



Boot Camp

UNT Moot Court, 2023-24

The Executives

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The image features a full-page camouflage pattern in shades of olive green, brown, and tan. In the center, there is a solid black rectangular box. Inside this box, the words "Your Turn!" are written in a white, stylized, slightly distressed serif font. The text is centered horizontally and vertically within the black box.

Your Turn!



BASIC TRAINING

Eligibility, Tryout Expectations, Lingo

Eligibility

- Undergraduate, first Bachelor's degree
- Good academic standing
- NO age restrictions
- NO experience necessary
- NO major requirements
- NO pre-law requirement
- NO fees, dues, or financial requirements (other than purchasing a suit)

Tryout Expectations

- Tryout Process:
 - Sign up for a slot and fill out the tryout form
 - "Interview" to verify eligibility
 - 8-minute argument
- Only one issue and one side for tryouts
- All on Zoom for summer tryouts / All in-person for August tryouts
- Do your best, and don't stress!

Provisional Tryouts

- Get one-on-one training with the executive team
- Prepare months in advance to competitors
- Practices:
 - Meet with two executives during the week
 - Various sign-up times throughout
 - Must meet with at least one on the same issue
- Performance review in August

Lingo

- **Issue** - the legal problem to be addressed (Fourteenth Amendment or First Amendment)
- **Side** - the opposing parties in the legal battle (petitioner or respondent)
- **Case Problem** - the hypothetical case that we will spend the year arguing about at competitions
- **Case Law** - the real cases to be used as evidence in your argument; listed in the back of the case problem
- **Precedent** - previous holdings of the Court that set the standard or the rules that new cases must follow
- **Lower Court** - for this problem, any court other than the Supreme Court

Lingo Cont.

- **Certiorari** - a writ or order by which a higher court reviews a decision of a lower court
- **Appeal** - apply to a higher court for a reversal of the decision of the lower court
- **Stare decisis** - Let the decision stand; decisions are based on precedent from previous cases
- **Dicta** - Statements made in a judicial opinion that are not essential to the decision of the case
- **Majority opinion** - a statement that presents the views of the majority of Supreme Court Justices regarding a case
- **Plurality opinion** - a court opinion that is joined by the largest number of the judges or justices hearing the case but less than half of the total number

Lingo Cont.

- **Concurring opinion** - an opinion that agrees with the majority in a Supreme Court ruling but differs on the reasoning
- **Dissenting opinion** - a statement written by a justice who disagrees with the majority opinion, presenting his or her opinion
- **En banc** - the term used when the full panel of judges on the appellate court hears a case
- **Summary judgement** - dispose of case without trial
- **Remand** - to send a case back to a lower court to be tried again

Lingo Cont.

- **Petitioner** - the party that initiates a lawsuit
- **Respondent** - the party that a suit is brought against
- **De Novo** - a trial de novo is a completely new trial; appellate review de novo implies no deference to the trial judge's ruling
- **Facial challenge** - a broad legal argument that the challenged law or policy can never operate in compliance with the constitution
- **As applied challenge** - contends that even if the statute can be constitutionally applied in some cases, it was not constitutional to apply it to the complaining in this particular instance

Kahoot

First Issue, Case Problem

Note: You may be asked to create a free account to view the Kahoot.

Issue 1

1) Whether the United States Constitution guarantees a right of privacy that includes a right to use contraception, including whether *Griswold v. Connecticut* and *Eisenstadt v. Baird* should be revisited?



Case Law

First Issue

Brandeis and Warren – "The Right to Privacy"

- HLR Article
 - Brandeis and Warren were law partners
 - Brandeis later became a Supreme Court Justice
 - Responded to lack of American common law privacy protections
- First major article to argue for a legal right to privacy
 - Libel, slander, and gossip are outside the purview of privacy rights

Roberson v Rochester Folding Box Co. (1902)

- FA: Franklin Mills Co. was involved in a general milling business manufacturing and selling flour. The company obtained, made, printed, sold and circulated about 25,000 lithographic prints, photographs and likenesses of Abigail Roberson. She argued it resulted in public humiliation and forced her to suffer severe nervous shock as a result.
- IS: Does the complaint herein state a cause of action in equity against the defendants or either of them?

No, it does not.

- H0: Privacy rights are based not just on likeness but must necessarily embrace as well the publication of a word-picture, a comment upon one's looks, conduct, domestic relations, or habits. Also critical to this case was Roberson denied any libel arguments, meaning defamation was not at issue.

United States v. One Package (1936)

- FA: A physician named Dr. Stone received medical pessaries from Japan to try them in her own practice and provide her opinion on their contraceptive abilities. A libel was filed against Dr. Stone on the basis that it violated § 305(a) of the Tariff Act of 1930.
- IS: Was the dismissal of the libel case proper?

Yes, it was.

- H0: The tariff statute was not designed to prevent the importation, sale, or carriage by mail of things which could intelligently be employed by conscientious and competent physicians for the purpose of saving life or promoting the well being of their patients. Because it was not being used for "immoral" purposes, the libel was dismissed.

Griswold v. Connecticut (1965)

- FA: An 1879 Connecticut law prohibited the use of contraceptives and allowed for both women taking contraceptives and their doctors to be punished. Griswold and other doctors who prescribed contraceptive devices were fined under the "accessory" clause of the statute.
- IS: Does the Constitution protect the right of marital privacy? Do contraceptives fall under this right?

Yes and yes, privacy is protected

- H0: The First, Third, Fourth, Fifth, and Ninth Amendments all imply a penumbral right to privacy. This right to privacy was violated when the state interfered with married couples' decision to use contraceptives.

