#### AMERICAN CONSTITUTIONALISM

# **Volume II: Rights and Liberties**

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- C. Interrogations
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- D. Juries and Lawyers
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    - 1. Strickland v. Washington
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- E. Punishments
  - i. The Death Penalty
    - 1. Callins v. Collins
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  - iii. Prisons
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- 11. The Polarized Era: 1994-2008
  - I. Foundations
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        - ii. Constitutions and Amendments
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        - iii. Comparative Constitutional Law
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          - 2. House Judiciary Subcommittee on the Constitution, Hearing on the Appropriate Role of Foreign Judgments in the Interpretation of American Law
        - iv. The Law of Nations

- 1. The Law of Nations Introduction
- 2. Medellin v. Texas
- B. Principles
  - i. Principles Introduction
  - ii. Clinton, Fourth Annual Message
- C. Scope
  - i. State Action
    - 1. Brentwood Academy v. Tennessee Secondary School Athletic Ass'n
- II. Individual Rights
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      - 1. Contracts Introduction
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        - a. Board of County Commissioners of Muskogee County v. Lowery
      - 2. Lingle v. Chevron USA, Inc.
    - iii. Due Process
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      - 2. Church v. Illinois
      - 3. Punitive Damages
        - a. BMW of North America, Inc. v. Gore
        - b. Philip Morris USA v. Williams
  - B. Religion
    - i. Establishment and Free Exercise Introduction
    - ii. Establishment
      - 1. Funding
        - a. Mitchell v. Helms
        - b. Bush v. Holmes
      - 2. Santa Fe Independent School Dist. v. Doe
      - 3. Kitzmiller v. Dover Area School District
      - 4. Religious Monuments
        - a. McCreary County v. ACLU of Kentucky
        - b. Van Orden v. Perry
    - iii. Free Exercise
      - 1. The Religious Freedom Restoration Act
        - a. Gonzales v. O Centro Espiria Beneficiente Uniao Do Ve
      - 2. Cutter v. Wilkinson
      - 3. Parker v. Hurley
    - iv. Establishment and Free Exercise (and Free Speech)
      - 1. Locke v. Davey
      - 2. Rosenberger v. Rector and Visitors of University of Virginia
  - C. Guns
    - i. Interest Groups on Gun Control and the Second Amendment
      - 1. National Rifle Association, the Constitution, Bill of Rights, and Firearm Ownership in America

- 2. Brady Center to Prevent Gun Violence, Unintended Consequences: "What the Supreme Court's Second Amendment Decision in D. C.
  - v. Heller Means for the Future of Gun Laws"
- D. Personal Freedom and Public Morality
  - i. Zadvydas v. Davis
  - ii. Troxel v. Granville
  - iii. Kansas v. Hendricks
  - iv. *Smith v. Avino* (11th Cir. 1996)
  - v. State of Texas v. Acosta (TX, 2005)
  - vi. Reliable Consultants, Inc. v. Earle (5th Cir., 2008)
  - vii. Best v. St. Vincents Hospital (SDNY 2003)
  - viii. Abortion
    - 1. Gonzales v. Carhart
  - ix. Gay Rights
    - 1. Gay Rights Introduction
    - 2. States Debate Same-Sex Marriage
      - a. States Debate Same-Sex Marriage Introduction
      - b. In re Marriage Cases
      - c. Conaway v. Deane
      - d. Brady v. Dean (VT, 2001)
      - e. Goodridge v. Department of Public Health
      - f. State Constitutions and Laws on Same-Sex Marriage
      - g. The Defense of Marriage Act
  - x. Right to Die (and Right to Life)
    - 1. Right to Die Introduction
    - 2. The Terri Schiavo Affair
    - Washington v. Glucksberg
- III. Democratic Rights
  - A. Free Speech
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      - 1. Holder v. Humanitarian Law Project
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      - 3. United States v. Alvarez
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      - 11. Barr v. American Association of Political Consultants, Inc.
      - 12. Kansas v. Boettger
      - 13. State of Connecticut v. Liebenguth (CT 2020)
    - ii. Public Property, Subsidies, Employees and Schools
      - 1. New York Magazine v. Metropolitan Transportation Authority (2<sup>nd</sup> Cir., 1998)
      - 2. Schenck v. Pro-Choice Network of Western New York
      - 3. Urofsky v. Gilmore (4th Cir. 2000)

