

CONSTITUTIONAL LAW
FINAL EXAMINATION
Spring 2018

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EXAM INSTRUCTIONS

This is a three hour exam. There is one essay question to be answered in Question 1, four short answer questions in Questions 2, and 20 Multistate Bar Exam-type questions in Question 3. Each question will count for 1/3 of your exam grade. The credit for the 2 quizzes and the practice exam represent a total of 10% of your grade for the course and the final exam represents 90%. (Extra credit may be added for your class participation).

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.

*****I*****

Q3: Not available

Question No. 1

The Legislature of the State of Columbia conducted hearings and made findings that numerous "Crisis Pregnancy Centers" were being operated in the State by religious groups seeking to discourage pregnant women from having abortions, which the operators oppose because of their religious beliefs. The Crisis Pregnancy Centers operating in Columbia are not licensed as medical facilities and do not provide any medical services, yet the Legislature found that many women consulted the Centers believing they were providing medical services. In response to these findings, the Columbia Legislature enacted a statute requiring unlicensed "Crisis Pregnancy Centers" to post a notice in a conspicuous place stating that the Center is unlicensed and that free or low-cost pregnancy-related services are available, including abortion services, through licensed State government programs.

The Sacred Life Crisis Pregnancy Center opposed the State's statute and refused to post the required notice at its facility in Columbia. The State Attorney General brought an enforcement proceeding in state court against the Sacred Life Crisis Pregnancy Center seeking to close the facility for violating the State statute. What arguments can the Sacred Life Crisis Pregnancy Center raise in its defense to challenge the constitutionality of the State's statute as a violation of its rights protected by the First Amendment? Analyze and conclude.

Nina, an undocumented 19-year-old student, was detained by the U.S. Government in an immigration detention facility in the state of Columbia. When she learned that she was pregnant she requested medical services, including an abortion, or temporary release from custody to obtain an abortion. She was provided a Counsellor from the Sacred Life Crisis Pregnancy Center who told her she could not have an abortion and should consider other alternatives, such as adoption. The Counsellor did not advise Nina that services were available through government programs, or that the Sacred Life Crisis Pregnancy Center was unlicensed. Nina refused all other medical advice or treatment, and her requests for an abortion or temporary release to obtain an abortion were denied. What arguments can Nina raise in a lawsuit to challenge the denial of abortion services or a temporary release to obtain abortion services as a violation of her Constitutional rights? Analyze them and the Government's likely arguments in response, and conclude.

For all issues, state how the U.S. Supreme Court should rule on them and why.

Question No. 2

Please write a short answer to these four questions. Each question is worth 25 points.

A. The City of Suncity had a long-standing practice of opening each City Council Meeting with a prayer. The content of the prayers was left entirely to the minister, Rabbi or priest who offered the prayer at the meeting, but City guidelines required prayers to be “non-denominational”. Since the inception of the practice ten years ago, City Council meeting prayers were 85% Christian and 15% Jewish. The City denied the application of an Atheist group called “Good not God” to offer a prayer at a Suncity City Council Meeting on grounds that its speaker, by definition, does not believe in a deity and so could not offer a prayer. The Good not God group espoused the belief that people are essentially good without belief in a God or any deity, and they intended to offer the equivalent of a prayer at the meeting. Analyze the constitutional issues the Good not God group can raise. How is the court likely to rule on them and why?

B. Protesters gathered along a public highway near the Mexican border to protest U.S. immigration policies. U.S. Border Patrol Agents placed temporary fencing and yellow tape around a “border patrol zone” located adjacent to the highway, which required removal of the protestors from the “zone” where they had stood near a border stop to an isolated area on the other side of the 4-lane divided highway. The protestors sued the Department of Homeland Security for violation of their rights under the First Amendment. Analyze the constitutional issues. How is the court likely to rule on them and why?

