

Assas

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Discipline : *Anglais*
(Unité d'Enseignements Complémentaires 1)

Titulaire(s) du cours :

M. Justin BEPLATE

Document(s) autorisé(s) : Aucun

In this exam, 50% of each mark is given for your knowledge of the facts and 50% for your use of the English language.

I. Complete the following sentences, using at least 10 words. Limit your answers to one complete sentence (20 points)

1. Although freedom of expressive association ...
2. In contrast to "accommodationists" ...
3. Stop and frisk searches ...
4. Under the Fifth Amendment ...
5. The Constitutional prohibition of "cruel and unusual punishment" does not ...

II. Read the document and answer the following questions below IN YOUR OWN WORDS (maximum ten lines for each). DO NOT QUOTE DIRECTLY FROM THE TEXT (30 points)

Limiting Rights: Imposing Religion on Workers

The New York Times (30 June 2014)

The Supreme Court's deeply dismaying decision on Monday in the Hobby Lobby case swept aside accepted principles of corporate law and religious liberty to grant owners of closely held, for-profit companies an unprecedented right to impose their religious views on employees.

It was the first time the court has allowed commercial business owners to deny employees a federal benefit to which they are entitled by law based on the owners' religious beliefs, and it was a radical departure from the court's history of resisting claims for religious exemptions from neutral laws of general applicability when the exemptions would hurt other people.

The full implications of the decision, which ruled in favor of employers who do not want to include contraceptive care in their company health plans, as required by the Affordable Care Act, will not be known for some time. But the immediate effect, as Justice Ruth Bader Ginsburg noted in a powerful dissent, was to deny many thousands of women contraceptive coverage vital to their well-being and reproductive freedom. It also invites, she said, other "for-profit entities to seek religion-based exemptions from regulations they deem offensive to their faiths."

The case involved challenges by two companies, Hobby Lobby, a chain of arts and crafts stores, and Conestoga Wood Specialties, a cabinet maker, to the perfectly reasonable requirement that employer health plans cover (without a co-payment) all birth control methods and services approved by the Food and Drug Administration. The main battleground was the Religious Freedom Restoration Act of 1993, which says government may not "substantially burden a person's free exercise of religion" unless the burden is necessary to further a "compelling government interest" and achieves it by "the least restrictive means."

As a threshold matter, Justice Samuel Alito Jr., read the Act's religious protections to apply to "the humans who own and control" closely held companies, an interpretation contradicted by the statute's history, context, and wording. He then found that the contraceptive coverage rules put a "substantial burden" on the religious owners, who objected to some of the items on the F.D.A.'s list based on the incorrect claim they induce abortions.

It's hard to see that burden. Nothing in the contraceptive coverage rule prevented the companies' owners from worshiping as they choose or advocating against coverage and use of the contraceptives they don't like. [...]

Mr. Alito's ruling and a concurrence by Justice Anthony Kennedy portray the decision as a narrow one without broader application, like denying vaccine coverage or job discrimination. But that is not reassuring coming from justices who missed the point that denying women access to full health benefits is discrimination.

1. Who were the petitioners in this case and what was the issue before the Supreme Court? (10 points)

2. What was the decision of the Supreme Court and what was its reasoning? (10 points)

3. Do you agree with the decision? Give reasons why or why not. (10 points)

III. Essay. Choose ONE of the following subjects and answer in approximately 250 words (50 points).

1. What kinds of speech can be restricted without violating the First Amendment?

2. Explain the protections against double jeopardy and self-incrimination contained in the Fifth Amendment.