

QUESTION 1
(90 Minutes)

President Ronald Rump announced a time table for constructing a border wall to impair illegal immigration from Mexico and elsewhere. He also announced that his administration would demand custody of any persons suspected of violating Federal law, including and especially illegal aliens, who are in custody of State and local governments.

Elected officials in California condemned the announcement. California's Legislature quickly enacted the Border Land Preservation Act (BLPA), declaring the land along the border public, and incorporating it into the Immigrant Memorial State Preserve. Private landowners, including Frito, were allowed to remain on their property within the Preserve, but were prohibited by the law from selling, granting easements (including to the Federal government), and making alterations. After negotiating an easement and lease with the Federal government, allowing the Feds to erect a portion of the wall on his property, Frito was charged with violating the BLPA.

California's Legislature also passed a Resolution calling for a boycott of any products marketed by the President's former company, The Rump Organization (now run by his son). The products included Rump Water, Rump Wine, Rump Steaks, and Rump the Game and other similarly branded items. All of these products were manufactured outside of California. The State's Governor issued his own proclamation to the same effect, stating that "no civilized community should allow anyone to be enriched who promotes hate toward any class of persons, especially immigrants." Such persons, "motivated solely by greed, can only be deterred if they feel the pain in their pocketbooks." None of the Rump products were physically barred from entering the State. Instead, California funded a public relations effort to discourage purchase of Rump products. Numerous businesses adopted boycott policies. The Governor publicly lauded numerous business owners who took this step, and issued cash awards. Within 2 months, sale of Rump products in California had fallen by 30 percent.

California's Legislature also passed the Federalism Protection Act (FPA), which prohibited State officials from assisting or cooperating with Federal officials, and rendered illegal any entry of State facilities by Federal authorities in furtherance of their official duties without consent.

Meanwhile, Perez's trial commenced in San Francisco. Perez was thought to be in the country illegally. He was accused of killing a woman with a stolen gun. During jury selection, the Court allowed 3 illegal aliens to be empanelled as jurors. The defense argued that their presence was essential to Perez' right to be tried by a jury of his peers. The DA did not object. Suzie, a citizen, was dismissed with the other excess members of the jury pool.

After hearing the evidence, the jury acquitted Perez of the charge. President Rump immediately dispatched Federal agents to claim custody of Perez for “violations of Federal law.” When Federal Marshal Leslie arrived at the San Francisco County jail, she was barred entry and then arrested for battery and trespass after she forced her way in. She was subsequently charged and prosecuted for violating the FPA. Perez himself was allowed to exit the building, but was arrested by other Federal agents waiting outside. Prosecution commenced against him in a Federal Court in Texas. He remained in custody throughout trial, without bail.

Discuss five (5) of the following issues:

1. Frito’s defenses against prosecution for allegedly violating the BLPA.
2. Whether the “boycott” violates the dormant aspect of the Commerce Clause.
3. Whether the “boycott” violates Article IV’s Privileges & Immunities Clause.
4. The right of Suzie that was violated, and the justification for it, if any.
5. The defenses raised by Federal Marshall Leslie for allegedly violating the FPA.
6. The defenses raised by Perez to his arrest, detention and prosecution.

QUESTION 2
(90 Minutes)

Colin was a professional athlete. He was also very politically active. He travelled to Berkeley, California to take part in a “protest” against President Ronald Rump and the “fascists.” While there he posted to social media photos of himself wearing black garb and holding a banner with the words “Viva Antifas” on it. During the “protest,” violence erupted. Many people associated with the anti-Rump “Antifas” movement were arrested. Colin was not. Nor was he directly involved in any violence.

Several days later, Colin took the field to take part in his team’s game. In support of the Antifas movement, he went to one knee during the national anthem. The next day, President Rump denounced Colin and said he should be fired. The owner of Colin’s team was a friend of the President, a campaign donor, and had recently been appointed to a Federal non-paid advisory board concerned with energy issues. The team owner subsequently fired Colin.

The owner of Colin’s team was also the owner of the stadium where the team played. The stadium, however, was heavily leveraged by a large debt. The debt was in the form of bonds, which the State had authorized and which the Federal government had purchased. The Federal government thus had a security interest in the stadium in the event the debt was not repaid.

Senator Tom Cruz also denounced Colin. Prior to Colin’s firing, Senator Cruz sponsored a resolution calling Colin “un-American” and stating that he should be fired and “disgraced.” Both houses of Congress passed the resolution.

Following Colin’s firing, President Rump announced that he had just learned that Antifas had been in contact with ISIS, and that Antifas members had been training with ISIS overseas. He stated that pursuant to his powers over foreign affairs he was declaring Antifas a terrorist organization. Antifas members caught associating with ISIS would be treated as enemies and traitors, and no known Antifas members would be allowed to travel outside the country.

Shortly afterward, Colin’s passport was revoked by the Department of State.

Relying on a Federal law permitting suits against Federal authorities for violation of Constitutional and other rights, Colin filed an action against President Rump, Senator Cruz and his employer, alleging they violated his Constitutional rights and committed a variety of torts, including intentional interference with a contract and defamation.

Finally, President Rump asked Congress to enact a law to prevent the spread of incendiary material promoting Antifas’ “message of violence and hate.” Congress passed the Anti-Antifa Act (AAA), prohibiting the transport across State lines of such material and directing State authorities to confiscate such materials at the State’s ports of entry.

Shortly after the AAA took effect, Linwood was caught by State authorities in California bringing Antifas literature into the State. Linwood was allowed by State official Peck to go his way and his literature was not confiscated. The Federal government subsequently charged Linwood and Peck with violating the AAA.

Discuss each of the following:

1. What rights might Colin contend were violated, what arguments can he make in support of those rights, and what might Rump, Cruz and the Owner argue in response?
2. What Constitution based arguments might Linwood and Peck raise in their defense against Federal prosecution?