C. In an effort to address the growing problem of alcoholism among the nation’s teens, Congress authorized the Federal Communications Commission (FCC) to adopt regulations prohibiting advertising of artificially- flavored alcohol products in Television, radio or internet communications which depict persons who are or appear to be under the age of 21 years. Analyze the constitutional arguments the television and internet companies can raise. How is the court likely to rule on them and why?

D. To maintain accurate voter registration lists, a state law required removal of registered voters from voter registration rolls if the registered voter had not voted in an election held in the preceding two years. Analyze the constitutional issues the voter can raise. How is the court likely to rule on them and why?

MCL Constitutional Law final exam outline of issues 2018:

Question 1:

Claims of Sacred Life Crisis Pregnancy Center:

1st Amendment Right to Freedom of Speech:

Compelled Speech: Government cannot compel persons to say what they do not believe. *West Va. Bd. Of Ed. v. Barnette*. But Government can condition funding on restricting medical information re abortion (*Rust v. Sullivan*) but in *US Agency v. Alliance for Open Society* court held government cannot condition funds on compelling recipient to profess a belief they do not hold; and in *Legal Services Corp v. Velazquez* court held funding could not be conditioned on restricting legal representation because it restricts speech on which the courts depend. Is direct requirement to post signs a form of unconstitutional compelled speech?

1st Amendment Freedom of religion:

Free exercise: Center asserts right to religious accommodation to operate Crisis Pregnancy Centers and express religious opposition to abortion. Does statute requiring posting of a sign burden Center's free exercise under *Employment Division v. Smith*? Analyze why *Smith* (rational basis test applies to neutral laws generally applicable) and not *Sherbert v. Verner* (Strict Scrutiny) because the statute is state law and federal Religious Freedom Restoration Act does not apply to States after *City of Boerne v. Flores*. However, where the law is not neutral and is aimed at suppressing religion, or where another fundamental right is infringed *Sherbert* strict scrutiny test applies. (*Church of Lakumi Babalu Aye v. City of Hialeah* (animal sacrifice ban); *Wisconsin v. Yoder* (fundamental right of Parent))

Establishment clause: would state's accommodation of Center's religion by authorizing exemption for Center constitute an establishment? Apply *Lemon v. Kurtzman* test; Neutrality (symbolic endorsement), or Accommodation of religion (requiring actual coercion or establishment of a church)?

Claims of Undocumented Student Nina:

Fundamental Right to Privacy: Fundamental right includes right to an abortion. *Roe v. Wade*. Does Federal Government's refusal to provide a lawfully detained pregnant woman access to an abortion while in detention create an unconstitutional undue burden on her right to an abortion? *Planned Parenthood v. Casey*; *Whole Women's Health v. Hellerstedt*.

Fundamental Right to Refuse medical treatment: violated if government requires treatment of incarcerated pregnant woman when she has refused? Must government permit treatment of choice (abortion)? *Cruzan v. Director Mo. Dept Health*.

Freedom of religion: Was Nina's freedom of religion (or non-religion) violated by government providing counseling by religiously affiliated agency (Center) while she was detained?

Violations of procedural due process:

Does immediate denial of abortion services without a hearing i.e. Notice and Right To be heard, violate Nina's liberty by depriving her of her fundamental right to choose whether or not to bear a child because she is being detained by the government?

Question 2

A. 1st Amendment Freedom of religion:

Free exercise: was the Athiest group "Good not God" asserting religious views and practices by offering its "equivalent of prayer" at City Council Meetings? Or is City's practice neutral and generally applicable per *Empl. Division v. Smith* as applicable to states.(rational basis)? Or is it aimed at religion, discriminating in favor of religion? (Strict scrutiny per *Sherbert*).

Establishment clause: not violated by City permitting prayer at City Council Meetings per *Town of Greece v. Galloway*; citing *Marsh v. Chambers* (upholding legislative prayer). But is Town's 's accommodation of religion by authorizing prayer based on content violating the Constitution by discriminating against Good not God?

