was violated. You will want to consider how the Supreme Court has considered this issue in the past and use at least 3 cases to support your position. Focus on religion for this answer, and do not worry about rights of the criminally accused or court room proceedings that we have yet to cover.

Note: There is not a “right” answer. It is possible to craft a convincing, well-supported argument for either side. You do not need to worry about formatting or proper language for Supreme Court briefs. The goal here is to lay out your argument concisely in 300-350 words.