University of California, Los Angeles

Portfolio Memorandum & Final Portfolio of Revised Coursework

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English Composition 131A

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Portfolio Memorandum

What I Learned About Legal Writing

In our legal writing class, I discovered the essence of clear and persuasive communication within the legal field. I learned that legal writing isn't just about conveying information; it's about crafting arguments that are precise, coherent, and compelling.

One key takeaway for me was the importance of structure and argumentation. The oral argument exercise stood out as my favorite part of the course. I noticed a significant improvement in my ability to form opinions and engage critically with news, interviews, and persuasive speeches. By learning to craft arguments from both the appellant and appellee perspectives, I found that I could approach discussions and analyses with greater confidence and clarity.

The Breakdown of My Revisions

For case brief 1, *DeShaney*, I basically rewrote the entire case. focusing on refining the statement of facts for clarity while ensuring accuracy in the procedural history by including all relevant dates. In the reasoning section, I strengthened my arguments by referencing key cases such as *Martinez v. California*, *Youngsberg v. Romeo* and *Estelle v. Gamble*. With a deeper understanding of case dynamics, I provided revised personal insights, resulting in a more polished and persuasive final brief.
For case brief 2, *Doe v. Covington*, I italicized the case names and separated the Concurring Opinions from the Reasoning.
For case brief 6, *Brandenburg*, I included dates in the Procedural History. I corrected the Holding section with the correct per curiam decision of 8 to 0. I redid the Opinions section, outlining the concurring opinions of Justices Black and Douglas.
For case brief 7, *Bowers*, I included dates in the Procedural History.
For case brief 8, *Lawrence*, I just bolded the vocabulary.
For case brief 9, *Loving*, I reformatted the Procedural History from bullet list to paragraph format. I bolded the vocabulary words.
For case brief 10, *Mahanoy*, I spelled out the date for the date argued.

For the Op-Ed, adjustments included deleting the class heading, indicating the intended publication as *The Los Angeles Times* at the top, adding "By Ashlie Dao" after the title, listing credentials at the end, revising the introduction sentence, flipping the first and second paragraphs, refining language in paragraph three, adding detail in the second-to-last paragraph, and avoiding repetition in the final paragraph.
In the Taylor Swift Advice Letter, changes comprised correcting the case number format, removing the comma after "Dear Ms. Swift," clarifying "on several fact-proving," specifying song titles, revising language regarding the case's outcome certainty, and including an e-signature for the final portfolio.
For the Advocacy Letters, only minor adjustments were made, such as using a colon instead of a comma in the salutation for letter #1.
Lastly, for the Legal Memorandum, revisions involved rewording the first sentence in the Statement of Facts, adjusting punctuation after "California," and removing one space at the top of page 2.

My Strongest Sample of Revised Writing

Perhaps the most growth is evident in the first case brief of *Deshaney*. I undertook a significant revision, essentially rewriting the entire case. With a deeper understanding of how cases function, I approached the analysis with greater clarity and insight. This enabled me to provide more nuanced opinions and interpretations. Guided by Professor Samuelson's feedback, I was able to refine the structure, enhance the clarity of the argumentation, and incorporate relevant legal precedents; the revised brief emerged as a more polished and persuasive document for the final portfolio.

What Sample of Revised Writing Was Originally the Most Difficult for You to Write and What Did You Learn From the revision Process?

The sample of revised writing that was initially the most challenging for me to write was the legal memorandum analyzing a complex regulatory issue. I found it difficult to organize my thoughts coherently and articulate a concise argument. However, through the revision process, I learned valuable lessons. Firstly, I realized the importance of outlining the structure of my memorandum before delving into the details. This helped me to maintain focus and clarity throughout the document. Additionally, I learned the significance of breaking down complex issues into manageable sections and providing clear explanations for each point. By revising each section meticulously and refining my analysis, I was able to produce a more cohesive and compelling memorandum that effectively addressed the legal issues at hand. Overall, this experience taught me the importance of careful planning, clarity of expression, and attention to detail in legal writing.

How I Will Use What I learned in Our Class in the Future

The skills and knowledge gained from our legal writing class will undoubtedly be invaluable in my future career as an organizational psychologist. While the focus may shift from legal documents to organizational reports and assessments, the principles of clear communication, logical reasoning, and analytical thinking remain essential. By mastering the art of legal writing and reading, I have honed my ability to dissect complex information, identify key insights, and communicate findings effectively. These skills will enable me to conduct thorough analyses of organizational structures and dynamics, provide insightful recommendations for improvement, and articulate complex ideas in a clear and persuasive manner. Furthermore, understanding the nuances of legal writing has equipped me with the tools to navigate and interpret intricate regulations and policies that often intersect with organizational practices, ensuring compliance and ethical decision-making in my future work.

Beyond my professional aspirations, the lessons learned in our class have positively impacted my personal life as well. The discipline and attention to detail cultivated through legal writing have enhanced my ability to communicate effectively in various contexts, fostering stronger relationships and clearer understanding in both personal and professional interactions. I am deeply grateful to you, Professor Samuelson, for your guidance and mentorship throughout the course. Your expertise, dedication, and support have been instrumental in my growth as a writer and thinker. I am truly fortunate to have had such a phenomenal teacher who has instilled in me a passion for excellence in communication and critical thinking.

DeShaney v. Winnebago County, 489 U.S. 189 (1989) (revised)

Argued November 2, 1988

Decided February 22, 1989

Statement of Facts:

The case of *DeShaney v. Winnebago County Department of Social Services* centers on Joshua DeShaney, a child subjected to severe abuse by his father, Randy DeShaney. Despite knowledge of the abuse, social workers and officials from the Winnebago County Department of Social Services (DSS) failed to remove Joshua from his father's custody. This case underscores the tragic failure of The State's social service system to protect vulnerable children like Joshua from harm.

Joshua was only four years old when one of his many bouts of abuse, ultimately led to permanent brain damage and a coma. Multiple reports and signs of abuse were documented. However, the Winnebago County DSS only took limited action, returning Joshua to his father's custody after deeming there was insufficient evidence of abuse. While suspicions of abuse were noted during regular visits to the DeShaney home, DSS took no effective intervention to protect Joshua.

Joshua and his mother sued the Winnebago County DSS and its employees under 42 U.S.C. § 1983, alleging a violation of Joshua's Fourteenth Amendment rights due to the failure to protect him. Despite this, both the District Court and the Seventh Circuit Court of Appeals ruled in favor of the respondents, stating that the State did not have an affirmative obligation under the Due Process Clause to protect individuals from private violence. The Deshaneys appealed to the United States Supreme Court.

Procedural History:

In the United States District Court for the Eastern District of Wisconsin, Joshua’s mother, on behalf of her son Joshua, brought a lawsuit against the Winnebago County Department of Social Services (DSS) and its employees under 42 U.S.C. § 1983. They alleged a violation of Joshua's Fourteenth Amendment rights, claiming the respondents failed to protect him from his abusive father. The District Court granted summary judgment for the respondents, effectively dismissing the case.

Joshua’s mother appealed to the Seventh Circuit United States Court of Appeals. The case was argued on November 26, 1986, and on October 30, 1986, the Court affirmed the District Court's. The Court held that the Due Process Clause of the Fourteenth Amendment does not require a state or local governmental entity to protect its citizens from private violence or mishaps not attributable to the conduct of its employees, and they effectively denied any “special relationship” was established, 812 F.2d 298 (1987). The Seventh Circuit court ruled that the Due Process Clause of the Fourteenth Amendment does not obligate state entities to shield individuals from private violence. The court found no direct link between the respondents' actions and Joshua's injuries to support a constitutional violation under § 1983.

The United States Supreme Court granted certiorari to address the inconsistent interpretations among lower courts regarding the duty of state or local entities to provide protective services and whether failing to do so violates an individual's due process rights.

Issues:

This case involves a substantive issue: whether the Due Process Clause of the Fourteenth Amendment to the United States Constitution imposes an affirmative duty on the state to protect an individual against private violence.

Judgment:

The U.S. Supreme Court affirmed the lower court's decision and determined that the government did not have a constitutional duty to protect an individual from harm inflicted by a private individual, affirming that the government's failure to intervene in cases like this did not violate the individual's Fourteenth Amendment due process rights.

Holding:

No, the U.S. Supreme Court affirmed the lower court's decision 6-3, holding that Winnebago County and its Department of Social Services (DSS) did not have a constitutional duty to protect Joshua DeShaney from harm inflicted by his father, and the government's failure to provide protective services did not constitute a violation of Joshua's Fourteenth Amendment due process rights.

Rule of Law:

The U.S. Supreme Court applied the principle that the Due Process Clause does not impose an affirmative obligation on the state to protect an individual against private acts of violence by another individual. The court clarified that the clause is a limitation on the state's power to act, not a guarantee of certain minimal levels of safety and security provided by the state against private actions.

This decision was based on the interpretation of the Due Process Clause itself and synthesized from prior holdings in similar cases. For example, the U.S. Supreme Court referred to its decision in *Estelle v. Gamble*, 429 U.S. 97 (1976), regarding the state's obligation to provide medical care to incarcerated prisoners, distinguishing those situations where the state has taken custody of an individual thereby limiting their freedom to act on their behalf. The Court also mentioned *Martinez v. California*, 444 U.S. 277 (1980), where this same Court held that parole officers could not be held liable under the Fourteenth Amendment for releasing a parolee who subsequently committed a murder, emphasizing the need for a direct causal link between state action and the deprivation of an individual's rights. The DeShaney opinion referenced *Martinez* to argue that even if the state has knowledge of potential harm to an individual from a third party, the causal connection between the state's conduct (or lack thereof) and the harm suffered might be too attenuated to establish a constitutional violation under the Due Process Clause. *Youngberg v. Romeo*, 457 U.S. 307 (1982), This case concerned the rights of involuntarily committed mental

patients, concluding that such individuals have substantive rights under the Due Process Clause to reasonably safe conditions of confinement, freedom from restraint, and minimally adequate training. The Court in DeShaney used Youngberg to further illustrate the principle that the state's duty to protect individuals from harm primarily applies in situations where the state has significantly restricted an individual's ability to care for themselves through some form of custody or institutionalization.

Reasoning:

The Supreme Court's decision in *DeShaney* essentially synthesized these prior holdings to articulate a rule that, in the absence of a special relationship (such as incarceration or institutionalization that restricts personal liberty and makes the individual wholly dependent on the state for basic human needs), the Due Process Clause does not mandate the state to protect individuals from private violence. This rule reflects a broader legal principle that the Constitution's protections are largely against actions by the state, not failures to act in the face of private harm.

Opinions:

C.J. Rehnquist delivered the majority opinion, which was joined by Justices White, Stevens, O'Connor, Scalia, and Kennedy, making a total of six justices concurring with the majority decision. There were two dissenting opinions: one by J. Brennan, joined by Justices Marshall and Blackmun, and a separate dissent by J. Blackmun alone, bringing the total justices involved to nine.

Concurring Opinions:

The majority opinion argued that while the Fourteenth Amendment's Due Process Clause guarantees certain protections to individuals, it does not impose an affirmative duty on the government to protect individuals from harm caused by private actors unless a "special relationship" exists. The Court emphasized that the Constitution primarily limits the government's own actions, and the duty to ensure an individual's safety from private violence does not fall within its scope. Despite the tragic circumstances of Joshua DeShaney's abuse, the U.S. Supreme Court found that no such special relationship had been created between him and the government, even though the government was aware of the risk he faced. Therefore, the government's failure to protect him did not constitute a violation of his due process rights. The decision was grounded in a narrow interpretation of the Constitution and the belief that expanding government obligations in cases of private violence should be addressed through legislative action rather than judicial intervention.

Dissenting Opinions:

Justice Brennan, in his dissent, argued that the state's child protection system effectively confined Joshua DeShaney in a dangerous situation, implying a "special relationship" that imposed a duty on the state to protect him, referencing *Estelle* and *Youngberg* to support his argument. J. Brennan argued that the involvement of DSS effectively limited Joshua's ability to act on his own

behalf and precluded non-government entities from intervening. Therefore, when the Department failed to act on suspicions of child abuse, it became morally culpable for the harm that ensued. In essence, J. Brennan contended that the state's active involvement and knowledge of the abuse created a custodial or special relationship, which should have triggered a constitutional duty to protect Joshua from harm, contrary to the majority's ruling.

Justice Blackmun's dissent emphasized the moral duty of the state to protect Joshua once it knew of the danger he faced, critiquing the majority's narrow interpretation of the Due Process Clause and lamenting the Court's "retreat into a sterile formalism." Both dissents expressed deep concern for the welfare of Joshua and criticized the majority for its failure to recognize the state's role in his predicament.

Personal Thoughts:

If I had to pick a side, I would agree with the majority opinion, but that is not without a heavy heart. The decision strictly interprets the Due Process Clause of the Fourteenth Amendment, emphasizing that it does not impose an affirmative obligation on the state to protect individuals from private violence. This strict interpretation maintains the principle that constitutional rights primarily protect individuals from state action, not from harm by private individuals. However, this interpretation also means that victims of private violence, especially those known to be in danger, might not have a federal constitutional remedy against the state for failing to protect them, even when the state is aware of the risk.