1st Amendment Freedom of Speech: violated by content based selection of prayer at council meetings? (See *Town of Gilbert* upholding predominantly Christian prayer)

B. 1st Amendment rights in a public forum:

Here question is whether putting up barriers which block Protester's access to the border stop area converts that area to a non-public forum subject to complete government control, or is it a public forum subject to reasonable Time, place and manner regulations? If it is found to be a public forum, is it an unconstitutional restriction aimed at expressive conduct? Or a prior restraint because it leaves no ample alternatives to the protesters? Reasonable time, place and manner regulations must be content neutral, serve an important gov't interest, allow ample alternatives for communication. If invalid on its face, no collateral bar applies and group may raise Constitutional issues even after violating the ordinance. (And vice versa)

C. 1st Amendment Commercial Speech:

Gov't must meet Central Hudson test to regulate commercial speech which is lawful and not misleading. Here advertising alcohol consumption by underage persons is advertising unlawful activity and subject to government regulation and so may not require meeting *Central Hudson* test.(*Pittsburgh Press*). But prohibiting only communications that "depict persons who are or appear to be under age 21 years" and not

Q1

rule summary The First Amendment prohibits Congress from making any laws that abridge the freedom of Speech (FOS), or the free Exercise of Religion, or Establishing a National Religion. These prohibitions apply to the States through the 14th Amendment.

Sacred Life Crisis Pregnancy Center (CPC) will raise the following First Amendment Challenges to the State of Columbia Law: that the law violates the organizations's free exercise of religion, that it violates the establishment clause, and that violates FOS.

FREE Exercise of Religion

Issue: Is there a religious Belief? *Whose?*

Rule: A belief will not be judged for its validity, but only on whether it is sincerely held under *Seegar*. If the belief is sincere and meaningful, and occupies a place in the life of an adherent parallel to a belief in God, then it is a religious belief for Constitutional purposes.

Here, the CPC opposes abortion, which is a commonly held belief by persons of many religions. Here, the sincerity is obvious because of the CPC's whole purpose of existence being to

END OF EXAM

Note: Student's laptop malfunctioned

Student handwrote exam. OK

(Sorry about
that)

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Q 1 continued from page 1

discourage pregnant women from having abortions, and because CPC was willing to defy the law. ^{Good point}

It is likely the Court will find the belief to be sincere

I DOES THE LAW ^(not the correct test) UNDULY BURDEN CPC'S ^{Free} EXERCISE OF RELIGION?

Good
12 rule
STAT.

~~As this is a~~

Under Smith, a state law that is neutral and of general applicability that burdens exercise of Religion need only meet the Rational Basis Standard (see below)

Neutrality

good
Argument

CPC will argue that the law is NOT neutral because it ~~see~~ was made purposefully to force CPC and other similar organizations to place a sign in effect pointing the way to

pregnant women to facilities that perform abortions, which violates CPC's beliefs (Religious beliefs)

good point

The State will counter that the law was ~~was~~ neutral as it applies to any and all unlicensed centers that advertize a particular service (pregnancy Related) to a particular group (pregnant women)

good!

Because of the specific legislative findings, CPC has a good chance of prevailing on this factor, as ~~the case~~ the facts are similar to precedent case in which a Santeria Religious group was targeted by a law outlawing a practice (animal sacrifice) - good citation

conclude:

So strict scrutiny applies (strict)

not rational basis (SMITH)

(City of Hillside case)

general application

CPC will argue that the law only applies to "Crisis Pregnancy Centers" and not to other unlicensed services, such as "life coaches" who may not be licensed therapists.

The state will argue that the legislator was made aware of a particular problem ~~in~~ and addressed it as generally as was possible

conclude: NOT targeting religion? neutral law generally applicable?

I Is the law Rationally Related to a legitimate state interest?

CPC will argue that the state has a legitimate interest in providing support for pregnant women, other than by abortion, and the law does not further

Apply only if you find Smith applies NOT Substantive (contrast p. 1718 page)

that interest - this is a weak argument, however.

