V. 2. EQUAL PROTECTION ; CIVIL AND CRIMINAL JUSTICE pdf

1: Selective prosecution - Wikipedia

"Equal Justice Under Law" These are the words emblazoned on the front of the United States Supreme Court www.enganchecubano.com the country seems divided about whether these words, harking back to the 14th Amendment, have actually become a reality.

Under these civil rights laws, the Attorney General is authorized to institute civil actions for appropriate relief. These special procedures are described in the paragraphs devoted to the Section responsible for enforcing the statute. The Assistant Attorney General for the Civil Rights Division and the United States Attorneys should cooperate in the enforcement of civil rights laws by taking complementary steps to protect fully the interests of the United States and to assure the effective investigation and successful prosecution of civil rights cases. The Assistant Attorney General for the Civil Rights Division retains final authority to determine whether a civil rights investigation should be opened; a complaint should be filed; or a case should be settled, and on what terms. Division of responsibilities is determined on a case-by-case basis. The following procedures are generally applicable to investigation and litigation in civil matters in which the Civil Rights Division has primary responsibility. Pre-investigation review includes taking actions such as speaking to and reviewing materials received from a complainant and reviewing publicly available information. The Assistant Attorney General for the Civil Rights Division retains final authority to determine whether a civil rights investigation should be opened. Some civil rights statutes also require the complaint to be signed by the Attorney General. Unless specifically delegated, ultimate responsibility for the conduct and resolution of civil rights cases remains with the Assistant Attorney General for the Civil Rights Division. In light of the statutory requirement of certification by the Attorney General, any request for intervention from a private litigant received by the United States Attorney should be forwarded to the Civil Rights Division with a recommendation. Additionally, the Fair Housing Act, 42 U. A motion to intervene may not be filed until 90 days after the commencement of the action. In the motion to intervene, the Attorney General must certify to the court that the appropriate state officials have been notified of a the alleged conditions and pattern or practice; b the supporting facts giving rise to the alleged conditions; and c the minimum measures that may remedy the alleged conditions and the alleged pattern or practice. Motions to intervene and certifications must be signed by the Attorney General personally. The Civil Rights Division has a strong interest in ensuring that the Department of Justice presents consistent arguments nationwide on civil rights issues. All substantive pleadings must be provided to the Appellate Section for review and approval 7 days prior to the filing deadline. As discussed in In addition, in cases in which the United States is a co-litigant with a private plaintiff, it is appropriate to consult with the co-litigant about evidence the United States expects to submit to the court and otherwise to cooperate and share information with the co-litigant where doing so advances the interest of the United States and is consistent with applicable law and the rules of the court. Amicus participation by the Civil Rights Division generally should be limited to cases: Amicus participation in instances not meeting the above criteria may be considered on a case-by-case basis. In addition to the general guidelines, other factors that should be considered in determining whether to recommend amicus participation include: Statements of Interest in District Courts. The Department of Justice is authorized under 28 U. The Assistant Attorney General for the Civil Rights Division, or his or her designee, may approve the filing of a statement of interest. Amicus Participation in Appellate Courts. As noted in Section The Employment Litigation Section also defends: In addition to discriminatory terminations and refusals to hire, Title VII forbids all other discriminatory practices with respect to terms or conditions of employment as well as retaliation for engaging in activities protected by Title VII. The Department of Justice has authority to seek to remedy employment discrimination by state and local governments and their agencies and political subdivisions. The EEOC has authority to seek to remedy employment discrimination by private employers. The EEOC also has primary enforcement responsibility with respect to allegations of discrimination by the federal government. In the case of a Title VII charge of discrimination against a state or local government or governmental agency, if the EEOC has found reasonable cause to believe a violation has occurred and has

