
UNITED STATES CONSTITUTIONAL LAW: HISTORY, THEORY, AND PRACTICE

LISBON, PORTUGAL
OCTOBER 16, 2019

Final Examination

Prof. Dane S. Ciolino
Loyola University New Orleans

Email: dciolino@loyno.edu
M: 1-(504) 975-3263

Instructions

Please review the hypothetical below and prepare an answer to the question presented.

Your answer must be typewritten in 12-point font, double-spaced, 5 to 7 pages in length, and must be uploaded to the instructor in PDF format using the hyperlink provided on the class webpage at <http://bit.ly/dsc-conlaw>. Please include your full name on the top of the first page.

You must submit your exam answer on or before Friday, November 1, 2019 at 5:00 p.m. Lisbon time.

Hypothetical

The State of Louisiana recently enacted a statute prohibiting any woman from giving birth to more than one child. The statute, entitled the Overcrowding Elimination Act, was enacted because of the documented increase in population in the state and the diminishing availability of housing. “We just have too many people and not enough resources in this state for many more people,” said the governor upon signing the legislation into law. The Overcrowding Elimination Act provides as follows: “Any woman who gives birth to a child in the State of Louisiana after having previously giving birth to any other child shall be imprisoned for a term of 5 years.”

Mary Smith has a two-year old daughter. She wants her daughter to have a sibling but is prohibited from giving birth to any more children as a result of the Overcrowding Elimination Act.

Question

Ms. Smith has hired you to challenge the constitutionality of the new Louisiana Overcrowding Elimination Act. Please evaluate whether any provision (or provisions) of the United States Constitution might provide a basis for challenging the constitutionality of the statute. In so doing, compare and contrast how a “Living Constitutionalist” and an “Originalist” might evaluate Ms. Smith’s arguments. Please use the text of the Constitution and the reported United States Supreme Court decisions that the instructor assigned during the class. Do not use any other decisions or authorities in drafting your answer.