~~CPC will likely argue that if the State's interest is to promote abortion, there are plenty of facilities to further that provide that service, & that a sign on their door will not reasonably increase~~

CPC will argue that ^{the law} it is not reasonably related to a the state interest, because the state interest, is in ensuring pregnant women have access to abortion, and/or know about that option, will not be lessened simply by a few, poorly funded centers who provide other-than-medical services. They can provide, just must post notice

The State will claim that its legitimate interest is

got
refus

truthful advertizing to a vulnerable group, pregnant women, many of them may be immigrants who don't speak or read English, or who don't come from countries where abortion is illegal, may be mislead by CPC w/out a clarifying statement, and that simply placing a sign on the window truthfully stating no medical services provided is reasonable

UNDUE BURDEN ON FREE EXERCISE:

CPC will argue that th it cannot condone or encourage or assist in abortion, by ~~be~~ and that the law forces them to do so.

Concl. Under this Issue, it is likely that the court will find

that the State met its Burden
under Smith / Rational
Basis Review.

Note: CPC ~~is~~ may assert its
Free Exercise Right as an
organization under Hobby
Lobby; ~~here~~, distinguished
although ~~to~~ in Hobby Lobby
the Corporation did not have
to provide insurance that
~~pro~~ paid for abortion,
the facts in this case are
analogous in that ~~there~~
CPC would be in a sense
supporting abortion Right - Good point

Issue VIOLATION OF ESTABLISH MENT CLAUSE

good
was
state

CPC may argue that
the law establishes a religion
by endorsing one ~~the~~
religion, or non-religion, over
another.

Cases will fail the CPC will argue that the Lemon Test

Lemon test

me ~~Do~~ ① Secular purpose ② advance or promote religion/non-religion ③ ~~unnece~~ but excessive entanglement

① CPC will argue there is not a secular purpose because the legislature targeted centers funded and run by Religious groups, and because it favors information about abortion vs. other alternatives. *Good point*

State will argue that the purpose is to ensure that all services purporting to help pregnant women must provide all information including availability of abortion services, ~~of us~~ and support systems if a abortion option

is not chosen, and that the purpose of the law was to avoid pregnant women being confused by the name of the CPC. (however, "sacred life" seems to announce the views of the organization.)
(Loudspeaker)

② CPC will argue that the law ~~advances~~ prohibits religion by diluting the message, ~~that of~~ and by the government crafting the message in the form of the signs on ~~the door~~ in a "conspicuous place".
CPC will also argue that the State is favoring one ^{belief} ~~view~~ (either: a) non-religious ^{belief} ~~view~~ of abortion, or b) a sect's ^{belief} ~~view~~ over another sect (i.e. not all religious groups agree on abortion)

The State will counter by stating it is not regulating

or ~~esta~~ promoting or prohibiting religion, but rather truthful and/or full advertising, and its purpose is to ensure women know all their options, and will point to true legislative findings.

③ Finally, CPC will argue that the law creates excessive entanglement of Religion because the State will have to enforce the law, will have to perform checks on centers, and will have to approve the wording. Gov't argument? (no entanglement) ^{not excessive}

Concl. It is likely the Court will find that law does not establish a religion because the secular purpose (supra), the Lemon test is met.

Issue: FOS

Content Based

State must show the law is necessary to achieve a compelling state interest if the law is content based.

Here, the law is content based because it tells the CPC what it must announce in a conspicuous place -

compelling interest, (identified above)
Necessary = no reasonable alternative
CPC will argue that even if the state interest is compelling, that there are reasonable alternatives, such as radio spots in multiple languages, social media, and signs on public property, & the state can host free information sessions, etc.

good
argument

The state will ~~sa~~ argue that

when a woman goes to a ~~center~~ CPC or other similar center believing it is a medical facility, that ~~the~~ it ~~is the~~ is necessary to inform that person that CPC is NOT a licensed, medical facility.

