
HOWARD UNIVERSITY SCHOOL OF LAW
CONSTITUTIONAL LAW II SECTION I

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Fall 2008 Final Exam Instructions

December 3, 2008

General Instructions

1. You have three (3) hours for the exam.
2. Times noted for the questions reflect the amount of time I estimate it would take to answer each question. Please note that although the time noted for each question does relate somewhat to the points for that question, it does not do so in a strict one-to-one fashion.
3. The exam is two (2) pages long, excluding this instructions page.
4. There are three (3) questions worth 100 points, 100 points, and 50 points respectively for a total of 250 points.
5. Write legibly and clearly in blue or black ink.
6. Use headings as appropriate.
7. Respond to the question asked, not to questions that might have been asked. Even though the fact pattern may be based on one of the hypothetical problems given during the semester, either or both the factual particulars or the call of the question may be different. Even within your responses, do not spend time on matters that are not issues just to show me how much you know. This exam tests professional judgment as well as knowledge of Constitutional Law.

Permissible exam materials

The exam is closed book.

No materials other than the exam itself, blank scratch paper, and bluebooks are allowed.

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Question 1. 100 points. Estimated time: 60 minutes.

In October 2008 the City Council of the City of Chicapolis in the State of Indinois adopted a gun control law that provides:

- a. Sale and purchase of handguns within the city are banned as of January 1, 2009.
- b. Handguns registered with the city before the effective date of the ordinance (January 1, 2009) may be kept within the city limits. Any other handguns not registered before January 1, 2009 may not be kept within the city limits.
- c. Anyone keeping a handgun within the city limits must complete a city certified gun safety course by February 1, 2009.
- d. Handguns may not be carried concealed or unconcealed within the city limits without a permit issued by the city.
- e. Handguns lawfully registered and kept in homes must be kept unloaded with a trigger lock or disassembled or otherwise rendered inoperative.
- f. Provisions of this ordinance are severable from each other. In the event a provision is declared unconstitutional, the other provisions will remain in effect.

On March 2, 2009, Bradley Bararms was arrested in Chicapolis for illegal possession of a firearm. Bradley had moved to Chicapolis in November 2008. He brought his handguns with him at that time. He did not register them. He also did not take a gun safety course certified by the city, though he had taken one 15 years before as a teenager in his hometown in the State of Kansakota. Bararms had been stopped for a traffic violation (speeding) late at night in town. Upon approaching the vehicle, the police saw a pistol grip poking out from under the passenger seat. Upon inquiry they determined that it was Bararms gun, and that he had not registered it, and did not have a permit to carry it.

Bararms said that he kept it in his car to protect himself against carjackings. Bararms also said that he was an air conditioning service technician on call 24 hours per day and that sometimes, in performing his job, he had to go to less than idyllic parts of the city (ok – very dangerous parts of the city). So he carried it in his car for his personal safety.

Consider all federal constitutional issues reasonably raised relating to Bararms, except any criminal procedural issues.

Question 2. 100 points. Estimated time: 70 minutes.

The Village of Wasina in the State of Alasota had a public park in which in 1971 it displayed a granite monument on which were carved the Ten Commandments (Protestant version, from the New Revised Standard edition of the Bible). No one objected.

Twenty-five years later, in 2006, the Atheist Freedom Sect wanted to have its Five Cardinal Tenets displayed in the same park. The Five Tenets are:

1. There is no god. Period.
2. The way to understanding is through investigation and study of the natural world and universe.
3. Meaning comes from action.
4. Morality is based on human consent achieved through received wisdom and ongoing experimentation.
5. We are all in this together.

The village refused to display the Five Tenets arguing in part that the Ten Commandments are an integral part of the history of the area and of our legal system and that consequently the village's decision to display such foundational, historical information is within the power of the village to decide to do. Since the Five Cardinal Tenets are clearly not part of the history and tradition of the village (an accurate statement), the village contends it does not need to agree to put up a monument with them on it.

Consider the federal constitutional issues reasonably raised by the facts. Do not consider yourself necessarily constrained by the village's arguments—there may be issues and interests and policies at play in addition to the ones made by the village.

Question 3. 50 points. Estimated time: 30 minutes.

Consider one or more potential effects of the election of Barack Obama on the interpretation and/or application of the Equal Protection Clause.

End of Exam