The precedent set by this ruling implies that unless an individual is in state custody or has a similar "special relationship" with the state, the state has no constitutional duty to protect them from private violence. This could potentially limit the scope of state liability in cases where state action or inaction contributes to harm caused by third parties. Had the Supreme Court found that the state is responsible for protecting individuals from private violence in situations like Joshua DeShaney's, it would have significantly broadened the interpretation of the Due Process Clause to impose an extensive affirmative duty on states. This could have had profound political, economic, and social impacts, potentially requiring states to allocate substantial resources towards protective services to avoid constitutional liability.

The majority's reasoning is sound in its adherence to constitutional text and precedent, emphasizing the limitations on state action defined by the Due Process Clause. However, the dissenting opinions raise compelling moral and ethical considerations, highlighting the potential for state systems designed to protect vulnerable individuals to fail them without recourse. I also agree with these dissenting views that critique the majority's narrow interpretation of the state's responsibilities, arguing for a broader understanding of the state's role in safeguarding individuals' rights to life and liberty, especially when the state has involved itself to some extent in the individuals' welfare. As a parent myself, it it horrifying to learn that the Deshaney law is in place where it protects my kids' schools cannot be found liable if something like this happens to my kids.

Doe v. Covington County School District, 5th Cir, 278 Ed. Law Rep. 761 (2012) (revised)

Argued August 5, 2011

Decided March 23, 2012

Statement of Facts:

Jane, her father, and her paternal grandmother (the "Does") sued the Covington County School District, the Covington County Superintendent of Education I.S. Sanford, Jr., the Covington County School Board, and the President of the Covington County School Board - Andrew Keys (together, "Education Defendants"). They also named Keyes and other unnamed education defendants in official and individual capacities.

During the 2007–2008 school year, Jane Doe attended an elementary school in Covington County, Mississippi, at the age of nine. Jane's guardians filled out a "Permission to Check-Out Form," listing individuals with exclusive permission to pick her up from school during the day. However, school employees allowed a man named Tommy Keyes to take Jane from school on six separate occasions between September 2007 and January 2008, despite him not being listed on the form and allegedly having no relation to Jane. Keyes sexually molested Jane and then returned her to school. He signed her out as her father on five occasions and as her mother on the sixth. The complaint alleges that the school's policy allowed this to happen without verifying Keyes' identity or authorization, creating a danger to students, including Jane. The school employees were accused of deliberate indifference to students' rights and safety by permitting such actions.

The Does asserted due process and equal protection claims under 42 U.S.C. §§ 1983, 1985, and 1986, as well as various state law causes of action.

Procedural History:

The District Court of Mississippi ruled that under *Deshaney v. Winnebago* (1989), there was no special relationship between Jane and the school. She had no constitutional right to be protected from harm by a private actor like Keyes. On appeal, a panel of The Fifth Circuit Appeals Court reversed part of the judgment, finding a plausible claim of substantive due process violation based on the school's special relationship with Jane and deliberate indifference. However, the qualified-immunity dismissal of the individual Education Defendants was affirmed. The case was reheard en banc, and The Fifth Circuit Appeals Court now affirms The District Court's judgment.

Issues:

The issue in this case is substantive. Was there a Deshaney special relationship? The Fifth Circuit Appeals Court affirmed that the school did not have a constitutional duty to protect Jane from the harm inflicted by Keyes, a private actor.

Judgment:

The Fifth Circuit Appeals Court affirmed The District Court's dismissal of the Does' complaint determining that the case did not establish the Deshaney Special Relationship or fall within the state-created theory exception. The court found no grounds for a constitutional violation under due process. Therefore, the school cannot be held liable for the actions of private actors.

Holding:

No, the Fifth Circuit Appeals Court affirmed The District Court's decision 17 to 2, holding that under *Deshaney*, there was no special relationship between Jane and her school. The Due Process Clause in the Fourteenth Amendment does not require the public school to affirmatively provide protection against harm inflicted by a private actor.

Rule of Law:

The Due Process Clause of the Fourteenth Amendment prohibits states from depriving individuals of life, liberty, or property without proper legal procedures. However, it does not guarantee the right to receive government assistance for safeguarding these interests. In the case of *Deshaney*, the Supreme Court clarified that a state's failure to protect an individual from private violence does not constitute a violation of due process, except under certain circumstances. The "Special Relationship" Exception arises when a state takes a person into custody against their will, such as in cases of incarceration, involuntary institutionalization, or foster care. Under this exception, the state is obligated to protect them from harm caused by private actors. Notably, this exception does not apply to public schools, as established in cases like *Walton v. Alexander* (1995) and *Doe v. Hillsboro Indep. Sch. Dist.* (1997), where attendance laws are not deemed equivalent to the constraints imposed by prisons and mental institutions.

Reasoning:

The *Deshaney* precedent established that public schools do not have a "special relationship" with students, as parents are deemed the primary source for their children's basic needs. The *Doe v. Hillsboro* (1997) case further reinforced this notion by placing responsibility on parents rather than the school, stating '[w]e have said that schools do not have a special relationship with students because "[p]arents remain the primary source for the basic needs of their children.'" The State-Created Danger theory hinges on proving deliberate indifference, which requires demonstrating that the school was aware of the inadequacy of its policies but not necessarily of immediate danger. The "Shock the Conscience" standard is typically applied in cases involving the misuse of power by law enforcement officers, not schools. In this context, the fact that an individual exploited the check-out system to gain access does not necessarily mean that the school's policy "shocks the conscience."

Opinions:

In total, there were five opinions delivered for this case. There were three concurring opinions and two dissenting opinions. J. White authored the majority opinion, which was joined by Judges Smith, Johnson, and Chen.

Concurring Opinions:

J. Grady Jolly reiterated the *Deshaney* precedent, while J. Higginson focused on the Constitutional language and Section 1983 from 1871, suggesting a literal application of the statute when determining government liability for constitutional violations and rejecting the expansion of liability based on extra-statutory theories like the "special relationship" theory mentioned in the U.S. Supreme Court's *DeShaney* decision, emphasizing the need to focus on whether government officials' actions or inactions directly caused the constitutional injury.

Dissenting Opinions:

The dissenting opinion was authored by J. Wiener, joined by J. Dennis, held that the Covington County Elementary School, by its actions, created a special relationship with nine-year-old Jane Doe. This relationship arose not solely because of her status as a student but because the school, through its policies and actions, specifically allowed her to be checked out of school by an unauthorized individual, Tommy Keyes, thus placing her in a situation where her safety was compromised. The court argued that the school's check-out policy, which failed to ensure that children were only released to authorized individuals, along with the repeated release of Jane Doe to Keyes, constituted an affirmative exercise of state power that restricted Doe's liberty and placed her in harm's way. The decision underscored the notion that very young children, such as nine-year-old elementary students, are distinctly incapable of protecting themselves, marking a critical factor in determining the presence of a special relationship and the duty to protect.

Furthermore, in the case of *Ingraham v. Wright*, they emphasized the distinction between public schools and institutions like prisons and mental facilities by stating that, except for very young children, students are not physically restrained from leaving school during school hours. However, he argued that a “special relationship” exists between a public school and a student who is both very young and physically restrained, especially when kept apart from teachers and other students. The judges stressed that Jane's young age was a crucial factor in the establishment of a special relationship between her and the school, as the school's actions in separating her from teachers and classmates during school hours left Jane and her parents with no ability or opportunity to ensure her own care and safety. Furthermore, they contended that The State demonstrated deliberate indifference to Jane's safety because they were aware that their flawed check-out policy posed excessive risks to students and yet failed to take corrective action despite complaints and discussions indicating their knowledge of the dangers posed by their policies.

Additional Comments/Personal Thoughts:

Upon my initial reading, I found the majority opinion to be cruel but arguably justified, as it provided an exceptionally detailed precedent that underscored the absence of a special relationship between Jane and her school. This precedent drew distinctions by citing cases involving school shooting victims, special needs students, and even young children like Jane.

The ruling firmly stated, "We reaffirm, then, decades of binding precedent: a public school does not have a DeShaney special relationship with its students requiring the school to ensure the students' safety from private actors." As I reflected further on this, it became evident that parents should be aware of these legal principles when dropping their children off at school, as they can impact the level of responsibility the school bears. However, I remain torn about the lack of accountability that schools seem to have while essentially having custody of the children due to compulsory education laws, which raises important questions about the balance between parental responsibility and the duty of educational institutions to safeguard students. This issue highlights the importance of a preventive approach in ensuring student safety and perhaps calls for a reevaluation of the existing legal framework.

Brandenburg v. Ohio, 395 U.S. 444 (1969) (revised)

Date argued: February 27, 1969

Date of the decision**:** June 9, 1969

Statement of Facts:

Clarence Brandenburg, the appellant and a leader of the Ku Klux Klan, faced charges brought forth by the state of Ohio under its Criminal Syndicalism statute. The statute criminalized advocating for crime, violence, or terrorism as a means of achieving political or industrial reform, as well as voluntarily assembling with groups promoting such doctrines.

The events leading to the appellant's conviction centered around a Ku Klux Klan rally organized in Hamilton County, Ohio, which was attended by individuals, including hooded figures wielding firearms. A reporter and cameraman from a Cincinnati television station filmed the rally, including the burning of a large wooden cross, and the speech that included hate language against African-Americans and Jewish people. The recording was later broadcast on local and national networks.

In response to the charges, the appellant mounted a defense challenging the constitutionality of Ohio's Criminal Syndicalism statute under the First and Fourteenth Amendments of the United States Constitution. The appellant argued that the statute infringed upon the rights to free speech and assembly, contending that it punished mere advocacy without distinguishing it from incitement to imminent lawless action.

Procedural History:

Initially, the case began in the trial court, the Hamilton County Court of Common Pleas in Ohio. Here, Clarence Brandenburg, a leader of the Ku Klux Klan, was indicted under Ohio's Criminal Syndicalism statute for advocating violence and unlawful methods of terrorism during a Klan rally. In 1966, he was subsequently convicted and sentenced to a fine of $1,000 and imprisonment for 1 to 10 years.

Following his conviction, Brandenburg appealed to the Intermediate Appellate Court of Ohio, challenging the constitutionality of his conviction under the First Amendment. However, the

Intermediate Appellate Court affirmed the conviction without issuing an opinion in February 1968, upholding the trial court's decision.

Subsequently, Brandenburg sought further recourse by appealing in, to the Supreme Court of Ohio. However, in June of 1968, the Supreme Court of Ohio dismissed his appeal "sua sponte," meaning it did so on its own motion, without further explanation. The court concluded that no substantial constitutional question was present in the case, without providing any reasoning for its decision.

Undeterred, in October 1968, Brandenburg petitioned to the Supreme Court of the United States for a writ of certiorari. The appeal to the U.S. Supreme Court was grounded in the contention that Ohio's Criminal Syndicalism statute infringed upon his rights to free speech and press as guaranteed by the First and Fourteenth Amendments. Specifically, Brandenburg argued that the statute punished mere advocacy without distinguishing it from incitement to imminent lawless action, thereby violating constitutional protections. Ultimately, the Supreme Court of the United States agreed to hear the case.

Issues:

The issue in this case is substantive. Did Ohio's criminal syndicalism law, prohibiting public speech that advocates various illegal activities, violate Brandenburg's right to free speech as protected by the First and Fourteenth Amendments?

Judgment:

The Supreme Court reversed the lower court’s ruling and determined that the statute was unconstitutional as it infringed upon the First and Fourteenth Amendments' protections of free speech and assembly. The Court found the Ohio law to be overly broad and punitive towards free expression, specifically the advocacy of ideas, which did not constitute direct incitement to imminent lawless action.

Holding:

No, the Court did not uphold the lower court's ruling and reversed lower court’s decision per curiam, 8 to 0, holding that the Ohio Criminal Syndicalism statute, which prohibited advocating illegal activities such as violence as a means of political reform, violated the First and Fourteenth Amendments of the United States Constitution. The Court held that the statute, by punishing mere advocacy without distinguishing it from incitement to imminent lawless action, encroached upon the constitutional protections of free speech and assembly. Therefore, the appellant's conviction under the statute was deemed unconstitutional.

Rule of Law:

Government restrictions on speech must be narrowly tailored to serve a compelling state interest and must not inhibit the advocacy of ideas unless they are directed to inciting or producing imminent lawless action and are likely to incite or produce such action. This rule was derived

from the interpretation of the First and Fourteenth Amendments to the United States Constitution. The Court applied the principles of freedom of speech and assembly guaranteed by the First Amendment, as well as the incorporation of these rights to the states through the Fourteenth Amendment's Due Process Clause. The precedent cited in support of this ruling includes several landmark cases such as *Schenck v. United States* (1919), *Whitney v. California* (1927), and *Dennis v. United States* (1951), among others. These cases established the principle that speech can be restricted only if it poses a clear and present danger of imminent lawless action. Therefore, the Court concluded that the Ohio Criminal Syndicalism statute, by prohibiting mere advocacy without distinguishing it from incitement to imminent lawless action, violated the constitutional protections of free speech and assembly.