- 4. Saxe v. State College Area School District (3rd Cir. 2001)
- 5. Hardy v. Jefferson Community College (6th Cir. 2001)
- 6. Ridley v. Massachusetts Bay Transportation Authority (1st Cir., 2004)
- 7. Rumsfeld v. Forum for Academic and Institutional Rights, Inc.
- 8. Legal Services Corporation v. Velazquez, et al.
- 9. United States v. American Library Association
- 10. Pro-Life Cougars v. University of Houston (S.D. Tex. 2003)
- 11. Axson-Flynn v. Johnson (10th Cir. 2004)
- 12. Church of the American Knights of the Ku Klux Klan v. Kerik (2<sup>nd</sup> Cir. 2004)
- 13. ACLU-University of Maryland v. Mote (4th Cir. 2005)
- 14. Klein v. San Diego County (9th Cir. 2006)
- 15. Bowman v. White (8th Cir. 2006)
- 16. Nuxoll v. Indian Prairie School District No. 204 (7th Cir. 2008)
- 17. Morse v. Frederick

### iii. Campaign Finance

- 1. McConnell v. Federal Election Commission
- 2. Randall v. Sorrell
- 3. Federal Election Commission v. Wisconsin Right to Life, Inc.
- 4. Colorado Education Association v. Rutt (CO 2008)

#### iv. Media

- 1. Media Introduction
- 2. Denver Area Educational Telecommunications Consortium, Inc. v. FCC
- 3. Reno v. American Civil Liberties Union
- 4. Rice v. Paladin Enterprises
- 5. Department of Justice Report on the Availability of Bombmaking Information

#### v. Obscenity

- 1. Obscenity Introduction
- 2. Ashcroft v. Free Speech Coalition
- 3. Ashcroft v. American Civil Liberties Union

### vi. Other Free Speech Issues

- 1. Commercial Speech Introduction
- 2. City of Ladue v. Gilleo
- 3. Grider v. Abramson (6th Cir. 1999)
- 4. City of Erie v. Pap's A.M.
- 5. American Amusement Machine Association v. Kendrick (7th Cir. 2001)
- 6. University Cities Studio, Inc. v. Corley (2nd Cir. 2001)
- 7. Conant v. Walters (9th Cir., 2002)
- 8. City of Los Angeles v. Alameda Books
- 9. Eldred v. Ashcroft
- 10. Boehner v. McDermott (D.C. Cir. 2007)
- 11. United States v. Rosen (E.D. Va., 2007)
- 12. State of Connecticut v. Parnoff (CT 2018)

# B. Voting

- i. The Voting Rights Acts
  - 1. The Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006
- ii. Gerrymandering
  - 1. Vieth v. Jubelirer
- iii. Majority-Minority Districts
  - 1. Easley v. Cromartie
- iv. Regulating Elections
  - 1. California Democratic Party v. Jones
- C. Citizenship
  - i. Citizenship Introduction
  - ii. Saenz v. Roe
- IV. Equality
  - A. Equality under Law
    - i. Wal-Mart Stores, Inc. v. City of Turlock
    - ii. Retail Industry Leaders Association v. Fielder
    - iii. Hug v. Henstock (Neb., 2008)
  - B. Gender
    - i. State ERAs
      - 1. New Mexico Right to Choose/NARAL v. Johnson
      - 2. Bell v. Low Income Women of Texas
    - ii. Federal Power to Promote Gender Equality
      - 1. United States v. Morrison
      - 2. Nevada Department of Human Resources v. Hibbs
  - C. Native Americans
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- V. Criminal Justice
  - A. Due Process and Habeas Corpus
    - i. Due Process
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        - a. Saucier v. Katz
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      - 1. The Antiterrorism and Effective Death Penalty Act
        - a. Felker v. Turpin (expanded on the web)
  - B. Search and Seizure
    - i. Knowles v. Iowa
    - ii. Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls
    - iii. Safford Unified School District No. 1 v. Redding
    - iv. Ferguson v. City of Charleston
    - v. Kyllo v. United States
    - vi. Illinois v. Caballes
    - vii. Rodriguez v. United States
    - viii. United States v. Martin (8th Cir., 2005)
  - C. Interrogations
    - i. Missouri v. Seibert
  - D. Juries and Lawyers

