

Empire College School of Law
Professor Rex Grady
Constitutional Law – Midterm
Tuesday, December 06, 2011

Question One (1 ½ Hours)

The War on Terror continues. After several attacks by foreign terrorists on civilians on U.S. soil, Congress resolved to jointly renew a previous authorization to the President to combat international terrorism. The joint resolution differed from previous ones related to the same subject in that it authorized only “necessary measures” rather than “all necessary force and measures.” Congress also declared that any United States citizens captured by U.S. forces and held as enemy combatants *must* be held in the United States and that the United States is to avoid killing United States Citizens when executing the nation’s anti-terrorism policies.

Soon afterward, President Becky negotiated an agreement with India. In exchange for use of American naval bases in the Indian and Pacific Oceans by India’s navy, India would detain persons captured in connection with the War on Terror and would send its agents, at America’s request, to assist in killing and capturing persons identified as terrorists. The request was to be made by the President herself, or by the Ambassador to the nation where the Indian agent was to be sent. President Becky presented the agreement to the Senate, but an insufficient number of senators voted to ratify it. President Becky later informed the Indian Prime Minister not to worry; their agreement was still on.

Three months later, President Becky nominated Trump to be ambassador to India. The Senate delayed both the hearings and a vote on Trump’s nomination. President Becky told Trump to go to India anyways and start performing his duties. Once there, Trump requested India’s help in tracking down two persons hiding in India who were allegedly involved in the previously mentioned attacks on American civilians. The two fugitives were named Musa and Farad. Both men were naturalized American citizens. India complied with Trump’s request by sending a former commando named Amitab. Amitab killed Musa and captured Farad. He then turned Farad over to an Indian detention facility.

Back in the United States, Farad’s wife hired a lawyer who filed for a writ of habeas corpus in Federal Court. Farad’s lawyer argued that Farad was wrongly detained. Farad’s lawyer also filed an action naming Farad as a Plaintiff. The Complaint alleged civil rights violations and sought damages against President Becky and Ambassador Trump. Senator Dave also denounced the President and vowed a lawsuit of his own.

Discuss the following:

1. Were President Becky’s actions, and/or those of her “ambassador,” in any way unconstitutional.
2. If any of President Becky’s and/or Ambassador Trump’s actions were unconstitutional, what, if anything, can the Congress do about it?
3. Is Farad entitled to relief pursuant to the writ of habeas corpus?
4. Are President Becky and Ambassador Trump liable to Farad for any violations of the Constitution?

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Question Two (1 ½ Hours)

In response to concerns over the dietary habits of Californians, California's Legislature passed a bill regulating the "fast food" industry. The regulations included the following:

- a. All food ingredients used in "fast food" must satisfy certain specified quality standards.
- b. Mandatory Installation of an interactive "Fun Nutritional Facts Display" in each restaurant.
- c. Seventy-five percent of fast food restaurant employees must be residents of "urban environments," where it was thought that average dietary habits were worse than those evident in non-urban environments.
- d. Establishment of a Fast Food Commission to oversee enforcement of the new law's various provisions. The powers of the Fast Food Commission included the authority to determine wages and benefits of employees working in "fast food" restaurants.

Frito owns seven Spungo's restaurant franchises. He styles himself a "restaurateur" and takes pride in the skilled chefs in his employ. His restaurants are located in non-urban areas along the Nevada and Arizona borders. He hires most of his employees for terms of one year. He pays them in accordance with these one year employment contracts.

One of the terms of his franchise agreement with Spungo's Inc. is that he buy certain of his food ingredients from a nation-wide Spungo's, Inc. processing center in another State. The food quality standards relied on at the nation-wide processing center are set forth in Federal law. The Federal food quality standards are lower than those just enacted by California. The Fast Food Commission's first act was to vote to raise the minimum wage for fast food employees by ten percent. The higher wage was to take effect immediately.

Four months later, Frito received notice from the Fast Food Commission that he was not in compliance with the law. He was informed that he needed to increase the pay of many of his employees in accordance with the recent ten percent wage hike. He was also informed that *too many* of his employees were not from "urban" environments. He was also told that he needed to install the mandatory nutritional displays. Finally, he was informed that the food he was getting from the Spungo's Inc. processing center did not comply with California food quality standards. He was advised that he owed one thousand dollars for each violation and that if he didn't bring his business practices into compliance with State law in two months, he would be prosecuted and, if found guilty, subjected to additional fines and possibly imprisonment.

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The next day, Jillian came in to one of Frito's restaurants and asked for a job. She was from the very *non-urban* Nevada side of the nearby border. Frito informed her that even though he had vacant positions, he couldn't hire any more people from Nevada due to the notice he had just received.

Discuss the following:

1. If Frito sought an injunction against any enforcement of the Fast Food law against him, what constitutional objections to the law could he raise?
2. Does the Fast Food law burden any of Jillian's constitutional liberties?