Reasoning:

The reasoning of the Supreme Court is centered on the distinction between mere advocacy of violence and the incitement of imminent lawless action. The Court noted that the freedoms of speech and press do not permit a state to forbid advocacy of the use of force or law violation unless such advocacy is directed at inciting or producing imminent lawless action and is likely to incite or produce such action. This distinction is crucial because it balances the state's interest in preventing violence and maintaining order with the individual's right to free speech. The Court reasoned that the Ohio Criminal Syndicalism statute, by punishing mere advocacy not distinguished from incitement to imminent lawless action, overly infringed upon these constitutional rights. This reasoning reflects a policy favoring a robust interpretation of First Amendment rights, ensuring that the government does not suppress speech unless it poses a real and immediate threat of serious harm. The Court's analysis in this case thus set a precedent that strongly protects free speech, even when that speech advocates for violence or illegal activities, as long as it does not directly incite imminent lawless action.

Opionions:

There were concurring opinions written by Justices Black and Douglas. No dissenting opinions were recorded for this case, indicating unanimous agreement among the Justices who participated in the decision.

Concurring:

J. Black, in his concurring opinion, agreed with the Court's judgment but emphasized his longstanding view that the "clear and present danger" test, often applied in free speech cases, should not have a place in First Amendment interpretation. He did not cite specific case law in the provided excerpt but expressed a general critique of the doctrine's application.

J. Douglas, also concurring, elaborated on the history and application of the "clear and present danger" test, tracing its origins back to World War I cases and its development over time. He cited several cases, including *Schenck v. United States* (1919), *Whitney v. California* (1927), *Dennis v. United States* (1951), *Yates v. United States* (1957), *Noto v. United States* (1961), and *Scales v. United States* (1961), to critique the expansion of the test beyond its original scope and its implications for freedom of speech. J. Douglas argued for a broader interpretation of the First

Amendment that does not restrict advocacy, regardless of its potential to incite action, unless it is closely tied to unlawful acts.

Personal Thoughts:

I agree with the majority opinion, particularly for its clarification of the standards that must be met for speech to be restricted. By focusing on direct incitement to imminent lawless action, the Court set a clear and stringent test, aligning with a strong commitment to First Amendment protections. *However,* I am struck by its relevance to recent events, particularly the impeachment trial of former President Donald Trump following the January 6 insurrection at the Capitol. While Trump's rhetoric undoubtedly appeared to incite violence, the legal precedent set by Brandenburg offers a significant distinction. In *Brandenburg*, the Court held that mere advocacy of illegal activity is protected by the First Amendment unless it is likely to incite imminent lawless action. This standard poses a challenge in cases like Trump's, where his words seemed to fuel the mob's actions but may not have explicitly called for imminent violence. The application of *Brandenburg* in Trump's case highlights the difficulty in holding individuals accountable for their rhetoric under the narrow constraints of the law, potentially allowing them an out even when their words seem to directly precede acts of violence.

Bowers v. Hardwick, 478 U.S. 186 (1986) (revised)

Date argued: March 31, 1986

Date of the decision**:** June 30, 1986

Statement of Facts:

In the case of *Bowers v. Hardwick*, Michael Hardwick, a gay man, was arrested for violating a Georgia statute prohibiting sodomy. Michael Bowers, the Attorney General of Georgia, represented the state in defending the constitutionality of the sodomy law.

On November 17, 1982, a Georgia law enforcement officer entered Michael Hardwick's home to serve a warrant for a traffic violation. Upon entering, the officer observed Hardwick engaging in consensual oral sex with another man. Hardwick challenged the constitutionality of Georgia's sodomy statute, arguing it violated his rights to privacy and equal protection under the Fourteenth Amendment. The petitioner (the state) advanced justifications for this law, suggesting that criminalizing such acts was necessary to protect "the general public health and welfare," potentially preventing the spread of communicable diseases or fostering other criminal activities.

The central legal question was whether the Constitution conferred a fundamental right upon homosexuals to engage in sodomy, which would invalidate the laws of many states criminalizing such conduct. The Georgia statute, § 16-6-2, was challenged on the grounds that it violated the fundamental rights of individuals to engage in private consensual sexual activity. The defense of the statute by the state was based on broad concerns for public health and morality. The Supreme Court, however, focused specifically on homosexual sodomy rather than the broader implications of the sodomy law, which applied to all regardless of sexual orientation

Procedural History:

Initially, Michael Hardwick was charged with violating the Georgia sodomy statute for engaging in consensual homosexual activity in his own home. Hardwick challenged the constitutionality of the statute in the Federal District Court. However, the District Court dismissed his suit, citing a previous case, *Doe v. Commonwealth's Attorney for the City of Richmond* (1975), which the Supreme Court had summarily affirmed. This dismissal essentially upheld the constitutionality of the Georgia statute as it stood.

Following this decision, the case was appealed in November of 1985, to the Court of Appeals for the Eleventh Circuit. Here, the appellate court took a different stance. A divided panel of judges reversed the decision of the District Court, ruling that the Georgia statute violated Hardwick's fundamental rights. They argued that his homosexual activity constituted a private and intimate association protected by the Ninth Amendment and the Due Process Clause of the Fourteenth Amendment. As a result, the case was remanded for trial, with the state required to demonstrate that the statute was justified by a compelling state interest and was the least restrictive means of achieving that end.

The petitioner in this case was Michael J. Bowers who was the Attorney General of Georgia. Bowers appealed the decision of the Court of Appeals for the Eleventh Circuit to the Supreme Court. The appeal was motivated by the fact that the appellate court's decision effectively invalidated the Georgia sodomy statute, challenging the state's authority to regulate such behavior. Bowers sought a ruling from the Supreme Court on whether the Constitution guaranteed a fundamental right for homosexuals to engage in sodomy, thereby calling into question the legality of state statutes criminalizing such conduct.

The legal proceedings began in the United States District Court and subsequently moved to the Court of Appeals for the Eleventh Circuit. The Eleventh Circuit overturned the District Court's ruling, asserting that Georgia's statute violated Michael Hardwick's fundamental rights, contending that his private homosexual conduct fell outside the realm of state regulation due to protections afforded by the Ninth and Fourteenth Amendments. The case was remanded for further proceedings, with the condition that the State had to demonstrate a compelling interest and the narrowest means of achieving it to justify the statute. Upon appeal to the U.S. Supreme Court, the justices agreed to review the case, especially considering conflicting judgments from other Courts of Appeals. The Supreme Court granted the Attorney General's petition for certiorari, challenging the Eleventh Circuit's finding that the sodomy statute encroached upon the fundamental rights of homosexuals.

Issues:

This case is a substantive issue. Does the Constitution confer a fundamental right upon homosexuals to engage in sodomy? This central legal question involves the interpretation and application of constitutional rights, specifically the right to privacy and the Due Process Clause of the Fourteenth Amendment.

Judgment:

The U.S. Supreme Court reversed the Eleventh Circuit Court of Appeals judgment. The Supreme Court disagreed with the lower court's decision, which held that the Georgia statute violated Michael Hardwick's fundamental rights. By reversing this decision, the Supreme Court upheld the constitutionality of the Georgia statute criminalizing sodomy.

Holding:

No, the Supreme Court reversed the lower court's decision, 5 to 4, holding that the Constitution does not grant a right of privacy extending to homosexual sodomy. The Court rejected the claim that previous rulings on family, marriage, and procreation rights applied to homosexual activity. It asserted that private sexual conduct between consenting adults is not constitutionally protected from state regulation. Thus, the Court declined to recognize a fundamental right to engage in homosexual sodomy, upholding the constitutionality of state laws criminalizing such conduct.

Rule of Law:

The rule of law derived the interpretation of the Due Process Clauses of the Fifth and Fourteenth Amendments and the historical context of sodomy laws in the United States. The Supreme Court held that the Constitution does not extend a fundamental right to engage in homosexual sodomy. This ruling was based on the understanding that sodomy was historically a criminal offense, both at common law and under the laws of the original 13 States when they ratified the Bill of Rights. Furthermore, when the Fourteenth Amendment was ratified in 1868, the majority of the States had criminal sodomy laws.

The Court emphasized its reluctance to expand its authority to discover new fundamental rights embedded in the Due Process Clause, noting the risks of judicial overreach and the importance of maintaining close adherence to the language and design of the Constitution. This perspective reflects a conservative approach to constitutional interpretation, focusing on historical practices and the original understanding of constitutional provisions

Reasoning:

The U.S. Supreme Court disagreed with the assertion that previous decisions, such as those in *Carey v. Population Services International, Pierce v. Society of Sisters, Meyer v. Nebraska, Prince v. Massachusetts, Skinner v. Oklahoma ex rel. Williamson, Loving v. Virginia, Griswold v. Connecticut, Eisenstadt v. Baird,* and *Roe v. Wade,* which construed the Due Process Clause of the Fourteenth Amendment to confer fundamental individual rights in contexts such as child-rearing, education, family relationships, procreation, marriage, contraception, and abortion, could be extended to confer a similar right to homosexuals to engage in sodomy. The Court found no resemblance or connection between the rights recognized in these cases and the claimed constitutional right of homosexuals to engage in acts of sodomy.

The Court emphasized the "ancient roots" of proscriptions against sodomy, noting that decisions relating to homosexual conduct have been subject to state intervention throughout Western civilization. The condemnation of these practices was highlighted as being deeply rooted in

Judeo-Christian moral and ethical standards. The Court cited historical examples, such as the criminalization of homosexual sodomy under Roman law and English common law, to illustrate the longstanding nature of sodomy laws. This historical context was deemed significant in rejecting the notion that homosexual sodomy could be considered a fundamental right protected under the Constitution.

In essence, the Court's reasoning was grounded in a conservative interpretation of the Due Process Clauses of the Fifth and Fourteenth Amendments, a historical perspective on the criminalization of sodomy, and a reluctance to extend constitutional protections to private sexual conduct between consenting adults, particularly in the context of homosexual sodomy.

Opinions:

There were a total of nine justices, delivering a 5-4 decision. Justice Byron White wrote the majority opinion, joined by Chief Justice Burger and Justices Rehnquist, O'Connor, and Powell. There were three concurring opinions written by J. Burger, J. Powell, and J. O'Connor, respectively. Justice Harry Blackmun authored the dissenting opinion, joined by Justices William Brennan, Thurgood Marshall, and John Paul Stevens.

Concurring Opinions:

Chief Justice Burger, in his concurrence, underscored the historical acceptance of sodomy laws and their longstanding presence in American legal tradition. He argued that such laws reflected societal norms and moral values, indicating a legitimate state interest in regulating private sexual conduct. C.J. Burger cited historical precedent and social consensus to support the constitutionality of Georgia's sodomy statute, suggesting that judicial intervention would be inappropriate in overturning longstanding legislative decisions on matters of public morality.

J. Powell, in his concurrence, emphasized the principle of deference to legislative judgment on matters of morality and social policy. He contended that the issue of homosexual sodomy was primarily a moral and social question best addressed through democratic processes rather than judicial intervention. Powell stressed the importance of respecting the role of state legislatures in shaping public morality and the need for courts to exercise restraint in intruding upon matters of moral controversy.

J. Day O'Connor, in her concurrence, echoed the sentiments of C.J. Burger and J. Powell, highlighting the importance of deference to state legislatures in matters of public morality. She argued that the Constitution did not confer a fundamental right to engage in homosexual sodomy and that such matters were better left to the discretion of elected representatives. J. O'Connor emphasized the lack of historical support for recognizing a constitutional right to engage in homosexual sodomy, pointing to the absence of explicit protections for such conduct in the text or history of the Constitution.

Dissenting Opinions:

In contrast, J. Blackmun, in his dissenting opinion, asserted that the right to privacy should extend to intimate sexual conduct, regardless of sexual orientation. He drew upon precedent from *Griswold v. Connecticut* and *Roe v. Wade*, which recognized a broader right to privacy in matters of contraception and abortion. Blackmun argued that this right encompassed the freedom to engage in consensual sexual activity in the privacy of one's home, without unwarranted government intrusion. He expressed concern about the potential for state interference in the private lives of individuals and advocated for a more expansive understanding of constitutional protections to safeguard personal autonomy and liberty.

Personal Thoughts:

I don't agree with the majority opinion in *Bowers v. Hardwick*. To me, basing legal rulings on religious beliefs seem to conflict with the First Amendment, which separates church and state. The decision's reliance on historical and Judeo-Christian morals to uphold sodomy laws feels outdated and not in line with modern standards of personal liberty and privacy. It's inconsistent with other privacy rights cases like *Griswold v. Connecticut* and *Roe v. Wade*, where the Court recognized privacy rights in matters of contraception and abortion. This inconsistency raises questions about the selective application of privacy rights, especially in terms of sexual orientation.

Moreover, the social implications of this decision were significant, particularly for the LGBTQ+ community. By upholding laws criminalizing private, consensual behavior, it contributed to the stigmatization and discrimination against homosexual individuals. This ruling, in my view, was a step backward in the fight for equal rights and personal freedoms.

