

Rubric Exam 2007

Question 1 (30 Points)

Violate First Amendment Rights (5 Points)

- _____ (5 Points) Yes
- _____ (5 Points) No

Tinker v. Des Moines (0-10 Points)

- _____ (2 Points) Tinker
- _____ (2 Points) Students retain First Amendment expression rights at school
- _____ (2 Points) Rights suppressed only if authorities can forecast disruption of or material interference with school activities
- _____ (2 Points) Silent, passive expression(Wearing black arm bands) in high school, unaccompanied by disorder or disturbance of educational activities and unaccompanied by interference with the schools' work or of a collision with the rights of other students to be secure and to be left alone was constitutionally protected speech
- _____ (2 Points) anticipation or fear of disruption not enough/a prohibition on expression of one particular opinion, without evidence that it is necessary to avoid material and substantial interference with schoolwork or discipline, is not constitutionally permissible.

Case Facts (0-15 Points)

- _____ (1 Point) Journal written outside of school, although he had the journal at school
- _____ (2 Points) Notebook details the group's plan to commit a “[C]olumbine shooting” attack on Bellwood High School
- _____ (2 Points) Author expresses the feeling that his “anger has the best of [him]”
- _____ (1 Point) Author predicts that this outburst will occur on a specific date
- _____ (1 Point) Told another student about the notebook and supposedly showed him some of its contents.
- _____ (1 Point) Alan told a teacher about the notebook
- _____ (1 Point) Teacher told Assistant Principal Casey.
- _____ (2 Points) J.P. denied these accusations and instead explained that he was writing a work of fiction.
- _____ (1 Point) J.P.’s mother maintained that the notebook was fiction
- _____ (2 Points) He found several lines in the notebook alarming and ultimately determined that J.P.'s writing posed a “terroristic threat” to the safety and security of the students at the high school.
- _____ (1 Point) Suspended J.P. from school for three days and recommended that he be placed in the school's alternative education program at KEYS Academy.

Bonus
____ (2 Points) Search of the backpack analysis

Hazelwood School District v. Kuhlmeier –distinguished from Tinker and this case
(up to 4 additional Points)
____ Points

Fraser or other cases analysis (up to 4 additional points)
____ Points

_____ **TOTAL POINTS**

Question 2 (50 Points)

Primary Custody (5 Points)

____ (5 Points) Father
____ (5 Points) Mother
____ (5 Points) Joint physical custody

Best Interests (5 Points)

____ (5 Points) Best interests

Factors regarding physical custody(0-11 Points) Hollon case

____ (1 Point) Age, health and sex of the child
____ (1 Point) Determination of the parent that had the continuity of care prior to the separation
____ (1 Point) Which has the best parenting skills and which has the willingness and capacity to provide primary child care
____ (1 Point) The employment of the parent and responsibilities of the unemployment
____ (1 Point) Physical and mental health and age of the parents
____ (1 Point) Emotional ties of parent and child
____ (1 Point) Moral fitness of the parents
____ (1 Point) The home, school and community record of the child
____ (1 Point) The preference of the child at the age sufficient to express a

- _____ (1 Point) preference by law
- _____ (1 Point) Stability of home environment and employment to each parent
- _____ (1 Point) Other factors relevant to the parent-child relationship

Other cases (up to 6 points) if factors applied correctly

- _____ Alternative to Hollon

Application of facts (0-11 Points)

- _____ (1 Point) Allegations that Harold had sexually abused Julie
- _____ (1 Point) Harold supervised visitation with Julie
- _____ (1 Point) Alice conceded that she did not believe Julie initially
- _____ (1 Point) Professionals (physician, interviewers, therapists) could neither rule out nor substantiate the abuse allegations.
- _____ (1 Point) Both parties were St. Louis City police officers at the time the allegations arose
- _____ (1 Point) Harold denies the sexual-abuse allegations, and no criminal charges were filed against him.
- _____ (1 Point) Alice told him that all of his money would go to child support and that she would find a way to prevent him from seeing the children
- _____ (1 Point) When the child made the initial allegations, the adults laughed, and the Alice had the child repeat the allegations to Harold and Alice's friend, Julie influenced by mother, believes it occurred
- _____ (1 Point) Therapist recommended therapeutic visits to help Harold and child readjust to one another.
- _____ (1 Point) The guardian ad litem recommended that Harold's visitation with the child continue to be supervised, based largely on the child's belief that "something" occurred.
- _____ (1 Point) Both parents involved with Julie before separation, Julie with mother majority of her life
- _____ (1 Point) Lack of communication between the parents, Alice seeks sole custody

Factors regarding legal custody Taylor case (0-13 Points)

- _____ (1 Point) Capacity of the parents to communicate and to reach their decisions affecting the child's welfare
- _____ (1 Point) Willingness of parents to share custody
- _____ (1 Point) Fitness of parents
- _____ (1 Point) Relationship established between the child and the parent
- _____ (1 Point) Preference of the child
- _____ (1 Point) Potential disruption of child's social and school life
- _____ (1 Point) Geographic proximity of parental homes

- _____ (1 Point) Demand of parental employment
- _____ (1 Point) Age and number of children
- _____ (1 Point) Sincerity of parents request
- _____ (1 Point) Financial status of the parents
- _____ (1 Point) Benefit to parents
- _____ (1 Point) Other factors

Bonus points (5 Points)

- _____ (5 Points) Presumption of joint custody

_____ **TOTAL POINTS**

Question 3 (20 Points)

Blood Transfusion (2 Points)

- _____ Yes (2 pts)
- _____ No (2 pts)

Parents' Interests (0-6 Points)

- _____ (Point) The right to the free exercise of religion, including the interests of parents in the religious upbringing of their children is a fundamental right protected by the Constitution. *Yoder*
- _____ (Point) Custody, care and nurture of the child reside first and the Parents. *Prince*
- _____ (Point) Parents have a right of privacy that extends to certain aspects of a family relationship *Roe, Yoder, Griswold, Meyer, Pierce*

State's Interests (0-6 Points)

- _____ (Point) The State, acting as *parens patriae*, may protect the well-being of children. *Prince* The State has an interest in the preservation of life, especially when the affliction is curable.
- _____ (Point) Parental autonomy is not absolute. The state is the guardian of society's basic values.
- _____ (Point) Where parents fail to provide their children with adequate medical care, the state is justified to intervene.

Phillip B. Criteria (0-8 Points)

- _____ (2 pts) The seriousness of the harm the child is suffering at the

- _____ (2 pts) **substantial likelihood she will suffer serious harm**
- _____ (2 pts) **The evaluation of the treatment by the medical professionals**
- _____ (2 pts) **The risks involved in medically treating the child**
- _____ (2 pts) **And the expressed preferences of the child's**

Jefferson v. Griffen (0-4 Points)

- _____ (2 pts) **The exercise of religion is one of our most precious freedoms**
- _____ (2 pts) **The states compelling interest in preserving the life of the fetus is beyond dispute**

Best interests (5 Points)

- _____ (5 pts) **The underlying consideration is the child's welfare and whether her best interests will be served by the medical treatment.**

Application of Facts (0-5 Points)

- _____ **Since she was ten years old, she has been a Jehovah's Witness**
- _____ **She has periodically executed a written medical directive declaring; last executed such a directive on September 12, 2007.**
- _____ **She understands that her refusal may well result in her death in the event of a life-threatening event**
- _____ **In order to keep her blood count at a stable level a blood transfusion might become necessary to keep Rena alive.**
- _____ **Both the patient and her parents indicated that they would not consent to a blood transfusion.**

_____ **TOTAL POINTS**