

C30-1: Freedom of Speech, 1998 NAME: _____

Part One (27 of 50 total points; 3 points each): Briefly answer NINE of the following TEN questions. If you answer all ten, only the first nine will be graded.

1. Briefly explain the difference between obscenity, pornography and indecency.

2. What was the central argument Justice Scalia used in his majority opinion in the case of RAV v. St. Paul?

3. What was the central argument Justice Blackmun used in his majority opinion in the case of Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council?

4. Identify the author, case and date of the following quotation:

There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words--those which by their very utterance inflict injury or tend to incite and immediate breach of the peace.

5. Identify the author, case and date of the following quotation:

We cannot accept the view that an apparently limitless variety of conduct can be labelled "speech" whenever the person engaging in the conduct intends thereby to express an idea. However, even on the assumption that the alleged communicative element in [the defendant's] conduct is sufficient to bring into play the First Amendment, it does not follow that the destruction of a registration certificate is constitutionally protected activity. This Court has held that when "speech" and "nonspeech" elements are combined in the same course of conduct, sufficiently important governmental interest in regulating the nonspeech element can justify incidental limitations on First Amendment freedoms.

6. Identify the author, case and date of the following quotation:

Those who won our independence believed that the final end of the state was to make men free to develop their faculties, and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty.

7. Brief the case of New York Times v. Sullivan.

8. Brief the case of Stanley v. Georgia.

9. Brief the case of FCC v. Pacifica.

10. Brief the case of Richmond Newspapers, Inc. v. Virginia.

• • • • • • •

Part Two (23 of 50 total points): As a Supreme Court Justice, write an opinion about ONE of the following two cases. If you write more than one, only the first will be graded..

98-1: Rice v. Paladin Enterprises. In 1993, Lawrence Horn hired James Perry to kill his son. Perry in fact did so, shooting the boys' caretakers as well. Both Perry and Horn have been convicted for the crime. In Perry's apartment was found a copy of Hit Man: A Technical Manual for Independent Contractors published by Paladin Press. The book, marketed as a work of fact, describes techniques for committing murders and making a living as a hit man. Approximately two dozen instructions in the book match details in the way the murders were committed. Relatives of the victims sued Paladin under a Maryland law making someone who "aids and abets" a crime responsible for damages. Paladin argued that the case should not even go to trial, since the Manual is protected by the First Amendment. The court holds for the relatives; Paladin appealed; the case is now before the Supreme Court.

98-2: Arkansas Educational Television Commission v. Forbes. The Arkansas Educational Television Commission, an agency of the State of Arkansas, decided in 1992 to conduct a debate between the Democratic and Republican candidates for a local congressional seat. The Commission did not invite Ralph Forbes, a legally qualified independent candidate, to participate in the debate solely because it believed that "he was not a serious candidate"--it was virtually impossible for him to win. Forbes sued, claiming that the Commission had violated his First Amendment rights. The court rejected Forbes' claim; Forbes appealed; the case is now before the Supreme Court.