In terms of the economic and political impacts, the decision likely influenced employment discrimination, housing rights, and public perception of the LGBTQ+ community, extending its effects beyond the legal sphere. Overall, the reasoning behind *Bowers v. Hardwick* seems unsound and contradictory, especially when compared to other landmark decisions related to individual rights and liberties.

Lawrence v. Texas, 539 U.S. 558 (2003) (revised)

Date argued: March 26, 2003

Date of the decision**:** June 26, 2003.

Statement of Facts:

The case of *Lawrence v. Texas* involved two consenting adults, John Lawrence and Tyron Garner, who were engaged in a same-sex intimate relationship. They were private individuals living in Houston, Texas, and their relationship was subject to Texas laws criminalizing certain sexual conduct between individuals of the same sex.

On September 17, 1998, Lawrence and Garner were engaged in private, consensual sexual activity in Lawrence's apartment when police officers, responding to a false report of a weapons disturbance, entered the premises. The officers observed Lawrence and Garner engaged in sexual

conduct and subsequently arrested them under Texas' "Homosexual Conduct" law, which criminalized same-sex sexual activity. This law prohibited "deviate sexual intercourse with another individual of the same sex." Lawrence and Garner were charged with violating this statute.

The cause of action in this case involved a challenge to the constitutionality of Texas' Homosexual Conduct law under the Fourteenth Amendment's Due Process Clause. The case was first heard in the Harris County Criminal Court on November 20, 1998, where Lawrence and Garner were convicted. They were fined $200 each. However, they appealed the decision, and the case eventually reached the United States Supreme Court. On March 26, 2003, the case was argued before the Supreme Court, challenging the constitutionality of the Texas law. Lawrence and Garner sought relief in the form of a declaration that the statute was unconstitutional and the dismissal of their charges. The defendants, representing the state of Texas, defended the law's constitutionality, arguing that it was a valid exercise of the state's police power to regulate public morality and protect the institution of traditional heterosexual marriage.

Procedural History:

Lawrence and Garner were initially tried in a Harris County Criminal Court in Texas. They were found guilty of violating Texas' "Homosexual Conduct" law, which criminalized sexual acts between persons of the same sex. They appealed to the Texas Fourteenth Court of Appeals, arguing that the law was unconstitutional. However, this court upheld the convictions, finding no constitutional violation. They then sought further review from the Texas Court of Criminal Appeals, the highest court in Texas for criminal matters. This court, however, refused to hear their case, effectively upholding the lower court's decision. Lawrence and Garner made an appeal to the Supreme Court. They appealed because they believed that their convictions under the Texas "Homosexual Conduct" law violated their constitutional rights, specifically the right to privacy and liberty under the Fourteenth Amendment. Their appeal to the Supreme Court was an effort to overturn their convictions and challenge the Texas statute's constitutionality.
The case of *Lawrence v. Texas* began in the Harris County Criminal Court where John Lawrence and Tyron Garner were initially convicted of violating Texas' "Homosexual Conduct" law, which criminalized same-sex sexual activity. The trial court found them guilty and imposed a fine of $200 each on November 20, 1998. Lawrence and Garner appealed this decision to the Texas Fourteenth Court of Appeals, arguing that the state law violated their rights under the Fourteenth Amendment's Due Process Clause. The Texas Fourteenth Court of Appeals affirmed the lower court's decision on July 2, 2002. They upheld the constitutionality of the Texas law criminalizing same-sex sexual activity and upheld Lawrence and Garner's convictions and fines. They then sought further review from the Texas Court of Criminal Appeals, the highest court in Texas for criminal matters. This court, however, refused to hear their case, effectively upholding the lower court's decision. Lawrence and Garner made an appeal to the Supreme Court. They appealed because they believed that their convictions under the Texas "Homosexual Conduct" law violated their constitutional rights, specifically the right to privacy and liberty under the Fourteenth Amendment. Their appeal to the Supreme Court was an effort to overturn their convictions and challenge the Texas statute's constitutionality. They argued that the law violated their fundamental rights to privacy and equal protection under the law. The Supreme Court granted certiorari and heard oral arguments on March 26, 2003.

Issues:

The issue in this case is substantive. Did the petitioners' criminal convictions under Texas' "Homosexual Conduct" law, which criminalizes same-sex sexual intimacy but not identical behavior by different-sex couples, constitute a violation of the Fourteenth Amendment's guarantee of equal protection of the laws? Did the petitioners' criminal convictions for adult consensual sexual intimacy in their home violate their essential interests in liberty and privacy protected by the Due Process Clause of the Fourteenth Amendment? Should Bowers v. Hardwick be overturned?

Judgment:

The U.S. Supreme Court ultimately reversed the Texas Fourteenth Court of Appeals decision. The Supreme Court held that Texas' "Homosexual Conduct" law, which criminalized consensual same-sex sexual activity, violated the petitioners' fundamental rights to privacy and equal protection under the Fourteenth Amendment's Due Process Clause.

Holding:

Yes, the U.S. Supreme Court reversed the lower courts' decisions, 6 to 3, holding that Texas' "Homosexual Conduct" law violated the petitioners' fundamental rights to privacy and equal protection under the Fourteenth Amendment's Due Process Clause.

Rule of Law:

The rule of law is centered on the interpretation and application of the Due Process Clause of the Fourteenth Amendment of the United States Constitution, with the Supreme Court applying this constitutional provision to determine the substantive rights of the parties involved. The key legal principle established in this case is that laws criminalizing private consensual sexual conduct between adults, specifically same-sex couples, violate the Due Process Clause, which guarantees the protection of liberty and privacy rights. The precedent significantly cited in this case was the Supreme Court's earlier decision in *Bowers v. Hardwick* (1986), where the Court had upheld a similar Georgia statute criminalizing sodomy, ruling that there was no constitutional protection for such conduct. However, in *Lawrence v. Texas*, the Supreme Court explicitly overturned *Bowers v. Hardwick,* stating that it was wrongly decided. This marked a major shift in the legal understanding of personal liberty and privacy, particularly as it pertains to sexual conduct between consenting adults. This case synthesized prior holdings and constitutional principles to establish a new understanding of the Fourteenth Amendment's protections, significantly impacting the legal landscape regarding sexual privacy and the rights of the LGBTQ+ community.

Reasoning:

The Court reasoned that the Due Process Clause of the Fourteenth Amendment protects the liberty of individuals to engage in private, consensual sexual conduct without government

intervention, departing from the precedent set in *Bowers v. Hardwick.* Secondly, a significant part of the Court's reasoning revolved around the concepts of personal privacy and autonomy, emphasizing adults' right to engage in private consensual sexual conduct to which the government should not intrude. Additionally, the Court considered the discriminatory nature of the Texas law, targeting homosexual conduct and violating principles of equality under the law. Moreover, the Court acknowledged changing societal attitudes towards homosexuality and evolving understandings of human rights and dignity, departing from precedent in light of shifting perspectives. The Court also looked at international perspectives, noting global trends towards recognizing and respecting the rights of homosexuals, influencing its decision-making process.

Opinions:

There were 6 concurring opinions and 3 dissenting opinions. J. Kennedy wrote the majority opinion, joined by Justices Stevens, Souter, Ginsburg, and Breyer. Justices O'Connor wrote a concurring opinion, joined by J. Ginsburg. J. Scalia wrote a dissenting opinion, joined by C.J. Rehnquist and J. Thomas.

Concurring Opinions:

Justice O'Connor concurred in the judgment but differed in her reasoning. She argued that the Texas statute violated the Equal Protection Clause rather than the Due Process Clause. Her reasoning focused on the discriminatory aspect of the law, which criminalized homosexual conduct while allowing the same conduct for heterosexual couples. She did not fully endorse the majority's broad interpretation of privacy rights but agreed that the statute was unconstitutional due to its unequal application.

Dissenting Opinions:

J. Scalia (joined by C.J. Rehnquist and J. Thomas) dissented and strongly criticized the majority's decision, arguing that it effectively overruled the precedent set by *Bowers v. Hardwick.* They contended that the Constitution does not guarantee the right to engage in homosexual conduct, viewing this as a matter for states to decide. J. Scalia warned of the far-reaching implications of the majority's decision, suggesting it could pave the way for same-sex marriage.

While J. Thomas joined J. Scalia's dissent and wrote a separate dissent noting his belief that the law was "uncommonly silly." However, he maintained that there was no constitutional basis to strike it down, implying that while he might personally disagree with the law, he did not see a constitutional ground for the Court to invalidate it.

Personal Thoughts:

I agree with the majority decision. The decision really resonates with me, especially considering that my home country, the Netherlands, was already ahead in recognizing same-sex marriage back in 2001. It's mind-boggling to learn how behind the times the U.S. seemed to be on this issue around the same time frame. The ruling was a big win for personal freedom and privacy,

and it's great to see the U.S. Supreme Court stepping up to protect these rights, particularly for the LGBTQ+ community.

On the flip side, it's a bit of a reality check about how slow progress can be. The fact that such laws were still around in the 21st century is pretty astonishing. However, the Court's shift in thinking, especially compared to its earlier stance in *Bowers v. Hardwick* and *Romer v. Evans* (1996) shows a positive change. This case not only changed the legal landscape but also played a huge role in shaping social attitudes and paving the way for more equality and acceptance. It's a reminder of how far we've come, but also how much further we have to go.

Loving v. Virginia, 388 U.S. 1 (1967) (revised)

Date argued: April 10, 1967

Date of the decision**:** June 12, 1967

Statement of Facts:

Richard Loving, a white man, and Mildred Jeter, a woman of African American and Native American descent, were legally married in Washington, D.C. in 1958. They were residents of Virginia, where their marriage was not recognized due to state laws banning interracial marriages. This case centers around their challenge to Virginia's anti-miscegenation statutes, which criminalized their marital union solely based on racial classifications.

After marrying in D.C., the Lovings returned to Virginia, where they were indicted by a grand jury for violating the state's ban on interracial marriages. They pled guilty and were sentenced to one year in prison, with the sentence suspended on the condition that they leave Virginia and not return together for 25 years. The Lovings, forced to live away from their home state and family, challenged the constitutionality of the Virginia law because they faced legal consequences solely because of their interracial marriage.

The cause of action in this case was the violation of the Lovings' fundamental rights under the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution, as they were being denied the right to marry based on their race. The Lovings sought to overturn their conviction and for the Virginia statutes to be declared unconstitutional to allow them to live together as a married couple in their home state without fear of legal repercussions. The state of Virginia defended its anti-miscegenation laws, arguing that they were consistent with the state's interest in maintaining racial integrity and preventing societal disruption. The case escalated through the legal system, ultimately reaching the U.S. Supreme Court.

Procedural History:
The procedural history of *Loving v. Virginia* began in 1959 when Mildred Jeter and Richard Loving were indicted by the Circuit Court of Caroline County, Virginia, for violating the state's ban on interracial marriage. They pleaded guilty and were handed a one-year jail sentence, suspended for 25 years under the condition they leave Virginia. This ruling was based on the trial

judge's belief in divine order justifying the conviction, reflecting the prevailing societal attitudes of the time regarding interracial relationships.

Following their conviction, the Lovings decided to appeal to the Supreme Court of Appeals of Virginia, hoping for a reversal of their sentence. However, the intermediate appellate court upheld the constitutionality of Virginia's anti-miscegenation statutes and affirmed the convictions, leaving the Lovings with no choice but to seek recourse at higher judicial levels. This decision underscored the entrenched racial segregation and discrimination present in many parts of the United States during the mid-20th century.

In their pursuit of justice, the Lovings filed a motion in the state trial court in November 1963, seeking to vacate the judgment on the grounds of the statutes' unconstitutionality. Additionally, in February 1965, they initiated a class action in the United States District Court for the Eastern District of Virginia, aiming to challenge Virginia's laws and prevent state officials from enforcing their convictions. However, their efforts faced initial setbacks when the state trial judge denied their motion to vacate the sentences in January 1965, further highlighting the legal and societal obstacles they encountered.

Despite the initial setbacks, the Lovings persisted in their quest for justice. In December 1966, the U.S. Supreme Court took note of the case's probable jurisdiction, signaling a pivotal moment in the legal battle against discriminatory marriage laws. Ultimately, the U.S. Supreme Court agreed to hear the case, offering a glimmer of hope for Mildred and Richard Loving and laying the groundwork for a historic legal precedent that would challenge institutionalized racism and advance civil rights in the United States.

Issues:

The issue in this case is substantive. Did the Virginia statute banning interracial marriages violate the Fourteenth Amendment's Equal Protection and Due Process Clauses?

Judgment:

The United States Supreme Court reversed the lower court’s decision, effectively striking down laws banning interracial marriage across the United States and affirming the constitutional right to marry without regard to race.

Holding:

Yes, the U.S. Supreme Court unanimously reversed the lower court’s decision, holding that Virginia's anti-miscegenation laws, which prohibit interracial marriage, violate the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution. Therefore, the Court held that these laws were unconstitutional.

Rule of Law:

The rule of law derived from the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution. These clauses prohibit states from denying any

person within their jurisdiction the equal protection of the laws and from depriving any person of life, liberty, or property without due process of law.