→ conclude re content-based (finish this analysis)

Issue

COMPELLED SPEECH

while the Gov't may not abridge free speech, it may not compell it as well (New Hampshire license plate case) good rule case.

Here, CPC will argue that the ~~Gov~~ State is telling it what to say, and that it does not want to say it (put simply) - CPC will argue that if

The State will argue that it is not compelled

speech, but rather clarifying
a misleading title to the
service, and that the CPC
can choose to operate out
of its church only. So How does this
justify compelling
speech or signs?

TIME PLACE MANNER

If the law is content
Neutral, the Gov't can regulate
the time, place, manner,
if there is an significant
Gov't interest, there are
alternative channels, and it is
narrowly tailored.

Here, CPC will say the
law is not content neutral-
and even if it is, the CPC
is Private Property, so
the State may not regulate the
speech in the same way

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Q I A

The State may argue that the CPC is engaging in Commercial Speech, which is easier to regulate.

(refer to Central Hudson - false or misleading can be regulated)

Conclusion: It is likely that the State would prevail on the Religious Arguments, but fail on the F.O.S. arguments, because it the law compels CPS, an organization, to adopt a message/words it does not want.

Good overall conclusion

Q 1 B

Issue: Does Nina's Fundamental Right to Privacy include the right to terminate her pregnancy? was she "unduly burdened"

Rule

good
rule
STAT.

And Casey confirmed that a woman's right to privacy includes the right to abort a pregnancy; however, Case allowed the Gov't to regulate previability abortion prior to viability unless the regulation "unduly burdens" the right - purpose or effect of regulation places a "substantial obstacle" in the way of an abortion.

good
analysis

Here, Nina will state that the U.S. did not provide her with the medical services she requested - 1) medical services and 2) an abortion - when the U.S. provided her w/ a counsellor from CPB, she

was NOT provided w/ a doctor,
but rather an unlicensed
person who lied to her by
stating she could NOT have an
abortion. Good point

Nina will argue that her
decision to refuse all other
medical treatment, while a
fundamental right, was based
on False information provided
by the U.S. Government!
ALSO A good point

good
Argue

False information re: medical
care and abortion, Nina will
argue, is a substantial obstacle
to getting an abortion.
~~The Gov~~

While the facts do not state
that she was pre or post
viability, she did not have the
opportunity to find that out
because of being lied to.

The U.S. will argue that the CPC was not a Government Actor - ~~known~~ and therefore not Government Action - however, Nina ~~did not~~ will easily defeat this argument by showing she was in a "captivity place" & was forced to only get information from the person the Government provided for her - a "Counselor" from CPC. Good begin

~~How~~ The U.S. did, however, deny subsequent requests from Nina to be provided an abortion. The U.S. will argue that ~~the~~ while Nina had a fundamental right to an abortion, the U.S. does not have to pay for it.

Nina requested a temporary Release to get an abortion "on her own" - however,

this was denied; she could have had a GPS, or a U.S. ~~will argue~~ citizen could have signed for temporary responsibility, or ~~the~~ ~~a~~ an organization could have paid for the procedure in the detention center. Good point

~~Issue: Fundamental Right~~

Procedural Due Process

Deprivation of Life, Liberty, property -

Nina will argue that she was deprived of her ~~liberty~~ Liberty to autonomy over her body, and that the Gov't was forcing her to have a child without a hearing -

Due Process (DP) Requires
Notice, opportunity to be
heard, before a neutral
decision maker.

