

Religion & Const. Spring 2004; Exam No. _____; Raw Score _____; Exam Grade _____

Question I (high school hallway mural) (50 points)

Christian Club (CC) - standing for free speech claim based on censorship of club design-(2) _____
Amanda Anderson(AA)-city taxpayer standing for Estab Cl (EC)-\$500 grant to school---(3) _____
AA-noneconomic standing, but hasn't seen, no change in behavior - like Valley Forge---(3) _____
CC claim-high school(HS) created pub forum-mural and can't engage in viewpt discrim-(2) _____
HS EC defense to CC-strict scrutiny-nec'y to avoid EC violation-allow cross,violate EC?(2) _____
AA-Bible verse violates EC, HS argues no EC viol if allow Bible, HS must say cross dif(1) _____
Lemon test-purpose not advance or endorse, but to include all viewpts in a pub forum---(3) _____
Effect-students see every day; prominent place, must attend HS, are they impressionable-(3) _____
Psychological coercion?-unattended display, need not look, pledge, pray or show respect(3) _____
Endorsement (indoctrination)-what would knowledgeable observer think of cross, Bible-(3) _____
Who is speech attributed to-public forum or school's own speech as in Doe------(2) _____
imprimatur of HS-principal's idea; he approves; HS controls walls; teachers help; govt \$(4) _____
plaque w/club name, all clubs-diversity not one student as in Doe, no design guidelines--(4) _____
School could add another disclaimer-mural by students & reflects their views, not school(3) _____
Cross associated w/Christianity, religious symbol permanently in school, not holiday-----(2) _____
mixed w/secular symbols-ok like Lynch holiday display------(2) _____
Bible verse-not a relig symbol like cross; but Christian religious beliefs in Bible verse---(3) _____
excessive entanglemnt-no relig orgs, but CC relig org & principal decides on religious sp-(2) _____
Miscellaneous _____ (3) _____

Question II (Church of Materiality) (50 points)

substantial burden - choice between beliefs and license to practice law------(3) _____
sincerely-held - no evidence not sincere, issue not reasonableness of beliefs------(3) _____
critical issue - are these religious beliefs or just lifestyle choices or life philosophy------(3) _____
Malnak test-Ultimate quests-purpose of life, is there an afterlife, divine force, etc------(4) _____
Comprehensive beliefs-addresses only imp of \$-but in comprehensive way-set of beliefs
surrounding getting & keeping wealth and its importance in this life and beyond------(4) _____
Does it have ceremonies, etc. that resemble traditional religions-weekly worship services; church
symbol, alter of materialism, living saints, church hierarchy------(4) _____
If religious - what is test-neutral law of gen'l applicability-Smith-reasonableness review-(3) _____
state has reasonable basis for imposing req bec shortage of legal services for the poor-----(3) _____
strict scrutiny-not crim law;indiv hearings-ask for exemption (exmp)-Sherbert exception(4) _____
But not unemployment comp or other gov't benefit; obligation imposed on lawyers------(3) _____
If strict scrutiny - compelling end of providing legal services for indigents------(3) _____
is it necessary that no religious exemption be granted------(2) _____
state argues nec'y to tell lawyers that serving needy is imp job of profession-goal undermined by
broad exmp; with current exmp if get have to make up time-BB doesn't want to do that--(3) _____
BB argues not nec'y-# who would seek relig exmp is few; no evidence that attys are falsely
claiming relig exmp; high cost of getting caught-disbarred-would discourage fraud------(3) _____
not an accommodation case because government has not chosen to accommodate------(2) _____
Miscellaneous _____ (3) _____

Question III (School Choice Scholarship Fund)

- Standing-state taxpayer-genuine state spending program------(2) _____
- parochial school funding case so use Agostini test------(3) _____
- secular purpose-improve educ.; reduce overcrowding; give choice where to attend school(2) _____
- is money distributed based on religion?; enrollment of former public school students-----(3) _____
- excessive entanglement? monitoring?; only admin coop-enrollment figures------(3) _____
- indoctrination of religion - critical issue is whether the money winds up in the hands of parochial schools as the result of independent private choices or directly from the state------(3) _____
- MM argues state gives money directly to schools to reimburse for cost of scholarships-----(3) _____
- money can be diverted for religious use-no limit on what it can be used for------(3) _____
- Direct grant \$ to parochial schs-\$ never in student hands, not ok w/maj,not even Thomas(3) _____
- State argues ok bec functional equivalent of private choice program-school only reimbursed once it awards a scholarship to a student and that student chooses to attend the school------(4) _____
- MM argues that allocation based on attendance figures-like per capita not choice plan------(2) _____
- Is it private choice plan w/broad group of beneficiaries-only private schools eligible, not pub schools, most private schools are sectarian;help to lure students who went to pub schs-----(4) _____
- Trend shows encourages sectarian attendance-80/20; 85/25 reimbursemts; 90/10 enrolled-(3) _____
- School says allocation irrelevant, school only gets \$ once students make a choice------(3) _____
- MM says allocation critical-determines # of scholarships can offer & affects enrollment---(3) _____
- School decides whether & amount to offer students-use state \$ to discrim among religions(3) _____
- Miscellaneous _____ (3) _____