The Court applied a strict scrutiny standard to racial classifications, particularly in matters related to marriage, emphasizing that such classifications are inherently suspect and must be subjected to the "most rigid scrutiny." The Court cited precedents such as *McLaughlin v. Florida* (1964), which rejected the notion that equal application of laws containing racial classifications could justify discrimination, and *Perez v. Sharp* (1948), where the Supreme Court of California first recognized the unconstitutionality of miscegenation statutes.

Furthermore, the Court rejected arguments based on historical context and legislative intent, emphasizing that the central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination. The Court concluded that restricting the freedom to marry based on racial classifications constitutes a violation of the fundamental right to marriage and is incompatible with the principles of equality enshrined in the Fourteenth Amendment. Additionally, the Court referenced the landmark case of *Brown v. Board of Education* (1954), which declared racial segregation in public schools to be unconstitutional.

The Court synthesized these precedents to establish the rule of law that laws prohibiting interracial marriage are inherently discriminatory and unconstitutional under the Equal Protection and Due Process Clauses of the Fourteenth Amendment. This rule affirms the principle of marriage equality and prohibits states from enacting laws that discriminate against individuals based on race when it comes to the fundamental right to marry.

Reasoning:

The Court reasoned that Virginia's anti-miscegenation statutes violated the Equal Protection and Due Process Clauses of the Fourteenth Amendment by enforcing racial discrimination and infringing upon a fundamental right to marry. It dismissed the state's defense that the law was non-discriminatory because it applied equally to all races, emphasizing that racial classifications, especially in laws regarding marriage, are inherently suspect and require the most stringent scrutiny. The Court found no legitimate state interest in the racial purity laws served, declaring them an illegitimate form of racial discrimination. Furthermore, by denying the fundamental freedom to marry based on race, the statutes deprived individuals of liberty without due process. The Court's decision, grounded in constitutional principles and policy considerations highlighting marriage as a basic civil right and denouncing racial discrimination, marked a pivotal moment in affirming racial equality and justice in the context of marriage rights.

Opinions:

In this landmark case, there were no dissenting opinions; the U.S. Supreme Court delivered a unanimous decision to strike down Virginia's laws banning interracial marriage. C.J. Warren wrote the majority opinion, articulating the Court's reasoning in finding the statutes unconstitutional under both the Due Process and Equal Protection Clauses of the Fourteenth Amendment. J. Stewart wrote the only concurring opinion, reinforcing the majority's view by emphasizing his prior stance against the constitutionality of anti-miscegenation laws, notably referencing his earlier opinion in *McLaughlin v. Florida*. All nine justices participated in the

decision, underscoring the unanimous consensus that racial discrimination in marriage laws was contrary to the principles of equality and liberty enshrined in the Constitution. J. Stewart's concurrence did not introduce new legal arguments but served to underscore the moral and constitutional urgency of eradicating racial discrimination in the law, particularly in matters of personal rights such as marriage.

Personal Thoughts:

I concur with the Supreme Court's decision in Loving v. Virginia, which correctly identified the anti-miscegenation statutes as blatant racism. This pivotal ruling not only rectified an injustice against the Lovings but also established a vital precedent, reinforcing that laws discriminating on racial grounds must face the strictest scrutiny. The sound reasoning grounded in the Constitution’s Equal Protection and Due Process Clauses effectively dismantled state-endorsed racial barriers, reinforcing marriage as a fundamental right and challenging the legitimacy of racial purity laws.

The decision had significant political, economic, and social ramifications, signaling a judicial willingness to confront and dismantle institutional racism, thereby influencing broader civil rights movements. It exemplifies the judiciary's crucial role in advancing societal progress, especially when legislative actions lag. Moreover, the ruling contributed to shifting societal norms towards greater acceptance of racial equality and interracial relationships, demonstrating the Constitution's capacity to adapt and address evolving societal values for justice and equality.

Mahanoy Area School District v. B. L., 594 U.S. ___ (2021) (revised)

Date argued: April 28, 2021

Date of the decision: June 23, 2021

Statement of Facts:

The case involves a public high school student, B.L., and her school's administration. B.L. was a member of the junior varsity cheerleading squad at Mahanoy Area High School. After failing to secure a position on the varsity squad, she expressed her frustration through a Snapchat post made off-campus, leading to disciplinary action by the school's administration.

The legally relevant facts center on B.L.'s use of Snapchat to post a message expressing her dissatisfaction with not making the varsity cheerleading team, including the use of vulgar language directed at the school and cheerleading squad. This post was made off-campus on a weekend. The school decided that her post violated team and school rules, leading to her suspension from the cheerleading squad for the upcoming year.

Procedurally, B.L. and her parents filed a lawsuit alleging that the school district's decision to suspend her from the cheerleading squad for her off-campus speech violated her First Amendment rights. They sought reinstatement of the team and a declaration that her rights were violated. The school defended its actions by arguing that it had the authority to regulate off-campus speech that could cause disruptions within the school environment.

Procedural History:

The initial decision was made by the United States District Court for the Middle District of Pennsylvania. On May 29, 2019, the District Court ruled in favor of the student, B.L., holding that the school district's disciplinary actions violated her First Amendment rights to free speech. No damages were awarded in this initial decision.

The Mahanoy Area School District appealed the District Court's decision to the United States Court of Appeals for the Third Circuit. On June 30, 2020, the Third Circuit affirmed the district court's decision, agreeing that the school district had violated B.L.'s First Amendment rights.

The school district sought further review by the United States Supreme Court, appealing the Third Circuit's decision. The Supreme Court granted certiorari, agreeing to hear the case to provide clarity on the extent of schools' authority to regulate off-campus student speech.

Issues:

This case is a substantive issue. Does a public school district have the authority to regulate off-campus speech made by students in a manner that does not violate the First Amendment's Freedom of Speech clause?

Judgment:

The U.S. Supreme Court affirmed the decision of the Third Circuit Court of Appeals that the school district's disciplinary actions against the student, B.L., for her off-campus speech violated her First Amendment rights to freedom of speech. The Court determined that the student's expression was protected under the First Amendment, as it occurred off-campus and did not disrupt the school environment.

Holding:

No, the U.S. Supreme Court affirmed the lower courts' decision 8 to 1, holding that the school district's disciplinary actions against the student, B.L., for her off-campus speech violated her First Amendment rights to freedom of speech. This holding establishes that schools have limited authority to regulate off-campus student speech, particularly when the speech does not cause substantial disruption to the school environment.

Rule of Law:

The First Amendment protects the freedom of speech. The Court emphasized that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate," quoting *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969). This precedent from *Tinker* established the principle that students' speech rights are protected, even while on school grounds unless the speech substantially disrupts the educational environment or invades the rights of others.

Additionally, the Court highlighted the significance of the off-campus nature of B.L.'s speech in distinguishing it from on-campus speech. The opinion recognized the need for schools to have authority over student speech in certain circumstances, as established in *Bethel School District No. 403 v. Fraser*, 478 U.S. 675 (1986), which held that schools may regulate lewd, vulgar, or indecent speech that disrupts the educational mission. However, the Court clarified that off-campus speech, such as that made by B.L. on social media, is generally beyond the reach of school authorities unless it meets the *Tinker* standard of causing substantial disruption.

Reasoning:

The Court's reasoning revolved around the principles established in the *Tinker v. Des Moines Independent Community School District* (1969) case and the unique characteristics of off-campus student speech. The Court emphasized that students' speech rights are protected under the First Amendment, even when they are not within the physical confines of the school. It recognized the importance of safeguarding students' free expression, which plays a crucial role in fostering democratic principles and preparing them for citizenship.

The Court highlighted the distinction between on-campus and off-campus speech, noting that off-campus speech generally falls outside the school's regulatory authority unless it significantly disrupts the educational environment. In this case, B.L.'s Snapchat message was posted off-campus during non-school hours and did not pose a substantial disruption to the school environment. Therefore, the Court concluded that the school district's disciplinary actions violated B.L.'s First Amendment rights.

Furthermore, the Court considered the implications of allowing schools to regulate off-campus speech without clear limitations. It expressed concerns about the potential chilling effect on students' expression and the risk of schools overreaching their authority into students' private lives. The Court emphasized the need to balance schools' legitimate interests in maintaining order and discipline with students' fundamental rights to free speech.

Overall, the Court's reasoning centered on protecting students' constitutional rights while recognizing the boundaries of schools' authority to regulate off-campus speech. By applying these principles, the Court sought to uphold the core values of free expression and individual autonomy in the educational setting.

Opinions:

The majority opinion was written by J. Breyer, joined by J. Roberts, J. Sotomayor, J. Kagan, J. Kavanaugh, and J. Barrett. J. Alito wrote his own concurring opinion that was joined by J. Gorsuch. The lone dissenting opinion was written by J. Thomas.

J. Breyer's majority opinion overruled some aspects of the Third Circuit's opinion regarding the scope of schools' authority to regulate off-campus speech. J. Breyer identified three factors related to off-campus speech and emphasized the importance of protecting unpopular expression in schools as nurseries of democracy. The majority held that while schools may have a valid interest in controlling off-campus speech, the school district violated B.L.'s First Amendment rights in this case. J. Breyer utilized *Tinker* to assert that while schools have a vested interest in

regulating speech that materially disrupts classwork or involves substantial disorder, this authority has limits, especially with off-campus speech. Breyer emphasized that off-campus speech, such as B.L.'s Snapchat post, typically falls under the purview of parental, rather than school, supervision. He argued that the school's regulatory interests do not extend as far off-campus, particularly for speech that does not cause substantial disruption within the school environment, using *Tinker's* substantial disruption test as a baseline for this distinction.

J. Alito's concurring opinion asserts that student speech addressing matters of public concern lies at the core of First Amendment protection and is generally beyond the regulatory authority of schools. He highlighted a category of student speech that he believes is almost always beyond the regulatory authority of schools: speech that is not expressly and specifically directed at the school, its administrators, teachers, or other students, and that addresses matters of public concern. This distinction is significant because it suggests a more nuanced approach to evaluating the limits of school authority over student speech, particularly in contexts that extend beyond the school environment.

Dissenting Opinion:

The lone dissenter, J. Thomas, argued that historically schools could discipline students for off-campus speech similar to the case at hand, suggesting that social media might extend the school's authority to discipline, particularly for students involved in extracurricular activities. He refers to historical precedent from the time of the ratification of the Fourteenth Amendment. Thomas cites prior state cases from that period to argue that schools historically had the authority to discipline students for speech similar to that involved in the current case. He questions whether the First Amendment would have been understood as applying to student speech at that time. He also critiqued the majority's application of *Tinker,* arguing for a historical perspective on the First Amendment's application to student speech. Thomas suggested that *Tinker* did not adequately explain how the First Amendment, as understood at the time the Fourteenth Amendment was ratified, would apply to student speech, suggesting a broader scope for school authority over such speech based on historical practices. He indicated that, historically, schools had more authority to discipline students for speech, even off-campus speech, that could harm the school's extracurricular programs, suggesting a more lenient standard for schools to regulate off-campus speech than the majority acknowledged.

Personal Thoughts:

I agree with the majority opinion in Mahanoy Area School District v. B.L. and find it somewhat ridiculous to grant teachers and school administrators the power to intimidate minor students for their off-campus speech. The notion that schools could regulate students' speech outside school grounds, especially in the digital age where social media blurs the lines between public and private spheres, feels overreaching. It's essential to protect the free speech rights of students, ensuring they can express themselves without fear of disproportionate disciplinary actions for actions that occur off-campus and do not disrupt the educational environment.

What I appreciate about Justice Breyer's opinion is its recognition of the nuanced nature of speech and the need to protect even those expressions that might seem superfluous, as

sometimes, protecting what seems unnecessary safeguards the essential. However, I am also drawn to the points raised by Justice Alito, emphasizing the importance of protecting speech on matters of public concern, reinforcing the idea that schools should not act as arbiters of off-campus speech, especially when such speech contributes to public discourse.

Comparing this to other cases, Mahanoy Area School District v. B.L. aligns with the tradition of safeguarding free expression while acknowledging the unique context of schools. Yet, it also introduces a critical perspective on the digital age's impact on speech and privacy. The ruling reflects an understanding of the evolving landscape of communication and its implications for students' rights.

The reasoning behind the Court's decision strikes me as sound, especially in balancing the interests of schools in maintaining order and the constitutional rights of students. It avoids setting a precedent that could have given schools carte blanche to police students' off-campus activities, which could have had chilling effects on free speech and democratic engagement among young people.

Opinion Edition (revised)

The Los Angeles Times: **The Imperative of Expanding "Dying with Dignity" for Those Battling Cancer and Dementia by Ashlie Dao**

My mother's journey began with a diagnosis that changed our lives forever: Stage IV Non-Small Cell Adenocarcinoma Lung Cancer. The words hung heavily in the air, and the shock was palpable. My mother, once a pillar of strength and independence, was suddenly thrust into a world of uncertainty and vulnerability. We embarked on this challenging path together, determined to make the most of the time we had left, but little did we know that dementia would soon cast its shadow over our already difficult journey. As the months passed, the grueling treatments took their toll on her body and spirit. Nausea, fatigue, and pain became constant companions. My once-vibrant mother was gradually fading before my eyes. And then came the signs of dementia – the memory lapses, the confusion, and the moments of disorientation that left us all feeling helpless.