Courts apply the Mathews
test to balance whether
DP is met -

- 1) ~~interest~~ Nina's interest
is very high as this
is a fundamental right
- 2) Chance of erroneous
deprivation - very high
as Nina is denied a right,
and viability gets nearer
every day
- 3) ~~to~~ Burden on Government
- Nina is already in
custody, and already in
deportation proceedings -
it would be simple to
have a judge hear her
case - furthermore, an

~~administrative~~ or
administrator, such as an
ICE officer, could determine
her flight risk for temp.
release. Good idea

Conclusion: because Nina has
a fundamental right to
abort, and because she was
denied that right without
due process, it is likely that
the U.S. Gov't would be
held liable, and that a
Judge would order Nina to

- 1) be temporarily released
or,
- 2) order medical services
sufficient for Nina to
make a meaningful
choice

Conclude:

Denial of Abortion was undue burden & uncon
Good job! You address all major issues, organize well,
and select facts & arguments to support your
analysis. Be sure you are consistent in your analysis e.g.
Smith or Stenberg: more (you seem to switch) and

Be sure to state your conclusions
even if you think they are obvious.

Keep up the good work!

2)

Question 2

Rog A

good
some
TUV

Good not God (Good) can raise two main arguments: that they were denied the right to free exercise, and that the city guidelines violated the establishment clause. The first amendment protects a persons right to exercise their religion without state interference (free exercise clause) and it also prohibits the state from advancing or prohibiting a religion (establishment clause.) They could also argue that the refusal was a content based speech restriction, requiring strict scrutiny.

Free Exercise:

good

Free exercise is protected by the first amendment. To be a religion for purposes of the free exercise clause, one not need believe in God. A dearly and closely held belief that takes the place in a person's life that is traditionally held by an orthodox God is sufficient to be religion. Here, Good would argue that they believe in the goodness of man in the same way that others believe in an orthodox God. They would thus argue that they are protected and that this fragrant violation must meet strict scrutiny ^{strict scrutiny} as it is directed solely at them, and not at the other religious groups involved— the Christian's and the Jews. They will argue that there is no compelling interest to deny them the ability to pray as well as the others.

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min
es wt
mg

Conclusion:

The court will find that the right to Good's free exercise was infringed. *Good Argues + Conclusion*

Establishment Clause:

good rule START
The establishment clause prohibits the government from advancing one religion over another. There are three views: the impregnable wall, neutrality that prohibits symbolic endorsement, and accommodations which prohibits only an actual state religion and actual coercion. Unless a law advances or demeans a religion on its face, it is evaluated by the Lemon Test. (1) is there a secular purpose (2) is the primary effect the advancement or belittling of a religion (3) does it create excessive entanglement. Here, Good can argue that city's actions were a symbolic endorsement, and were not thus within the bounds of the now controlling neutrality doctrine. They will argue that the city was clearly endorsing the other faiths over their own. They will also argue that having to listen to the other groups praying without the opportunity to do so was coercive, and that they had a right to be present without hearing these other things spoken. *Good Argues +*

Conclusion:

Address Lemon test also

2 | The court will find that the establishment clause was infringed due to coercion and symbolic endorsement.

Rog B

good rule
Freedom of speech, although protected by the first amendment, depends on where the speech occurs. Different areas require different levels of scrutiny when speech restrictions are challenged. There are 4 main categories for areas of speech: (1) public forum: a place

open to speech since time immemorial (2) designated public forum: a place not historically open but that has been opened by the government; (3) limited public forums: places the government can open up for limited purposes, and; (4) non-public forums— places where speech is not historically protected.

Here, the protestors will want to convince the court that the area was a public forum. They will argue that empty spaces near roads have always been open to speech since, like a sidewalk, that is where you will have an audience. To prohibit speech in a public forum there must be an important government interest; reasonable time place manner restrictions with alternatives, and they must be narrow but not the least restrictive. They government will argue that they have an important interest in keeping the protestors away because of the harm that could come to them. They could argue that the restrictions are reasonable in time, place, and manner, because they leave alternative places for speech. *where?* On this point the government will highlight that only a certain area was blocked off, not the whole road side. *Access to the highway? (Ample alternatives?)*

good (An even better argument for the government is that the area is not a public forum, but a non-public forum. They will argue that areas around the border are not historically spaces for speech, but are historically subject to heavy governmental control and regulation. This would only require them showing that they have a legitimate interest and the regulation is rationally related to that interest. They could argue that the interest was legitimate because it is a sensitive area and people could be harmed. They could argue that the regulation is rationally related because they are keeping the public away from the most harmful spaces. *good* *refers*)

