

**Final Examination  
Constitutional Law II  
Professor Marc Stickgold  
SPRING 2005**

**INSTRUCTIONS:**

1. You have **three (3) hours** to complete this exam.
2. This is a **closed** book exam. No materials may be used during this exam.
3. There are 2 parts to this exam:

**PART I:** Consists of 18 multiple choice questions counting for **36 points**. Be certain to read each question fully and carefully. Often one word may make a difference. There is one best answer for each question. You must choose among the answers provided. The fact that there may be an additional unlisted answer which you like better must be ignored. **(66 minutes)**

**PART II:** Consists of three essay questions counting for **64 points**. Question **1** counts **40 points**; Questions **2 & 3** count **12 points each**. Allocate time accordingly.

4. For the Multiple Choice, darken in the letter corresponding to the correct answer on the ParScore answer sheet. If you change your answer, please be sure your erasures are complete. The exam will be scored by a machine and any ambiguities will be counted as a wrong answer.

5. Please use pen for the Essay Question. Write on only ONE SIDE OF EACH PAGE if you are writing your answer in a Blue Book. DOUBLE SPACE your work, whether written or typed.

6. Write your exam number on your exam envelope, at the top of this exam question packet, your Par Score sheet, and any blue books or typed essays. **Do not use your name, student ID number or Social Security Number on any exam materials.**

**R E A D C A R E F U L L Y !**

**CONSTITUTIONAL LAW II**  
**PART II: Essay Questions**

**ESSAY QUESTION ONE**  
**(40 points; 74 minutes)**

1. Alabama State University is a public historically Black university. Founded in the early 1900's as an all Negro school when Alabama's education was completely segregated by race, it began as a teacher's college. Since the passage of the Civil Rights Acts, and the changes that followed, Alabama State is now a full university with a wide range of programs. Its student body is still over 90% Black. The University administration decides that it is time to change the makeup of the school's student body. It feels that there are a range of reasons to recruit and enroll more Caucasian students. It is hoped that in a reasonable time, Alabama State can become a "mainstream" university. This is likely to mean that it can raise more grant and government moneys; place their students in more prestigious and better paying jobs; and provide for a better education for all its students.

It is decided to set a goal of 25% Caucasian students for the 2007 entering class. If necessary, these White students will be given additional financial aid to persuade them to enroll. The Admission's Office is told to do "whatever is legally permissible" to achieve this goal. The University decides to: (1) advertise widely in periodicals that are likely to reach students in predominantly white high schools; (2) as between a Black and White student of otherwise comparable qualifications, to grant, whenever possible, a scholarship to the White student; and (3) create the Ronald Reagan Policy Center in the hope that a program named after a respected White president will attract more White students.

In the 2006 application period, a Black applicant is denied admission. He sues maintaining that the University's plans are illegal.

In addition, a number of current Black students oppose this plan to increase the number of White students. They dress in the white hooded robes associated with the Ku Klux Klan (a white racist organization), and burn large photos of Ronald Reagan in front of the Admission's Office building, shouting "Shut it down, shut it down!" Things get heated, and a couple of White students who attend Alabama State are confronted by the demonstrators and told "Go back where you come from!" The two White students are quite frightened, although nothing else happens.

Discuss (1) the constitutional issues raised by the University's admission's plan, and (2) whether the demonstrators can be suspended for violating a state statute prohibiting "threats, intimidation or provocation by one member of the University community against another." Both the demonstrators who burned the photos and challenged the Admission's Office, and those who confronted the two White students, are among those suspended.

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**Essay Questions 2 and 3**

**2. (12 points, 20 minutes)** The State of California Drug Unit is seeking pilots to fly the airplanes used for its drug interdiction program throughout the state. Among other requirements, the unit insists that an applicant "be a citizen of the United States with substantial experience as a military or law enforcement pilot." The result of this requirement is that none of the positions have been filled with permanent resident aliens, although about 10% of military and law enforcement pilots throughout the country are permanent resident aliens. Jose Montero was a pilot for 20 years flying cargo in the South American jungles, after having served as a pilot in the U.S. Army. He has flown almost every kind of airplane, but is turned down for a job because he is not a U.S. citizen. Does he have a viable constitutional challenge? Why or why not?

**3. (12 points, 20 minutes)** The Macho Theater is a movie palace for "men." It shows all kinds of movies, but most of them are movies involving lots of violence. War movies, explicit horror movies, slasher movies, and the like show there regularly. The theater has done so well that three others want to open nearby to draw on this large audience, which is fueled, in part, by the nearby location of a large military base. The City Council feels this will cause problems. There is often a lot of drinking by guys before and after the movie (sort of like at baseball games), and on a couple of occasions fights have broken out. Many on the Council also complain about the violent content of these movies and how they are likely to provoke more violence in the future. So the Council passes a zoning ordinance barring the opening of any more movie theaters in the same neighborhood if they will show "primarily movies that focus on violence, mayhem and destruction." The ordinance allows other "men's theaters" to open in another neighborhood which is basically an industrial zone away from residential and commercial areas, and quite far from the military base. Comment on the constitutionality of this ordinance.

**END OF ESSAY QUESTION AND END OF EXAM**