

Assume that Congress passed and the President signed the following statute: "The appellate jurisdiction of the United States Supreme Court shall not extend to any case involving the constitutionality of any state statute limiting the circumstances in which a person may obtain contraception, or involving the constitutionality of this statute."

What is the strongest argument against the constitutionality of this statute?

- A. Congress may not exercise its authority over the appellate jurisdiction of the Supreme Court in a way that seriously interferes with the establishment of a supreme and uniform body of federal constitutional law.
- B. Congress may only regulate the appellate jurisdiction of the Supreme Court over cases initially arising in federal courts.
- C. The appellate jurisdiction of the Supreme Court may only be altered by constitutional amendment.
- D. The statute violates the equal protection clause of the Fourteenth Amendment.

Explanation:

Most cases come before the **U.S. Supreme Court** (SCOTUS) through its **appellate jurisdiction**. This allows SCOTUS to review certain cases that have been decided by a lower federal court or a state's highest court. Article III grants **Congress** the power to **regulate and make exceptions** to SCOTUS's appellate jurisdiction. But when exercising this almost unlimited power, Congress **cannot violate**:

- the **separation-of-powers doctrine**—eg, usurping judicial power to decide cases—*or*
- **other constitutional provisions**—eg, giving only men the right to appeal, in violation of the **equal protection** component of the Fifth Amendment.

Here, the federal statute denies SCOTUS appellate jurisdiction over any case involving the constitutionality of a state statute limiting access to contraception. As a result, the federal statute may violate the separation-of-powers doctrine since it could usurp SCOTUS's power to establish a supreme and uniform body of federal constitutional law on this issue. Therefore, this is the strongest argument against the constitutionality of the federal statute.

(Choices B & C) Since Article III of the Constitution gives Congress the power to limit SCOTUS's appellate jurisdiction over cases initially arising in *federal* or *state* court, no constitutional amendment is required.

(Choice D) The Fourteenth Amendment equal protection clause applies when *states* treat similarly situated persons differently. But since the challenged statute was enacted by the *federal* government, this clause does not apply.

Educational objective:

Article III grants Congress the power to regulate and limit SCOTUS's appellate jurisdiction. But when exercising this power, Congress cannot violate the separation-of-powers doctrine or other constitutional provisions.

References

- United States v. Klein, 80 U.S. 128, 147–48 (1871) (establishing that Congress cannot alter the Supreme Court's appellate jurisdiction if it would violate the separation-of-powers doctrine).

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Jurisdiction of United States Supreme Court