Being a caregiver to my terminally ill mother, who is battling cancer and showing signs of dementia, has been a journey fraught with emotions, complexities, and ethical dilemmas. Our family has been grappling with end-of-life issues, including the consideration of "dying with dignity" options under the California End of Life Option Act (EOLA). It is time to shed light on the challenges we face as caregivers and the specific requirements under the law, especially the "of sound mind" provision that often disqualifies dementia patients from exercisting their right to "die with dignity."

In this complex journey, the concept of "dying with dignity" became increasingly relevant. We began to explore our options under the EOLA, a law that allows terminally ill Californian patients to request medical aid in dying. However, as we delved into the details, we encountered a significant obstacle: the requirement that the patient be "of sound mind." This provision stipulates that a patient must be mentally competent and capable of making informed decisions about their end-of-life care. While this may be well-intentioned, it poses a formidable challenge for elderly cancer patients like my mother who often times have a comorbidity of dementia. As the disease progresses, her ability to express her wishes and make informed decisions are waning. It is as though the very system designed to provide compassionate options at the end of life was excluding those who needed it most.

EOLA sets specific qualifications for accessing Medical Aid In Dying (MAID), including California residency, a terminal illness with a prognosis of six months or less to live, and the fundamental, and often contentious, "of sound mind" requirement, which necessitates the patient's capability to make medical decisions, understand consequences, and provide informed consent, along with the ability to self-administer the medication. While these qualifications are designed to ensure that the patient's choice aligns with their medical condition and is made freely, they create a significant barrier for dementia patients who may experience fluctuations in cognitive capacity.

The escalating prevalence of dementia in cancer patients highlights an urgent need for policy change. This trend reflects a multifaceted relationship between cancer and dementia, driven by factors like aging, treatment side effects, and genetic predispositions. Unfortunately, the well-meaning 'of sound mind' requirement in EOLA often excludes dementia patients, failing

to acknowledge their occasional moments of lucidity where they can competently express their end-of-life wishes. This policy can feel particularly disheartening, suggesting a lesser entitlement to dignified end-of-life choices for those with dementia.

In my mother's case, her sporadic episodes of clarity raise questions about her eligibility for 'dying with dignity' options under this requirement. Our experience advocates for a more nuanced approach within the EOLA. We propose adapting the law to better accommodate dementia patients, such as allowing those in early stages to create "Dementia Directives," relaxing the six-month prognosis rule, and considering alternative methods for administering medication when self-administration isn't feasible. In addition to these proposed amendments, exploring alternative methods of euthanasia could provide further options for individuals like my mother. For instance, one alternative method could involve the use of inhalation gases such as helium or nitrogen, which induce a painless and peaceful death. Another method could be the administration of a lethal injection by a trained medical professional, similar to practices in countries where euthanasia is legal. By considering a range of alternatives, we can ensure that patients with conditions like dementia have access to the most suitable end-of-life options that align with their wishes and circumstances.

The journey of caring for my terminally ill mother, who also grapples with dementia, underscores the imperative to reassess the "of sound mind" clause in end-of-life legislation. Our story sheds light on the struggles faced by families like ours, underscoring the importance of evolving our approach to end-of-life care to be more inclusive and empathetic, especially for those grappling with the dual challenges of terminal illness and dementia.

Ashlie Dao
Contributing writer; UCLA Student

Taylor Swift Advice Letter (revised)

Confidential Attorney-Client Privileged Communication

Ms. Taylor Swift
13 Main Street
Los Angeles, CA 90034

December 10, 2021

Re: Sean Hall et al. v. Taylor Swift et al.
Case No.: CV 17-6882-MWF

Dear Ms. Swift:

In light of recent developments in the Sean Hall et al. v. Taylor Swift, et al. case, I want to provide you with an analysis of the situation and discuss the potential paths forward. As you are aware, the recent ruling by a federal judge on December 9th denied our request to dismiss the lawsuit, thereby paving the way for a trial. Here are the potential pros and cons of either going to trial or considering negotiating a settlement.

Option 1: Proceed to Trial
One potential course of action involves pursuing the path of litigation and proceeding to trial. While our defense remains strong, the unpredictable nature of jury trials, the risk of unfavorable press coverage, and the associated expenses could pose significant challenges.

Option 2: Engage in Settlement Negotiations
Alternatively, you may choose to engage in negotiations with opposing counsel to settle the case outside of court. Under this option, you would agree to pay the alleged damages, amounting to a maximum of $2,700,000. Importantly, such a settlement would result in the case's dismissal with prejudice and the establishment of confidentiality agreements.

With the first option, the burden to prove our case hinges on several aspects that are notoriously difficult and time-consuming to convey. We'd have to potentially work with you to document your songwriting process in detail, including gathering evidence of your creative inspiration, notes, and drafts. Furthermore, the opposing counsel may subject you to rigorous cross-examination during trial proceedings, aiming to undermine your testimony and cast doubt on your originality. Our goal remains steadfast: to demonstrate convincingly that you a) didn't have access to "Shake It Off", b) that the musical structure and arrangement in "Shake It Off" are vastly different from their song, and c) to present compelling evidence supporting the uniqueness of your creation. Yet, it's essential to acknowledge the inherent uncertainties of litigation, wherein despite our diligent efforts, victory is not assured, and the outcome remains unpredictable.

Whereas with the second option, it is crucial to clarify that settling with prejudice and confidentiality does not imply any admission of guilt regarding copyright infringement. Rather, it

serves as a strategic step to shield you from the potential fallout of a trial. We can make this go away sooner rather later so that you may continue to focus on your fans, upcoming tour, and (re-)recording your albums.

In light of these considerations, I urge you to weigh your options carefully. Though you have a strong chance of prevailing in the trial scheduled for August 2022, the risks associated with it cannot be ignored. You have dedicated fans and a flourishing career to consider, and the potential consequences of a protracted legal battle should factor into your decision-making process. I recommend exploring the possibility of settling this matter outside of court, ensuring that any agreement includes provisions for dismissal with prejudice and strict confidentiality. Such an arrangement will protect your reputation and interests without implying any admission of guilt. I am fully committed to assisting you in negotiating the terms of a favorable settlement that aligns with your goals.

To discuss this matter in greater detail and explore all available options, please contact my assistant, Jack Bruin, at (000) 000-0001 or via email at JBruin@LawLLP.com at your earliest convenience. Your well-being and your career's continued success are of utmost importance to us, and we are here to support you in making an informed decision.

Thank you for entrusting us with your legal representation.

Sincerely,

Ashlie Dao

Ashlie Dao, Esq.

Advocacy Letter #1 (revised)

UCLA Bruin Resource Center

February 5, 2024

Dr. Yvette Gullatt
Chief Diversity Officer, VP of Graduate and Undergraduate Affairs,
Vice Provost for Equity, Diversity, and Inclusion
University of California Office of the President
1111 Franklin Street, 12th Floor
Oakland, CA 94607

Dear Dr. Gullatt:

I hope this open letter finds you all in good health and high spirits. As the elected representative of the Caregiver Students Association at UCLA, I am reaching out to highlight a pressing issue within our academic community: the lack of adequate support for students who are also primary caregivers to dependent adults. This letter aims to advocate for tangible changes that could significantly enhance the university experience for this unique and often overlooked student demographic.

Allow me to share my personal story to provide context to our collective plea. I am a non-traditional fourth-year psychology student at UCLA, driven by a deep passion for learning and personal growth. However, in my second year of college, my life took an unexpected turn when my mother was diagnosed with terminal lung cancer. This life-altering diagnosis required me to become her primary caregiver, a role I embraced out of love and necessity. I made the decision to move my mother into my home, alongside my children, to ensure she received the care and support she needed during this challenging journey.

This decision while undoubtedly the right one for my family, introduced a series of formidable challenges to my academic pursuits. Balancing the demands of caregiving with my rigorous academic coursework almost led me to abandon my education on numerous occasions. The stress and responsibilities associated with caregiving took a significant toll on my physical and mental well-being. It was only through the unwavering support and accommodations provided by my professors at my previous community college that I was able to complete my coursework successfully. Their understanding and flexibility allowed me to continue my educational journey and ultimately gain acceptance into UCLA, fulfilling my dream.

Upon enrolling at UCLA, I sought assistance from the Student Affairs office, specifically within the Students with Dependents program. Unfortunately, my experience was one of disappointment and frustration. The program primarily focused on supporting parenting students, leaving caregiver students like myself struggling to find the support and resources we desperately needed. This experience highlighted a systemic issue that affects caregiver students across the University of California system.

Recent studies underscore the plight of students like myself, showing that caregiver students face considerable financial hardship and emotional strain. Despite the UC system's commitment to diversity and equity, there seems to be a lack of specific initiatives or programs tailored to the needs of students who are caregivers. This gap in support not only hinders our academic success but also contradicts the UC system's values of inclusivity and support for diverse student experiences. Our concerns align closely with the principles outlined in Regents Policy 4400, which articulates the University of California's commitment to diversity, equity, and inclusion. This policy underscores the importance of diversity as a fundamental aspect of the university's mission and values. We believe that by embracing the essence of this policy, we can further advocate for the inclusion of caregiver students within the framework of diversity and equal opportunity. The policy recognizes the rich history of diversity in California, emphasizing that diversity encompasses various aspects such as race, ethnicity, gender, age, religion, language, abilities/disabilities, sexual orientation, gender identity, socioeconomic status, and geographic region. This recognition resonates deeply with caregiver students, who come from diverse backgrounds and bring unique experiences to our academic community.

Moreover, the policy asserts that the University of California has a core mission to serve the interests of the state, seeking diversity among its student body and employees. It highlights the university's role in ensuring that all individuals, regardless of their background, perceive the university as accessible and welcoming. We contend that this accessibility should extend to caregiver students, who often face challenges in balancing their caregiving responsibilities with their academic pursuits. Diversity is presented as integral to the university's pursuit of excellence, enhancing the educational experience and scholarly environment. We firmly believe that caregiver students contribute to this diversity and can enrich our academic community by bringing their unique perspectives and resilience to the table.

In your role, which includes a focus on enhancing diversity and equity within the UC system, I urge you to consider the following actionable steps to address this issue:

- Establish a dedicated support program within the Student Affairs office specifically for caregiver students, offering counseling, academic accommodations, and resources.
- Implement a system for early identification of caregiver students during admission processes to provide timely and effective support.
- Allocate funding for research to better understand the challenges faced by caregiver students and to develop tailored solutions.
- Create scholarship funds specifically designated for caregiver students to alleviate their unique financial burdens.

These steps would not only demonstrate the UC system's commitment to its diverse student body but also ensure that caregiver students receive the necessary support to succeed both academically and in their caregiving roles.

I hope this letter serves as a constructive step towards fostering a more inclusive and supportive environment for caregiver students across the University of California system. If you'd consider further discussion and collaboration on this matter, feel free to contact me at adao@saonet.ucla.edu. I encourage

you to take action on this critical issue, as it will significantly improve the educational experience and well-being of many students within the UC community. Thank you for your time, consideration, and for your unwavering dedication to equity, diversity, and inclusion.

Sincerely,

Ashlie Dao

Ashlie Dao
Caregiver Student and Advocate

Advocacy Letter #2 (revised)

UCLA Office of the Vice Chancellor of Student Affairs

February 11, 2024

Dr. Miguel Cardona
Secretary of Education Assistant
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

Catherine E. Lhamon
Secretary, Office for Civil Rights
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

Re: Docket ID ED–2021–OCR–0166, RIN 1870–AA16, Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

Dear Secretary Cardona and Assistant Secretary Lhamon:

As President of the UCLA Caregiver Student Association, I am writing to propose an essential amendment to Title IX of the Education Amendments of 1972. Our advocacy is grounded in the principles of equity and inclusion, central to Title IX, and we suggest extending its protections to include students who shoulder caregiving responsibilities for dependent adults.

Title IX has been pivotal in advancing gender equity in education, ensuring equal opportunities regardless of sex or gender. It includes protections for pregnant, childbirth, and parenting students, safeguarding their rights in educational settings. However, there is a noticeable gap in Title IX's coverage: the lack of explicit protections for students who are primary caregivers for disabled or dependent adults. This oversight is inconsistent with Title IX's ethos of removing educational barriers and promoting equality for all students.

The challenges faced by caregiver students—financial constraints, time management difficulties, and emotional stress—are remarkably similar to those of pregnant and parenting students, which Title IX currently addresses. These challenges often lead to compromised educational experiences and outcomes for caregiver students, an issue that directly contravenes the objectives of Title IX.

In light of this, I respectfully urge your offices to consider the following actions:

- Expand the provisions of Title IX to explicitly include protections for caregiver students, ensuring they receive the same consideration and support as other protected groups under the law.
- Collaborate with educational institutions to develop and implement policies that address the unique needs of caregiver students.
- Support research initiatives to understand the prevalence and impact of student caregiving responsibilities on academic experiences and outcomes.

Such measures would not only provide critical support to a vulnerable and often overlooked student population but also strengthen the Department of Education's dedication to an inclusive and equitable educational environment.

