

Empire College School of Law
Constitutional Law
Professor Grady
Fall 2009 semester
December 8, 2009

Question No. 1

One Hour

Suzy lived in Santa Rosa. One day, she was driving in her car from a storage facility to her home with a load of boxes full of miscellaneous personal belongings. She was pulled over for talking on her cell phone by Officer Leslie. Suzy mentioned to Officer Leslie that she had just moved from Indiana five months ago and was finally moving into a new place. While Officer Leslie was writing her a ticket, she noticed a gun on the back seat. The gun was an antique from the Spanish American War, inherited by Suzy from her grandfather. Officer Leslie confiscated the gun and placed Suzy under arrest.

Suzy was charged with violating a recently enacted section of California's Penal Code. The law prohibited gun ownership by persons who had not lived in the State for more than six months, and imposed a punishment of up to a year in jail and a \$ 1,000 fine for each offense.

Suzy was convicted. She appealed.

After the appeal was filed, but before it was argued and decided, Rebeca, the President of the United States, pardoned Suzy for the offense she had been convicted of. Suzy had been a friend and business associate of President Rebeca many years before. In fact, Suzy had donated a lot of money to Rebeca's election campaign.

Discuss the following:

1. Whether the Second Amendment provides Suzy with a defense to conviction for violating California's gun law.
2. Whether Suzy's privileges and immunities, as protected by Article IV of the Constitution, have been violated.
3. The effect of the Pardon on Suzy's criminal conviction.
4. Whether President Rebeca abused the pardon power and, if so, is there a remedy.

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Question No. 2

One Hour

After Suzy got situated in California, she started a real estate business, specializing in brokering the sale of commercial properties to out-of-state purchasers.

After Suzy got her business going, she arranged a sale of commercial land in Santa Rosa to Vince World, Inc.— an out of state corporation. Vince World, Inc. had a long history of shady dealings in California, including securities fraud and wage and hour law violations.

Just before the close of escrow in the deal with Vince World, Inc., California's Legislature passed a law prohibiting non-California residents from purchasing commercial real estate without first getting approval from the State's Department of Real Estate. The law permitted the imposition of civil penalties and equitable relief. In accordance with this law, the State Department of Real Estate commenced an action against Vince World, Inc.

The California Department of Real Estate also notified Suzy that her license to sell real estate in California was going to be revoked due to her brokering of real estate sales to non-California residents without having obtained approval from the Department. Suzy's license was in fact revoked.

During the course of the State's case against Vince World, Inc., Suzy intervened as a party and brought a claim for injunctive relief against the State to stop their action against Vince World.

After a trial, the company was fined and an order was issued by the Court rescinding the sale brokered by Suzy. Suzy's request for relief was rejected.

Vince World, Inc., and Suzy each appealed.

Discuss the following:

1. Whether the State, in passing its real estate transaction approval law, has run afoul of the Commerce Clause in its dormant aspect.
2. Whether the State's real estate transaction approval law is an ex post facto law with respect to Vince World, Inc.
3. Suzy's constitutionally protected *substantive* rights and whether these rights were violated by the government's action against Vince World, Inc.
4. Whether Suzy was deprived of any *procedural* rights.

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Question No. 3

One Hour

Congress declared war on the Banana Republic. It also passed two special laws immediately afterward. One of the laws provided the President with authority to *rely on* the assistance of local and state officials in furthering the nation's war aims and war-time policies. Congress was silent as to whether the President could *require* local officials to assist in enforcement of federal war-time policies. The other law permitted the President to deport "enemies" who were born in foreign nations if the President determined that deportation served "the best interests of the nation in time of war."

President Rebeca appointed her old friend Suzy to be a Special Commissioner in California to administer federal war-time policies and act as a liaison with local and State governments.

After war was declared, fifteen alleged saboteurs and spies from the Banana Republic were arrested in Santa Rosa.

After the arrests, Suzy called out the State militia. She ordered *all* Santa Rosa Police Officers to commence serving directly under her and to assist her in the apprehending additional spies. Suzy soon heard a rumor that Officer Leslie (of the Santa Rosa Police) refused to comply with her Order. Acting on Suzy's orders, State militiamen arrested Officer Leslie. Frito, who was born in the Banana Republic, but who was a Naturalized Citizen of the United States, attempted to stop Federal Marshals from arresting Officer Leslie. He, too, was arrested.

Suzy then ordered the temporary appropriation of the Garden Apartments, located in the City of Santa Rosa. She intended to use the Garden Apartments to house State militiamen and federal marshals and to serve as a place of detention for Leslie, Frito and the fifteen accused Banana Republic spies.

Leslie was charged with a federal crime related to impeding the war effort and was scheduled for trial before a special military court.

Suzy declared Frito's citizenship revoked and ordered him deported.

Answer the following:

1. At trial, or on appeal, what Constitutional defenses can Leslie raise against the legal action against her?
2. In a legal proceeding to defeat the government's action against him, what Constitutional defenses can Frito raise?
3. What Constitution based claims or defenses does the owner of the Garden Apartments have against the government?