Conclusion:

22 The court will find that the area was a public forum, and that the government's restrictions were adequate as they were only a portion of the available space for protesting. *OK*

Rog C

Freedom of Speech and Commercial Speech:

Commercial speech is a form of speech that is protected, but less protected. Commercial speech is speech that proposes a commercial transaction. Its regulation is not subject to strict scrutiny, but is rather subject to the Central-Hudson Test: is there a substantial interest, does the regulation directly advance that interest, and is it narrow but not the least restrictive. There are, however, some types of commercial speech that can be regulated notwithstanding Central-Hudson: speech that is fraudulent, deceitful, risks deceitfulness, or proposes an unlawful transaction.

Here, the speech at issue is commercial speech because it involves the sale of an item to the public—it thus proposes a commercial transaction. The companies would thus argue that the speech is not of the nature to make it unprotected because it is not fraudulent, deceitful, or unlawful. The companies will argue that Central-Hudson is not met. First they will argue that, even though the government has a substantial interest in curbing alcohol use among teens, that the regulation does not directly advance that goal. They will argue that the use of people who appear to be under 21 will not actually make a difference in whether teens will drink. They will argue that teens drink to be like adults, not to be like teens. They will argue that adult actors or teen actors, teens use alcohol because they like to be cool or be buzzed. The companies will likewise argue that the flavor prohibition will not be useful in directly advancing the state interest. They will argue that the teens who drink to drunk will do so whether the stuff is tasty or not.

The state will argue that the regulation does advance the interest because it is meant to make the whole thing less appealing. They will argue that even if it doesn't completely solve the problem, it may at least help with new teen drinkers who might see the ads and feel so moved in that direction. They will argue that although it is not the least restrictive means— there could be ways to do it better— it is narrow in that it deals only with underage drinkers, not with adults.

unlawful alcohol use

Conclusion:

but As Long as allows Adults who look young do protected Advertising?

The court will find that the use of people who appear to be under 21 is a constitutional regulation, but that the flavor advertising ban is not. *oic*

Also - Are Ads for Illegal Activity (underage alcohol use)?

19

Rog D

Fundamental Right to Vote:

The right to vote is a fundamental right that is found within both the articles and the amendments of the constitution. It cannot be denied or diluted (1 person 1 vote) It is thus a fundamental right that cannot be infringed without meeting strict scrutiny.

Infringement:

Good

Infringement of the right to vote happens when there is a direct and substantial prohibition or curtailment of a right. Here, it could be argued that the state's action violated the right to vote because it would make it so that people would not receive notice of upcoming votes, or information about the votes, or information on how to register for future votes. It could be argued that this is a direct and substantial action that leads to the

loss of a fundamental right. The state could argue, however, that it was not a direct action that hinders voting, but that such a consequence is merely tangential and un-likely. *why?*

Justification:

Even if it were found to be an infringement, the state would argue that it meets strict scrutiny. They would argue that they have a compelling interest in maintaining accurate records for purposes of fraud and reducing administrative costs. They would argue that the regulation is narrowly tailored because it gives a two year grace period, and only clears the list based on time since last voted, as opposed to other criteria. It would argue that votes are otherwise made known to the public on the news and in papers, and that people could still access information on registration and voting issues. On the other hand, people who are just of age 18, or 19, who had never been able to vote before would be excluded. It could also be argued that some segments of the population are not able to vote as consistently because of jobs or lack of money for travel, etc. Of them it could be said that there is an infringement with equal protection issues.

Conclusion:

The court will find that the state law is constitutional because it meets strict scrutiny. *because*
(Maintaining voter rolls is compelling interest + removal is narrowly tailored)

20 Procedural due process Q? Notice, opportunity to be heard before deprivation?

END OF EXAM