- i. Juries and Lawyers Introduction
- ii. Juries
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- iii. Lawyers
  - 1. Burdine v. Johnson
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  - i. The Death Penalty
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    - 3. Roper v. Simmons
  - ii. Proportionality
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- F. Infamous Crimes and Criminals
  - i. The War on Terror
    - 1. Hamdan v. Rumsfeld
    - 2. United States v. Awadallah
    - 3. Ashcroft v. al-Kidd
    - 4. Tabbaa v. Chertoff
    - 5. Electronic Surveillance
      - a. Department of Justice, Paper on National Security Agency Activities
      - b. Congressional Research Service, Presidential Authority to Conduct Warrantless Electronic Surveillance to Gather Foreign Intelligence Information
      - c. Dworkin, "On NSA Spying: A Letter to Congress"
    - 6. Enhanced Interrogation
      - a. Memoranda on Standards of Conduct of Interrogation ("Torture Memos")
        - (i) Bybee, Memo to Albert R. Gonzales, Counsel to the President
        - (ii) Yoo, Memo to William J. Haynes II, General Counsel of the Department of Defense
        - (iii) Levin, Memo to James B. Comey, Deputy Attorney General
- 12. The Contemporary Era: 2009–Present
  - I. Introduction
    - A. Introduction to 2012–2013 Term
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    - C. Introduction to the 2012–2015 Terms
    - D. Introduction to the 2015–2016 Term
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      - i. Obama, Inaugural Address
      - ii. The Nomination of Samuel Alito to the U.S. Supreme Court

- iii. 2012 National Party Platforms
- iv. Obama, Second Inaugural Address
- v. The Tea Party
- B. Scope
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    - 1. Timbs v. Indiana
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    - . Kiobel v. Royal Dutch Petroleum
  - iii. State Action
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- III. Individual Rights
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      - 3. In re Pension Reform Litigation (Heaton v. Quinn) (IL, 2015)
      - 4. Sveen v. Melin
    - ii. Takings
      - 1. Stop the Beach Renourishment, Inc. v. Florida Dept. of Environmental Protection
      - 2.
      - 3. Koontz v. St. Johns River Water Management District
      - 4. Horne v. Department of Agriculture
      - 5. Murr v. Wisconsin
      - 6. Knick v. Township of Scott, Pennsylvania
      - 7. Arkansas Game & Fish Commission v. United States
      - 8. Lech v. Jackson (10th Cir. 2019)
      - 9. In re Downstream Addicks and Barker (Texas) Flood-Control Reservoirs (Fed. Cl. 2020)
      - 10. Friends of Danny Devito, et al. v. Wolf (PA 2020)
    - iii. Due Process
      - 1. *Davis v. Cox* (WA, 2015)
      - 2. Din v. Kerry
      - 3. Kingsley v. Hendrickson
      - 4. State of Washington v. Trump (9th Cir., 2017)
  - B. Religion
- 1. Town of Greece v. Galloway
- 2. Barber v. Bryant (SD Miss., 2016)
- 3. International Refugee Assistance Project v. Trump (4th Cir., 2017)
- 4. Trump v. International Refugee Assistance Project
- 5. Trump v. Hawaii
- 6. Religious Monuments
  - a. Salazar v. Buono
  - b. Prescott v. Oklahoma Capitol Preservation Committee (OK, 2015)
  - c. American Legion v. American Humanist Association
- ii. Free Exercise
  - 1. Hosanna-Tabor Evangelical Lutheran Church and School v. E.E.O.C.

- 2. Stormans Incorporated v. Selecky (W.D. Wash., 2012)
- 3. Burwell v. Hobby Lobby Stores
- 4. Holt v. Hobbs
- 5. Ken Paxton, Right of Government Officials Involved with Issuing Same-Sex Marriage Licenses
- 6. Sam Brownback, Preservation and Protection of Religious Freedom
- 7. Debate over Exemptions from the Affordable Care Act
- 8. Stormans Inc. v. Wiesman
- 9. Craig v. Masterpiece Cakeshop (CO 2015)
- 10. Trinity Lutheran Church v. Comer
- 11. Masterpiece Cakeshop, Ltd v. Colorado Civil Rights Commission
- 12. Morris County Board of Chosen Freeholders v. Freedom From Religion Foundation
- 13. Legacy Church v. Kunkel (D.NM 2020)
- 14. *Roberts v. Neace* (6th Cir. 2020)
- 15. Archdiocese of Washington v. Washington Metropolitan Area Transit Authority
- 16. Calvary Chapel Dayton Valley v. Sisolak
- 17. South Bay United Pentecostal Church v. Newsom
- 18. Davis v. Ermold
- 19. Ermold v. Davis
- 20. Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania
- 21. Our Lady of Guadalupe School v. Morrissey-Berru
- 22. Roman Catholic Diocese of Brooklyn v. Cuomo
- iii. Establishment and Free Exercise (and Free Speech)
  - 1. Espinoza v. Montana Department of Revenue