I appreciate your attention to this important matter and am available for further discussion or to provide additional information regarding the unique challenges faced by student caregivers. Your action in this regard can significantly enhance the educational landscape, ensuring that all students, irrespective of their caregiving responsibilities, have equal access to education.

Thank you for your dedication to enhancing American education and for considering this proposal to extend the reach of Title IX to caregiver students.

Sincerely,

Ashlie Dao

Ashlie Dao
President, UCLA Caregiver Student Association

Legal Research Memorandum (revised)

RESEARCH MEMORANDUM

CONFIDENTIAL ATTORNEY WORK PRODUCT

TO: Mary Samuelson, Senior Partner
FROM: Ashlie Dao, Legal Counsel
DATE: February 28, 2022
RE: *CDMA* (Case No. 8:22-cv-00274) - 1st Amendment Rights Physicians End-of-Life Options

QUESTION PRESENTED

To what extent does the First Amendment protect healthcare professionals' rights to refuse participation in procedures against their religious beliefs or ethical convictions?

SHORT ANSWER

Yes. The First Amendment does protect healthcare professionals' rights to refuse participation in procedures against their religious beliefs or ethical convictions, but this protection is not absolute. Courts balance these rights against compelling state interests, such as ensuring access to medical care and protecting public health.

STATEMENT OF THE FACTS

This lawsuit involves the national nonprofit organization Christian Medical & Dental Associations (CMDA) and Dr. Leslee Cochrane, against Rob Bonta, the Attorney General of California, and Dr. Tomás J. Aragón, the Director of the California Department of Public Health, along with members of the Medical Board of California. It centers on the conflict between religious beliefs and the legal requirement to participate in assisted suicide under California's End of Life Options Act (EOLOA)[1]. CMDA, headquartered in Tennessee, brings this suit on behalf of its California members. Dr. Leslee Cochrane, a CMDA member and full-time hospice physician in California, board certified in family medicine with a certificate of additional qualification in hospice and palliative medicine, is one of the plaintiffs. Representing Christian

[1] California End of Life Option Act (EOLOA): The EOLOA, enacted in October 2015 and effective from June 9, 2016, permits terminally ill adult patients in California to request a lethal dose of medication from physicians under specific conditions. Patients must be adults, California residents with a prognosis of death within six months, and capable of making medical decisions. The law allows patients to self-administer the medication and protects physicians and healthcare entities from legal actions when certain requirements are met. Notably, SB 380, signed into law in October 2021, introduced significant changes to the EOLOA, including reducing the waiting period for oral requests and eliminating certain attestations. Participation in the EOLOA is voluntary for both patients and healthcare providers, and healthcare entities must develop policies regarding their involvement.

healthcare professionals, the plaintiffs argue that the law violates their religious convictions and professional ethics by compelling them to participate in assisted suicide, which they oppose.

The lawsuit challenges California's amendment of SB 380[2] also known as the End of Life Options Act (EOLOA), which reduce the waiting period for assisted suicide requests and impose documentation and referral requirements on physicians who object on moral, ethical, or religious grounds. The amendments compel objecting physicians to participate in processes that advance a patient towards assisted suicide, despite longstanding ethical standards and legal protections for conscientious objection in healthcare. This includes documenting assisted-suicide requests and transferring relevant patient records, actions that CMDA members, including Dr. Cochrane, argue violate their deeply held beliefs and professional ethics.

The case seeks injunctive and declaratory relief, attorneys' fees, and costs on grounds of First Amendment rights violations, including free speech and free exercise of religion. The plaintiffs argue that the amended law imposes an undue burden on their religious practices and compels speech with which they fundamentally disagree, requesting that the court declare the law unconstitutional or otherwise illegal and enjoin its enforcement.

DISCUSSION/ANALYSIS

I. First Amendment Rights and Healthcare

The First Amendment guarantees freedom of religion, allowing healthcare professionals to object to procedures that violate their religious beliefs or ethical convictions.
Key Precedents: Review of relevant case law, including:

Roe v. Wade (1973)[3]: This landmark decision by the U.S. Supreme Court recognized the importance of respecting a physician's medical judgment and personal moral principles. It highlighted that no physician or professional personnel should be compelled to perform any act

[2] California Senate Bill 380 (SB 380) is a legislative amendment to the End of Life Options Act (EOLA), a law that legalized physician-assisted suicide in California. SB 380 introduced significant changes to EOLA, including reducing the waiting period for patients seeking physician-assisted suicide from 15 days to 48 hours. Additionally, SB 380 imposed new obligations on healthcare providers, such as requiring them to document patient requests for assisted suicide in medical records, even if the provider objects to participating in such actions. The bill also addressed issues related to conscientious objections by healthcare professionals regarding their participation in assisted suicide, requiring objecting physicians to fulfill certain duties that facilitate the provision of assisted suicide, which critics argue may violate their constitutional rights and medical ethics.

[3] *Roe v. Wade* (1973) established the constitutional right to abortion in the United States, balancing a woman's right to privacy with the state's interest in regulating abortion. The decision recognized that this right is not absolute and must be balanced against the state's interests in protecting maternal health and potential life. The acknowledgment of the state's interests in regulating medical practices and protecting life provides a framework for assessing California's EOLOA. Just as *Roe v. Wade* balanced individual rights with state interests, the plaintiffs in the *CMDA* case argue that SB 380 infringes upon their religious freedom by compelling participation in practices they oppose on ethical and religious grounds. They contend that SB 380 does not adequately balance their constitutional rights with the state's interests, particularly in safeguarding religious freedom and ethical medical practice.

that violates their medical judgment or personally-held moral principles. This precedent is used to argue the importance of protecting healthcare professionals' rights to act according to their conscience, especially in matters involving life and death, such as assisted suicide.

Washington v. Glucksberg (1997)[4]: In this case, the U.S. Supreme Court addressed the issue of whether there exists a "fundamental right" to physician-assisted suicide. The Court agreed with the American Medical Association's stance that physician-assisted suicide is fundamentally incompatible with the physician's role as healer. This case is cited to support the argument that assisted suicide is not a constitutionally protected right and that it contradicts the traditional role and ethical obligations of physicians as healers. The Court held that there was no constitutional right to assisted suicide, allowing states to regulate the practice.

These precedents are invoked to support the plaintiffs' arguments that compelling physicians to participate in or facilitate assisted suicide against their conscience and professional judgment violates their constitutional rights. The plaintiffs argue that such compulsion disregards the longstanding ethical standards of the medical profession, infringes upon physicians' freedom of speech and religion, and undermines the trust between patients and physicians. The legal reasoning behind citing these cases is to demonstrate that the U.S. Supreme Court has recognized the significance of protecting physicians' conscience and professional judgment, especially in the context of life-ending procedures, and to argue that these protections should extend to cases involving assisted suicide under the California EOLOA.

II. Balancing Religious Freedom with State Interests

Balancing religious freedom with state interests, particularly in the context of the EOLOA and healthcare professionals' objections, requires a nuanced understanding of both the rights of individuals to act according to their religious beliefs and the state's interest in regulating medical practices and ensuring patient access to legal medical services, including assisted suicide.

The plaintiffs argue that SB 380 imposes a substantial burden on their religious freedom by compelling them to participate in processes related to assisted suicide, which they oppose on religious and ethical grounds. They contend that the law is not neutral or generally applicable

[4] Washington v. Glucksberg (1997): Dr. Harold Glucksberg and others challenged Washington State's ban on physician-assisted suicide, arguing that it violated the Fourteenth Amendment's Due Process Clause by depriving competent terminally ill adults of the liberty to choose death over life. The Supreme Court unanimously ruled against Glucksberg, holding that the right to assisted suicide is not a fundamental liberty interest protected by the Due Process Clause. The Court reasoned that assisted suicide is not deeply rooted in the nation's traditions and practices and that Washington's ban was rationally related to the state's interests in protecting medical ethics, preventing prejudice against disabled and terminally ill individuals, and preserving human life. This decision upheld Washington's ban on physician-assisted suicide under the Natural Death Act of 1979.The U.S. Supreme Court held that there is no fundamental right to physician-assisted suicide under the Due Process Clause of the Fourteenth Amendment, thereby allowing states to regulate or prohibit assisted suicide. The Court emphasized the state's interest in preserving human life and the ethical integrity of the medical profession, stating that physician-assisted suicide could undermine public trust in the medical profession's role as healers.

because it discriminates against religious conduct by not offering the same protections to physicians who refuse to participate in assisted suicide based on religious objections as it does to those who participate. This, they argue, subjects SB 380 to strict scrutiny analysis under the Free Exercise Clause[5], implying that the law must serve a compelling state interest and be narrowly tailored to achieve that interest without unduly burdening religious freedom.

In applying the balance between religious freedom and state interests, the court would have to consider whether SB 380 serves a compelling state interest, such as ensuring access to legally permitted end-of-life options for terminally ill patients, and whether the law is the least restrictive means of achieving that interest. The plaintiffs argue that the state has not demonstrated a compelling need for the specific mandates imposed by SB 380, nor has it shown that less intrusive means are unavailable to achieve its objectives.

Moreover, the plaintiffs highlight the importance of protecting healthcare professionals' rights to act according to their conscience, a principle long recognized in medical ethics and supported by legal precedents that protect conscientious objections in healthcare. They assert that forcing them to act against their religious and ethical convictions under threat of legal and professional penalties violates their First Amendment rights.

Ultimately, the case raises critical questions about how to reconcile healthcare professionals' religious freedom with the state's interest in regulating medical practices and ensuring patient access to care. The court's analysis would likely focus on whether the law is neutral and generally applicable, whether it serves a compelling state interest, and whether it is the least restrictive means of achieving that interest, all while ensuring that religious freedoms are not unduly burdened.

III. Legal Protections for Conscientious Objection

Federal and state laws, including the Religious Freedom Restoration Act (RFRA)[6], establish a framework to protect individuals' religious freedoms, potentially providing healthcare professionals with grounds to refuse participation in procedures that conflict with their religious beliefs or ethical convictions. These protections hinge on the principle that individuals should not

[5] The Free Exercise Clause, found in the First Amendment of the United States Constitution, protects individuals' rights to practice their religion without government interference. The clause states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof

[6] The Religious Freedom Restoration Act (RFRA) is a federal statute enacted in 1993 to protect individuals' exercise of religion from substantial burdens imposed by government action. Under RFRA, government actions that substantially burden religious exercise must be justified by a compelling governmental interest and must be the least restrictive means of furthering that interest. In the context of *CDMA v. Bonta*, RFRA may be invoked by the plaintiffs to challenge California's End of Life Options Act (EOLOA) and its amendments, arguing that the requirements imposed by SB 380 substantially burden their religious beliefs and practices. They may assert that SB 380 fails to satisfy RFRA's strict scrutiny standard by compelling participation in practices contrary to their religious convictions without demonstrating a compelling governmental interest or using the least restrictive means available.

be compelled to act in ways that violate their deeply held moral principles, a stance supported by historical medical ethics and legal precedents.

IV. Implications of the Case

This case holds significant implications for religious freedoms, healthcare law, and professional ethics within the medical field. It tests the boundaries of how much the state can mandate healthcare professionals to act against their conscience, especially when such actions intersect with deeply held religious beliefs. The balance sought between accommodating religious freedoms and ensuring patient access to legal medical services, like assisted suicide under the EOLOA, underscores the ongoing debate over the role of healthcare providers in delivering care that conflicts with their moral or religious convictions. The outcome of this case could influence future legislation and policies related to conscientious objection in healthcare, potentially affecting the rights of healthcare providers to refuse participation in certain medical procedures on ethical or religious grounds, while also impacting patient access to these services.

CONCLUSION

The case delves into the complex intersection of religious freedoms and state interests within the healthcare sector, particularly concerning the obligations imposed by California's EOLOA on healthcare professionals who have conscientious objections to assisted suicide. Drawing from federal and state legal frameworks, including the RFRA and relevant case law such as *Roe v. Wade* and *Washington v. Glucksberg*, we scrutinize the extent to which healthcare professionals can refuse participation in procedures that conflict with their religious beliefs or ethical convictions.

The precedent indicates that while the First Amendment provides significant protections for religious freedom, these rights are not absolute when it comes to professional obligations within the healthcare sector. The state has a compelling interest in ensuring that patients have access to legally permitted medical services, including assisted suicide under the EOLOA, and can regulate healthcare professionals' actions to a certain extent to fulfill this interest.

RECOMMENDATIONS

It is advisable to construct a defense that robustly aligns with SB 380's legislative intent and framework, emphasizing the balance SB 380 seeks to achieve between safeguarding patient autonomy at the end of life and protecting healthcare professionals' rights and ethical standards. Our defense should highlight how SB 380 incorporates comprehensive safeguards to ensure voluntary participation by both patients and healthcare providers, thereby respecting the diversity of ethical beliefs in the medical community. To bolster this defense, consider:

Emphasizing Compliance with Federal and State Legal Standards: Argue that SB 380 is crafted in compliance with both federal and state legal standards, especially concerning religious freedoms and conscience protections. Cite precedents and laws that support the state's authority to regulate medical practices in ways that balance individual rights and public health imperatives.

