

1. Columbia State University is a state university with a competitive admissions policy. To be given consideration for admissions, applicants must rank in the top 20% of their high school graduating class and obtain a composite score of at least 1,200 on the Scholastic Aptitude Test (SAT). Alan Alberts, an African-American whose application was rejected because his SAT score was only 1,050, brought suit to compel Columbia State to admit him as a student. At trial he proved that 40% of whites but only 20% of African-Americans score at least 1,200 on the SAT. Ultimately, the United States Supreme Court decided the case. What result, and why?

**BEST ANSWER**

The main issue in this case is whether Columbia State University admissions policy is in violation of the 14<sup>th</sup> Amendment equal protection clause. The university is a state agency thus the 14<sup>th</sup> is applicable. In order for the policy to be struck down, we must show that it is discriminatory. It is already accepted that African Americans are a suspect class in that they meet the three indicia (immutable characteristics, history of discrimination, and history of political powerlessness). But we must look at the policy and find intent or purpose to discriminate. To do so we must find one of three things: the policy must be discriminatory on its face, neutral on its face but discriminatorily applied, or neutral on its face and neutral as applied but with a disparate impact. In the case at hand, we have a disparate impact: 40% of whites admitted to 20% of blacks. But finding that disparate impact is merely the starting point. We must next find that the purpose or intent of policy was to achieve the disparate impact and alleged discrimination. To do so, we must look at three things to help up make a determination: the legislative history of the measure, whether it was a break from the normal procedures, and the legislative intent behind the measure. However, knowledge of a disparate impact is not enough. It must be proven that the measure was initiated because of the disparate impact and not just in spite of it. In the case at hand, these would likely be no intent or purpose to discriminate or to cause the disparate impact. There is no severe break from the norm in applying this admissions test across the board. You can't judge a policy strictly based on who burdened or benefited. Their rational basis review would be used and a court would likely find that a reasonable legislature could see such an admission policy as rationally related to the legitimate purpose of higher education standards.

2. The State of Franklin denies the right to vote to persons who are not citizens of the United States and the State of Franklin. Lars Hansen, a Danish citizen who has resided in Franklin for 10 years and owns taxable property, brought suit in federal court to enjoin Franklin from preventing him from voting in voter referenda relating to tax increases. Juan Perez, a Cuban citizen who has resided in Franklin for two years as a political refugee, brought suit in federal court to enjoin Franklin from preventing him from voting in any or all elections. Ultimately, the United States Supreme Court decided both cases. What results, and why?

**BEST ANSWER**

When a state denies aliens the right to vote, the determinative issue is the standard of judicial scrutiny that applies. For two reasons, it appears at first glance that strict scrutiny ("is the classification necessary [narrowly tailored] to achieve a compelling [overriding, subordinating] state interest). First, state classifications of aliens are inherently suspect (suspect classification) because of the three indicia of suspectness: immutable or difficult-to-change characteristic (lack of citizenship), history of purposeful unequal treatment, and political powerlessness. However, when the state discrimination against aliens arises in the context of the process of self-governance, rational basis review will be used. Citizenship and political rights are co-extensive, because the theory of democracy is that those who are members of the polity (citizens) govern themselves. Aliens are not part of the polity or the process of self-governance; thus the decision to exclude them from voting is not suspect. Thus, rational basis review is applied to this alienage classification.

Second, restrictions on the fundamental (implicit in the concept of ordered liberty; essential to our scheme of values), right to vote, like other fundamental rights, triggers strict scrutiny, with 3 exceptions – age, citizenship, and residence, where rational basis review is used. Although the U.S. Supreme Court has not adequately explained why these 3 limitations are judged only by rational basis while others (duration, poll tax, property ownership) are judged by strict scrutiny, this is the view of the court.

Because the aliens cannot prove, beyond doubt, that the limitation is not reasonably related to a legitimate state interest, they lose.