### C. Guns

- i. *Heller v. District of Columbia* (the 2011) (D.C. Cir. Case on assault rifles)
- ii. Moore v. Madigan (7th Cir., 2012)
- iii. City of Seattle v. Evans (WA 2014)
- iv. Drake v. Jerejian (3rd Cir., 2013)
- v. Caetano v. Massachusetts
- vi. Friedman v. City of Highland Park, Illinois
- vii. Kolbe v. Hogan (3rd Cir., 2016)
- viii. Peruta v. California
- ix. Silverster v. Beccera
- x. Duncan v. Beccera (9th Cir. 2020)
- xi. Federal and State Court Decisions on the Right to Bear Arms after District of Columbia v. Heller
- xii. New York State Rifle & Pistol Association, Inc. v. City of New York, New York I
- xiii. Rogers v. Grewal
- D. Personal Freedom and Public Morality
  - i. In re William Taylor (CA, 2015)
  - ii. In re Snyder (KS 2018)
  - iii. Herbert H. Slatery III, Opinion on the Constitutionality of Mask Mandate
  - iv. Abortion
    - 1. Texas Medical Providers Performing Abortion Services v. Lakey

- 2. Pain-Capable Unborn Child Protection Act
- 3. Texas Medical Providers Performing Abortion Services v. Lakey (5<sup>th</sup> Cir., 2012)
- 4. Stuart v. Camnitz (4th Cir., 2014)
- 5. McCormack v. Herzog (9th Cir., 2015)
- 6. Whole Woman's Health v. Cole (5th Cir., 2015)
- 7. Whole Woman's Health v. Hellerstedt
- 8. Whole Woman's Health v. Hellerstedt (USDC WDist TX, 2017)
- 9. Harris v. West Alabama Women's Center and Gee v. Planned Parenthood of Gulf Coast, Inc.
- 10. Box v. Planned Parenthood of Indiana and Kentucky, Inc.
- 11. Food and Drug Administration v. American College of Obstetricians and Gynecologists
- 12. June Medical Services, L.L.C. v. Russo

## v. Gay Rights

- 1. Perry v. Brown
- 2. Windsor v. United States (DOMA)
- 3. Same-Sex Marriage and LGBT Rights in the Year after Windsor
- 4. Baskin v. Bogan (7th Cir., 2014)
- 5. DeBoer v. Snyder (6th Cir., 2014)
- 6. Obergefell v. Hodges
- 7. Pavan v. Smith
- 8. Bostock v. Clayton County, Georgia

## IV. Democratic Rights

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- i. Advocacy
  - 1. Holder v. Humanitarian Law Project
  - 2. Brown v. Entertainment Merchants Association
  - 3. United States v. Alvarez
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  - 6. Reed v. Town of Gilbert, Arizona
  - 7. Lozman v. City of Riviera Beach, Florida
  - 8. McKee v Cosby
  - 9. Nieves v. Bartlett
  - 10. United States v. Miselis (4th Cir. 2020)
  - 11. Barr v. American Association of Political Consultants, Inc.
  - 12. Kansas v. Boettger
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  - 14. State of Connecticut v. Liebenguth (CT 2020)
- ii. Public Property, Subsidies, Employees and Schools
  - 1. Pleasant Grove City, Utah v. Summum
  - 2. Agency for International Development v. Open Society International I
  - 3. Lane v. Franks
  - 4. Walker v. Texas Div. Sons of Confederate Veterans
  - 5. Christian Legal Society Chapter v. Martinez
  - 6. McCauley v. University of Virgin Islands (3rd Cir. 2010)