Highlighting Safeguards and Conscience Protections: Detail the specific safeguards and conscience protections within SB 380 that prevent coercion of healthcare providers, ensuring they are not required to act against their deeply held beliefs.

Demonstrating Public Interest and State Interest: Articulate the compelling state interest in providing terminally ill patients with the autonomy to make end-of-life decisions, supported by robust empirical evidence and public policy considerations. This includes highlighting the ethical considerations that informed the drafting of SB 380, demonstrating a deliberate effort to respect and accommodate a range of ethical viewpoints within the medical profession.

Engaging with Stakeholder and Expert Testimonies: Incorporate testimonies from healthcare providers, ethicists, and legal experts that underscore the law's practical implications, its ethical considerations, and its alignment with broader healthcare standards and principles.

Addressing Counterarguments: Prepare to address and counteract potential counterarguments, especially those concerning the potential slippery slope of eroding medical ethical standards, by demonstrating SB 380's clear, narrowly tailored provisions designed to prevent such outcomes.

This strategy should be supported by rigorous legal research, engagement with medical ethics literature, and consultation with experts in healthcare law, ethics, and policy to provide a comprehensive defense that underscores SB 380's careful balancing of competing interests and rights.

Glossary of Legal Terms

evinced: often used to describe how a party has demonstrated a particular intention, belief, or fact, usually through documentation, testimony, or behavior.

guardian ad litem: a person appointed by a court to look after and protect the interests of someone who in unable to take care of themselves, typically a minor or someone determined to be legally incompetent

certiorari: a legal process through which a higher court reviews a lower court's decision, typically to determine if there were legal errors or issues of significant importance in the case.

amicus curiae: Latin for "friend of the court," refers to a party or individual who is not directly involved in a case but offers information or expertise to assist the court in making a well-informed decision.

supra: a Latin term used in legal citations to refer to a source that has been previously cited in the same document, indicating that the current reference can be found earlier in the text.

en banc: refers to a legal proceeding in which all the judges of a court, typically an appellate court, hear and decide a case together, rather than a smaller panel of judges.

Undue Burden: A standard established in Casey to assess abortion regulations. An undue burden exists if a law's purpose or effect is to place substantial obstacles in the way of a woman seeking to terminate a pregnancy before the fetus attains viability.

Magna Carta's 'per legem terrae': Refers to a clause in the Magna Carta meaning "by the law of the land." It is often interpreted as an early form of the due process principle.

Executive Usurpation: This term refers to the wrongful seizure or exercise of authority by an executive branch, often against constitutional principles.

Bulwarks: In legal context, bulwarks are defensive barriers or safeguards, particularly those protecting individual rights or liberties.

Prudential: Refers to decisions or considerations based on prudence, often involving a careful and sensible weighing of potential risks and benefits.

Practical Workability: This term relates to the feasibility and effectiveness of implementing and applying a legal rule in practical scenarios.

Cost of Repudiation: In legal contexts, this refers to the consequences or impacts of overturning a legal precedent or principle.

De Minimis: A Latin phrase meaning "about minimal things," used in law to refer to issues too trivial to merit consideration.

Amici: Short for "amicus curiae," meaning "friends of the court." It refers to individuals or organizations not party to a case who assist a court by offering information or expertise.

Sui Generis: A Latin phrase meaning "of its own kind." In legal contexts, it refers to a unique or special category or classification.

Precedential Force: The authority of a judicial decision to serve as a precedent in subsequent similar cases.

Cf.: An abbreviation for "confer," used in legal writing to direct the reader to compare or consult another point or case.

Infra: A Latin term used in legal writing meaning "below." It directs the reader to a later part of a text or document.

Ipso Facto: A Latin phrase meaning "by the fact itself." It indicates that something is true by its very nature or existence

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Previability Regulations: Regulations concerning abortion that are applied before the fetus is viable, i.e., capable of surviving outside the womb.

Stare Decisis: This term means "to stand by things decided." It refers to the legal principle of adhering to precedent, where courts follow the rulings of previous cases in deciding similar matters.

Amicus Curiae: Literally translating to "friend of the court," this term refers to someone who is not a party to a case but offers information or expertise that may assist the court in deciding a matter.

Certiorari: Often seen in the term "writ of certiorari," this refers to a type of writ seeking judicial review, where a higher court is asked to order a lower court to send up a case for review.

De Facto: Meaning "in fact," this term is used to describe practices that exist in reality, even if not legally recognized.

De Jure: Meaning "by law," this term is used to describe practices that are legally recognized, regardless of whether the practice exists in reality.

Habeas Corpus: A legal action or writ by means of which detainees can seek relief from unlawful imprisonment.

Per Curiam: A term used for decisions delivered by a court with more than one judge but written as a single, unanimous decision without individual authors identified

id: always refers to the immediately preceding cited authority, either in the same footnote or the previous footnote so long as it is the only authority cited in the preceding footnote

en banc: refers to a legal proceeding in which all the judges of a court, typically an appellate

court, hear and decide a case together, rather than a smaller panel of judges.

de novo: "anew," "from the beginning," or "afresh." When a court hears a case “de novo,” it is deciding the issues without reference to any legal conclusion or assumption made by the previous court to hear the case.

de facto: "in fact" or "in reality", which is used to qualify many legal concepts, even when the formal legal requirements have not been met.

qualified immunity: a type of legal immunity that protects a government official from lawsuits alleging that the official violated a plaintiff's rights, only allowing suits where officials violated a “clearly established” statutory or constitutional right.

loco parentis: in [the] place of a parent" or "instead of a parent." The term refers to a common law doctrine which denotes the legal responsibility of some person or organization to perform some of the functions or responsibilities of a parent.

Summary judgment: a court’s judgement in a case that favors one party and rules against another, occurring without a full trial

Common-law duties: legal protections that may arise from common law (that is, legal precedents that extend pre-1776)

Inter alia: Latin for “among other things”

Certiorari: an order (or “writ”) from a higher court (e.g., the U.S. Supreme Court) requesting the case previously decided on by a lower court (e.g., U.S. District Court) with permission

Tort: a wrongful act of an infringement of a right leading to civil legal liability

Criminal Jurisprudence: Criminal jurisprudence refers to the branch of law that deals with crimes, their punishment, and the legal procedures surrounding criminal conduct. It encompasses the study and application of legal principles, rules, and procedures relevant to the prosecution and defense of criminal offenses within a particular legal system.

Waive Effectuation: "Waive effectuation" typically refers to the act of voluntarily relinquishing or giving up the right to enforce or carry out something. In a legal context, it may involve a defendant's decision to waive certain rights or privileges guaranteed by law, such as the right to counsel or the right to remain silent.

Incommunicado Interrogation: Incommunicado interrogation refers to the practice of questioning or interrogating a suspect in isolation, without access to communication with others, such as family, friends, or legal counsel. This type of interrogation can raise concerns about the potential for coercion or abuse, as the individual may be cut off from external support or assistance.

Stratagems: In the context of law, "stratagems" typically refers to cunning or deceptive tactics employed to achieve a particular objective. In criminal jurisprudence, this could include various techniques used by law enforcement during investigations or interrogations to obtain information or elicit confessions from suspects.

Fifth Amendment: Protects individuals from self-incrimination and ensures due process of law. It includes several important rights, such as the right to remain silent and the right to avoid being compelled to testify against oneself in a criminal case. The Fifth Amendment also guarantees the right to a grand jury, prohibits double jeopardy, and protects against government seizure of private property without just compensation.

Procedural Safeguards: Measures or protections put in place within legal systems to ensure fairness, justice, and the protection of individuals' rights during legal proceedings. In the context of criminal law, procedural safeguards may include requirements for fair trials, such as the right to counsel, the presumption of innocence, rules of evidence, and protections against unlawful searches and seizures. These safeguards aim to uphold the principles of due process and prevent miscarriages of justice.

Vocabulary:

Ohio Criminal Syndicalism Statute: This was a law in Ohio that made it illegal to advocate for crime, sabotage, violence, or unlawful methods of terrorism as a means of achieving industrial or political reform. It was aimed at suppressing speech that encouraged illegal activities.

Appellant: An appellant is a person or party who appeals a lower court's decision to a higher court. In the context of "Brandenburg v. Ohio," the appellant is the Ku Klux Klan leader who was challenging his conviction under the Ohio Criminal Syndicalism Statute.

Appellee: The appellee is the party against whom the appeal is filed, typically the party who won at the lower court level. In "Brandenburg v. Ohio," the appellee is the state of Ohio.

Pro Se: This term refers to a person who represents themselves in court without the assistance of a lawyer.

Sua Sponte: A Latin term meaning "of its own will." It refers to an action by a court taken without a motion or request from any party.

First Amendment: An amendment to the U.S. Constitution that guarantees freedoms concerning religion, expression, assembly, and the right to petition. It forbids Congress from restricting the press or the rights of individuals to speak freely.

Fourteenth Amendment: An amendment to the U.S. Constitution that grants citizenship to all persons born or naturalized in the United States and guarantees all citizens "equal protection of the laws."

Probable Jurisdiction: A term used in appellate courts, indicating that the court has preliminarily reviewed a case and found that there is likely sufficient legal basis to warrant a full hearing.

Revengeance: This is not a standard legal term. It seems to be a colloquial or archaic form of the word "revenge," implying retaliation or payback.

Impermissibly: An action or condition that is not permitted or allowable under law or regulation.

Supra: A Latin term used in legal documents to refer to something mentioned earlier in the text. It is often used in citations to refer back to an earlier cited source.

Clear and Present Danger Test: A doctrine adopted by the Supreme Court of the United States to determine under what circumstances limits can be placed on First Amendment freedoms of speech, press, or assembly. The test was replaced by the "imminent lawless action" test in the Brandenburg decision.

Liberty: refers to the state of being free within society from oppressive restrictions imposed by authority on one's way of life, behavior, or political views. In this case, the concept of liberty is central to the argument against the Texas statute, as it pertains to the freedom of adults to engage in consensual sexual conduct without government interference. The Supreme Court's decision was heavily influenced by the interpretation of liberty under the Fourteenth Amendment's Due Process Clause.

Deviate sexual intercourse: refers to forms of sexual conduct that deviate from traditional heterosexual intercourse, such as anal sex. In the context of the Texas law, it specifically criminalized certain sexual acts between members of the same sex. The legal challenge against this term and its application in the statute was based on the argument that it discriminated against homosexual individuals and violated their constitutional rights to privacy and liberty.

Plea of nolo contendere: also known as a no-contest plea, is a legal term where a defendant in a criminal case does not explicitly admit guilt but also does not contest the charge. It's equivalent to a plea of guilty in terms of conviction and sentencing, but it cannot be used as an admission of guilt in a subsequent civil suit based on the same facts.

Adjudged: This term refers to the past tense of "adjudge," which means to officially decide or rule upon a legal matter, typically by a court or legal authority.

Virginia Antimiscegenation Statute: This refers to the laws enacted in the state of Virginia that prohibited interracial marriage, often referred to as anti-miscegenation laws. These statutes made it illegal for individuals of different races to marry or cohabit, and violations were subject to criminal penalties.

Commonwealth: In the context of the United States, a "commonwealth" refers to a state that is governed by its own constitution and laws. Virginia is one of several states in the U.S. that uses the term "commonwealth" in its official title.

The Framers: This term typically refers to the individuals who were involved in drafting and ratifying the United States Constitution. The Framers include prominent figures such as James Madison, Alexander Hamilton, and George Washington, among others, who played key roles in shaping the foundational documents of the United States.

Ad Valorem Tax: This is a tax imposed on the assessed value of real estate or personal property. It is typically calculated as a percentage of the property's value and is levied annually by local governments as a source of revenue. The term "ad valorem" is Latin for "according to value," indicating that the tax is based on the assessed value of the property.

Inter alia: This Latin phrase means "among other things" or "among other persons." It is commonly used in legal writing to indicate that there are additional examples or elements that are not explicitly mentioned but are included within a broader category or list.

Injunction: An injunction is a legal remedy issued by a court that orders a person or entity to refrain from certain actions or to perform specific actions. It is a court order that compels or prohibits a party from engaging in particular conduct. Injunctions are often used to prevent harm, maintain the status quo, or enforce rights.

In loco parentis: This Latin phrase translates to "in the place of a parent." In the legal context, it refers to the legal doctrine that grants certain individuals or institutions, such as schools or guardians, the authority to act as parents or assume parental responsibilities in matters concerning the welfare and supervision of children or young people.

***Tinker* Standard:** The *Tinker* standard originates from the landmark U.S. Supreme Court case *Tinker v. Des Moines Independent Community School District* (1969). It establishes that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." The standard holds that schools may regulate student speech if it substantially disrupts the educational environment or infringes on the rights of others. This standard is often used to determine the extent to which schools can regulate student expression, particularly in cases involving speech rights in public schools.

Ibid: This Latin term, short for "ibidem," means "in the same place." In academic or legal citations, it is used to refer to the same source that was cited immediately preceding. It is often employed to avoid repetition of the same citation when referencing consecutive pages or sources within the same document or text