Eisenstadt v. Baird (1972)

- FA: William Baird gave away foam contraceptives to a woman after his lecture at Boston University on over-population. Massachusetts charged Baird with a felony under their statute that contraceptives could only be given to married individuals by an authorized physician.
- IS: Did the Massachusetts law violate the right to privacy acknowledged in Griswold v. Connecticut and protected from state intrusion by the Fourteenth Amendment?

Yes, but not under privacy.

- H0: In a 6-1 decision, the court struck down Massachusetts's law. The Court held that the law's distinction between single and married individuals failed to satisfy the "rational basis test" of the Fourteenth Amendment's Equal Protection Clause.

WHAT IS REQUIRED FOR A LAW
TO SURVIVE THE VARIOUS
LEVELS OF EQUAL
PROTECTION REVIEW?

	Rational Basis Review	Intermediate Scrutiny	Strict Scrutiny
State Interest	Only needs to be <i>legitimate</i> . Can be merely conceivable – need not be actual	Must be genuine (not <i>post hoc</i>) and <i>important</i>	State interest must be <i>compelling</i>
Law's Relation to that Interest	Must be <i>rationally related</i> or non-arbitrary	Must be <i>substantially related</i>	Must be <i>necessary to achieve the purpose</i> – must be “narrowly tailored”

Washington v. Glucksberg (1997)

- FA: Dr. Glucksberg, four other physicians, three terminally ill patients who were mentally competent, and a non-profit organization challenged Washington's state law which stated "a person is guilty when he knowingly causes or aids another person to attempt suicide." This challenge confronted the question of whether or not physician assisted suicide violates the Due Process clause of the fourteenth amendment, which articulates that individuals will not be "deprived of life, liberty, or property without due process of law."
- IS: Is Washington's law banning physician-assisted suicide a violation of the Due Process Clause?

No, it is not.

- H0: In a 9-0 decision, the court ruled that it must be objectively determined whether a right or liberty has been deeply rooted in the United States' history when determining its constitutionality. Physician assisted suicide did not align with this. Further, they articulated that suicide is not a fundamental liberty. Banning assisted suicide is a legitimate government interest, it protects human life and ethically protects groups that could be harmed if this ban was lifted.

Lawrence v. Texas (2003)

- FA: When Houston Police entered Lawrence's residence after an unrelated report, they witnessed him participating in a private, consensual act with a man. This violated Texas' statute which outlawed same sex citizens from engaging in sexual conduct with each other. Lawrence and the man were arrested and convicted due to this statute.
- IS: Is Texas' statute outlawing sexual intimacy between same-sex couples a violation of the Fourteenth amendment?

Yes, it is.

- H0: In a 6-3 decision, the court ruled that the Due Process Clause of the Fourteenth amendment protects same-sex couples in engaging in sexual conduct. The court ruled that Texas has “no legitimate state interest which can justify its intrusion into the individual’s personal and private life.” The Due Process clause provides a right to liberty free from government intervention.

Obergefell v. Hodges (2015)

- FA: Same sex couples in the states of Michigan, Kentucky, Ohio, and Tennessee challenged laws in these states that either banned same-sex marriage, or refused to officially recognize same-sex marriage. They argued that these states were in violation of the Equal Protection clause and the Due Process Clause of the Fourteenth amendment.
- IS: Are states who refuse to license same-sex marriages, and who refuse to recognize same-sex marriages in violation of the Fourteenth amendment?

Yes, they are.

- H0: In a 5-4 decision, the court ruled that states must license and recognize same-sex marriages. The 14th amendment requires states to license marriages to same sex couples, as marriage is a fundamental liberty which is central to “individual dignity and autonomy” which is protected under the Due Process Clause. Marriage is also integral to the structure and order of society. Further, the Equal Protection Clause guarantees all couples equal protection under the law.

Dobbs v. Jackson Women's Health Organization (2022)

- FA: The Gestational Age Act was passed in Mississippi, making abortions illegal after the gestational age of 15 weeks with very rare exceptions. Jackson Women's Health Organization, which is the only licensed abortion facility in Mississippi, challenged this law and requested the temporary restraining of enacting this law.
- IS: Is the Gestational Age Act and its banning of abortions after the gestational age of 15 weeks, unconstitutional?

It is not.

- H0: In a 6-3 decision the court ruled that “the Constitution does not confer a right to abortion,” overturning the landmark cases of Roe v. Wade and Planned Parenthood of Southeastern Pennsylvania v. Casey. The court articulated that since the right to abortion “is not deeply rooted in the Nation’s history” and is not an “essential component of ordered liberty” the ability to regulate abortion is handed over to elected officials.

Deanda v. Becerra (2022) N.D. Tex.

- FA: When Congress passed Title X of the Public Health Service Act, this authorized non-profit private organizations to assist in family planning. This included extending family planning methods such as access to contraceptives and infertility services to adolescents. Title X does not require the consent of parents or guardians in order to provide their services.
- IS: Does Title X's extension of access to contraceptives for minors present a violation of the Fourteenth amendment?

Yes, it does.

- H0: The US District Court for the Northern District of Texas cited that “the Due Process Clause of the Fourteenth Amendment provides heightened protection against government interference with certain fundamental rights and liberty interests.” The court ruled that because parents have the constitutional right to direct the upbringing of their children, Title X is unconstitutional, as it provides access to contraceptives and natural family planning without the consent of a guardian.



Questions?

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