- 7. Adams v. University of North Carolina-Wilmington (4th Cir. 2011)
- 8. Demers v. Austin (9th Cir. 2014)
- 9. People v. Marquan (NY 2014)
- 10. Keefe v. Adams (8th Cir., 2016)
- 11. Matal v. Tam
- 12. Davison v, Loudon County Board of Supervisors (E.D. Va., 2017)
- 13. McAdams v. Marquette University (WI 2018)
- 14. Morgan v. Bevin (E.D. Ky. 2018)
- 15. Knight First Amendment Institute v. Trump (S.D.N.Y., 2018)
- 16. Trump v. Knight First Amendment (2nd Cir., 2019)
- 17. Felkner v. Rhode Island College (RI 2019)
- 18. Janus v. American Federation of State, County and Municipal Employees, Council 31
- 19. Iancu v. Brunnetti
- 20. Agency for International Development v. Alliance for Open Society International, Inc. (II)
- 21. Trump v. Trump (NY 2020)
- iii. Campaign Finance
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  - 2. Bluman v. Federal Election Commission (D.C. Cir. 2011)
  - 3. American Traditional Partnership, Inc. v. Bullock
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  - 5. Williams-Yulee v. Florida Bar
- iv. Obscenity
  - 1. *In re S.K.* (MD 2019)
- v. Other Free Speech Issues
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  - 2. Sorrell v. IMS Health Inc.
  - 3. Anderson v. City of Hermosa Beach (9th Cir., 2010)
  - 4. United States v Stevens
  - 5. Glik v. Cunniffe (1st Cir., 2011)
  - 6. Pickup v. Brown (9th Cir., 2013)
  - 7. Friedrichs v. California Teachers Association (C.D. Cal., 2013)
  - 8. Wollschlaeger v. Florida (11th Cir., 2014)
  - 9. Rideout v. Gardner (1st Cir, 2016)
  - 10. Defense Distributed v. United States Department of State (5th Cir., 2016)
  - 11. Packingham v. North Carolina
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  - 13. Minnesota Votes Alliance v. Mansky
  - 14. National Institute of Family and Life Advocates v. Becerra
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- B. Voting
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  - ii. One Person, One Vote
    - 1. Harris v. Arizona Independent Redistricting Commission (D. Az., 2014)

- 2. Harris v. Arizona Independent Redistricting Commission
- 3. Baten v. McMaster (4th Cir. 2020)
- iii. The Voting Rights Acts
  - 1. Northwest Austin Municipal Utility District No. 1 v. Holder
  - 2. Shelby County, Ala v. Holder
- iv. Gerrymandering
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- v. Majority-Minority Districts
  - 1. Alabama Legislative Black Caucus v. Alabama
- vi. Regulating Elections
  - 1. Applewhite v. Commonwealth
  - 2. North Carolina Debates on Voter Identification
  - 3. Frank v. Walker (7th Cir., 2014)
  - 4. League of Women Voters of Wisconsin Education Network v. Walker (WI, 2014)
  - 5. NAACP v. Walker (WI, 2014)
  - 6. Martin v. Kohls (Ark., 2014)
  - 7. Andino v. Middleton
  - 8. Democratic National Committee v. Wisconsin State Legislature
  - 9. Little v. Reclaim Idaho
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  - 11. Republican Party of Pennsylvania v. Boockvar
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      - 2. Ricci v. DeStefano
      - 3. Fisher v. University of Texas at Austin
      - 4. Coalition to Defend Affirmative Action v. Regents of the University of Michigan
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      - 6. Fisher v. University of Texas at Austin (5th Cir., 2014)

- 7. Fisher v. University of Texas
- 8. Fisher v. University of Texas (2016)
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      - 3. Wearry v. Cain
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      - 5. Nelson v. Colorado
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      - 7. Sessions v. Dimaya
      - 8. United States v. Davis
      - 9. Al Hela v. Trump (DC Cir. 2020)
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        - b. Hernandez v. Mesa
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    - xix. Zigler v. Abbasi
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- xxi. Carpenter v. United States
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- C. Interrogations
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- D. Juries and Lawyers
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- F. Infamous Crimes and Criminals
  - i. The War on Terror
    - 1. Koh, "The Obama Administration and International Law"
    - 2. Electronic Surveillance
      - a. House Hearings on FISA Reauthorization

- b. House Hearings on the Disclosure of NSA Intelligence Gathering
- c. House Hearings on FISA Reforms
- d. American Civil Liberties Union v. Clapper (2nd Cir., 2015)