

Essay 2 – 50

Donor comments:

Basically got no credit for 2/3 of essay. There was a lot of unnecessary writing. Didn't lay foundation for first call (why it was a 13th amendment violation before going into strict scrutiny)

2)

Justiciability

The federal courts of the United States are courts of limited jurisdiction. They have jurisdiction over cases involving questions of federal law, the Constitution, ambassadors, maritime law, suits between states, suits of states by the federal government, and can hear cases in diversity.

Here a Constitutional question is presented so the court will have jurisdiction to hear the matter.

A. Standing

A plaintiff will be dismissed if he lacks standing to bring suit. Plaintiffs may not bring suit to protect the rights of others except in special cases like guardianship.

Here, Pete and his parents bring suit. Pete is the party that seeks relief, and Pete's parents are his legal guardian, Pete being a minor of the age of 15. His parents also have standing to protect the interest of their child. The case will not be dismissed for lack of standing.

B. Mootness

To be heard, a case must not be moot. If the controversy has already been resolved, the case will be considered moot and be dismissed unless the injury is an evasive one that is likely to repeatedly occur.

Here, Pete's issue has not been resolved. He has dropped out of school and per State X's statute has been drafted into the State Forestry Corps ("Corps"). He seeks relief from the court. The matter will not be deemed moot and will not be dismissed on this ground.

### C. Ripeness

To be heard, a case must be ripe for trial. The injury must be present and not a past completed harm or a future indeterminable harm.

Here, Pete has actually been drafted to the Corps and seeks relief from this action. His injury will be considered ripe and his case will not be dismissed for lack of ripeness.

### D. Eleventh Amendment State Immunity

The Eleventh Amendment to the Constitution grants States immunity from suit from individual citizens of the State or from citizens of other States. Pete and his parents, presumably citizens of State X are filing suit. If they filed against the state, the State would be immune. For discussion purposes we will assume that they filed suit against the proper state official because the official would not be immune to suit and this would be the proper course of action for them.

### E. State Action

For any violation of the Constitution to have taken place, there must be a state action. The Constitution protects from state actions, not individual actions. Here, State X has enacted a statute creating the State Forestry Corps ("Corps"), so it is clear that there has been a state action.

### Pete's Claims

#### I. Statute's Validity under the Thirteenth Amendment's Involuntary Servitude Clause

The issue is if State X's drafting of Pete violates his Constitutional rights under the Involuntary Servitude Clause of the Thirteenth Amendment.

The Involuntary Servitude clause of the Thirteenth Amendment to the Constitution protects any person from being compelled to provide services against their will. For the statute to be valid, the state will have to show that it is necessary to further a compelling state interest under strict scrutiny because it seeks to essentially deprive boys ages 15 to 18 of their freedom. The burden of proof lies with the State.

Here, the State will argue that it has a compelling interest in preserving personal responsibility and social order among its teenagers and to provide for their education. As its study shows, there is a correlation between an increase in school dropout rate and an increase in the level of criminal activity in the state. This connection was most pronounced among boys in the 15 to 18 age group. The state will argue that to reduce the crime rate, it is necessary to give these boys between the ages of 15 and 18 a productive purpose in society and to ensure that they continue their education. Pete will argue that the State does not have a compelling interest. Although children have a right to be educated through high school, there is no requirement that they do so past the age of 16 in most states. Further, Pete will point out that the mere fact that a correlation was found between dropout rates and crime increase does not mean that this was a causal connection. The state's interest may be in reducing crime or in ensuring education, but this study does not necessarily support actions in either. Pete will argue that the statute is not necessary to further Stat's claimed compelling state interest. The action taken by the State is extreme. If the State's interest is to keep children in school it can pursue program in which it stresses the importance of an education. It can implement career training alternatives to traditional high school programs. There are certainly options less burdensome on Pete's freedom than mandatory enrollment in the Corps. The statute will likely be found unconstitutional according to the Involuntary Servitude Clause of the Thirteenth

Amendment.

## II. Statute's Validity under the Fourteenth Amendment's Due Process Clause

The issue is if State X's drafting of Pete violates his Due Process rights under the Fourteenth Amendment.

Procedural Due Process requires that if issues of life, liberty or property are concerned, proper, effective notice be given before such right be taken away. Substantive Due Process calls for the application of strict scrutiny to fundamental rights.

Here, Pete's liberty is at issue because he will be taken to a government camp to work in the forest. The State has no counter argument because by its terms the statute makes enrollment in the Crops mandatory for any 15 to 18 year old boy not in school. The State will argue that Procedural Due Process was satisfied because all 15 to 18 year old boys are on notice that they may be drafted in to the Corp if they drop out of school upon passage of the legislation. Pete will argue that this notice is not effective because the draft of an individual may happen at any point, at which time the boy is immediately moved to a camp in a public land. There is no opportunity to be made aware of when the draft is happening and no provision noted in the statute that provides a process by which such draft can be argued or appealed. The state will likely fail to satisfy Procedural Due Process.

Here, Pete will also posit that a fundamental right to freedom from forced labor is at issue and that strict scrutiny must be applied to protect his Substantive Due Process rights.

See the strict scrutiny analysis in Part I. above. The State will likely not be able to satisfy strict scrutiny and will argue that no fundamental right is at issue because all it is doing is essentially requiring children to go to school, which is in their best

interest. In this case the State will argue that a rational basis scrutiny be applied. If rational basis were applied, Pete would have to show that the State has no legitimate interest in the education of children or the reduction of crime, or that the statute has no rational relation to that interest. Although the Corps has children work in the forest, it does also provide them with education. And it attempts to make an age group productive that the State believes is the cause of an increase in crime because they have dropped out of school. Pete might fail if rational basis were applied; however it is much more likely that strict scrutiny would be applied and he would prevail.

### III. Statute's Validity under the Fourteenth Amendment's Equal Protections Clause

The Issue is if State X's drafting of Pete violates his rights under the Equal Protections Clause of the Fourteenth Amendment.

All persons, according to the Equal Protections Clause of the Fourteenth Amendment, shall receive equal protections of the laws within each State. If the statute facially discriminates against a group, strict scrutiny should be applied. If it does not facially discriminate against a group, but there is incidental discrimination in the implementation of the statute, then intermediate scrutiny will apply (where the state must show the statute is substantially related to an important state interest). Without discrimination on the face or incidental to the statute, rational basis will be applied.

Here, Pete will argue that a class of people in the state, boys from the ages of 15 to 18 who have dropped out of school, are being treated differently than other members of the state. No other persons are eligible to be drafted into the Corps. Pete will point out that the statute names this group in its terms and argue that it is thus discriminatory in its face and strict scrutiny must be applied. The State will not be able to argue that this group is not singled out for different treatment

because the group is named in the statute. See strict scrutiny analysis in Part I. The state will not be able to satisfy strict scrutiny and the statute will fail under the Equal Protections Clause of the Fourteenth Amendment.