been unable to secure an acceptable conciliation agreement, it will refer the charge to the Civil Rights Division, Employment Litigation Section, which may file a civil action under Section of Title VII. In addition, the Employment Litigation Section may, without prior referral, initiate pattern or practice suits under Section of Title VII against state or local government employers. Those who complain of discrimination by an agency of the federal government should be advised to bring their complaint to the attention of the equal employment opportunity officer of the agency involved and the EEOC. The Assistant Attorney General for the Civil Rights Division retains final authority to determine whether a civil rights investigation should be opened; a complaint should be filed; or, in most instances, a case should be settled, and on what terms. The Civil Division generally defends federal agencies in employment discrimination suits filed by individuals against the government. Executive Order forbids discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin by such contractors or subcontractors. The Department of Labor, which retains primary enforcement responsibility, may, if unable to obtain compliance, refer the case to the Department of Justice for appropriate legal proceedings. The Department of Labor investigates such complaints, determines whether they have merit, and attempts to voluntarily resolve complaints it determines have merit. If the Department of Labor does not resolve a complaint, regardless of whether it determines the complaint to have merit, it will refer the complaint to the Employment Litigation Section upon the request of the servicemember who filed the complaint. USERRA provides that the Attorney General, through the Employment Litigation Section, may represent a claimant in federal district court if he or she determines that the claimant is entitled to the rights or benefits being sought. Additionally, the Section litigates a large number of cases in which it challenges practices of school districts that result in illegal student segregation on the basis of race or color. The complaint must be in writing and signed by a parent or group of parents or, in the case of colleges or universities, by the person aggrieved. The complaint should contain a statement to the effect that the school board is depriving children of the equal protection of the laws, or, if it is a college-level complaint, that the complainant has been denied admission or not permitted to continue attending a public college by reason of race, color, religion, national origin, or sex. Complainants should be advised of these requirements. Local education agencies include public schools and school districts. State education agencies include state departments and boards of education. The segregative acts of state and local education agencies that deny students equal educational opportunity are specifically described in the EEOA, 20 U. In addition, the Attorney General may file a civil action on behalf of any individual denied equal educational opportunity when state or local education agencies fail to take appropriate action to overcome language barriers, 20 U. The Housing and Civil Enforcement Section is also responsible for enforcing two statutes that prohibit discrimination in programs receiving federal funds: The Fair Housing Act forbids discrimination based on race, color, religion, sex, familial status families with children under age 18 , national origin, or disability in the sale, rental, advertising, or financing of housing. Practices forbidden by the Fair Housing Act include not only the direct refusal to sell, rent, or finance, but also more sophisticated forms of discrimination such as blockbusting, racial steering, redlining, discriminating in zoning or land-use decisions, and providing false information about housing availability. In addition, with respect to individuals with disabilities, discrimination includes the refusal to permit the reasonable modification of existing premises to make them accessible and the refusal to make reasonable accommodations in rules, policies, practices, or services. Finally, the statute requires that most multifamily dwellings constructed for initial occupancy after March be accessible to persons with disabilities. HUD is authorized to receive and investigate individual complaints of discrimination and to attempt to obtain voluntary compliance with the Fair Housing Act through conciliation. In the event that the conciliation process fails, HUD may, upon finding reasonable cause to believe discrimination occurred, issue administrative charges alleging a Fair Housing Act violation. After HUD issues a charge, the matter can proceed in one of two ways: Additionally, under the Fair Housing Act, HUD is required to refer to the Attorney General 1 any complaint that involves the legality of a state or local zoning or other land use law or ordinance, 42 U. Interference with Housing Rights. The use of force or threats of force to interfere with fair housing rights may violate the criminal prohibitions of 42 U. Criminal prosecutions under 42 U. Under the Equal Credit Opportunity Act, the Attorney General is authorized to sue for injunctive and monetary relief

upon a finding of a pattern or practice of credit discrimination or when a case is referred by a federal regulatory agency. The Equal Credit Opportunity Act also provides for private suits. The statute does not authorize the Attorney General to pursue individual complaints of discrimination in the area of public accommodations, but individuals may pursue such claims privately under Title II and under other civil rights statutes. When an individual files a Title II action, the statute authorizes the Attorney General, in the discretion of the court, to intervene if the Attorney General certifies that the case is of general public importance. The Assistant Attorney General for the Civil Rights Division retains final authority to determine whether a civil rights investigation should be opened, or, in most instances, a case should be settled, and on what terms. Title III authorizes the Attorney General to institute a civil suit upon receipt of a written, signed complaint if the Attorney General believes that the complaint is meritorious, and certifies that the complainants are unable to initiate and maintain appropriate legal proceedings for relief and that filing the action will materially further the orderly progress of desegregation in public facilities. Individuals, houses of worship, and other religious institutions can also bring lawsuits in federal or state court to enforce RLUIPA. The Department of Justice can obtain monetary damages for aggrieved persons, civil penalties, and equitable relief. The Servicemembers Civil Relief Act also provides a private right of action to aggrieved individuals. First, the Federal Coordination and Compliance Section has staff responsibility for coordinating and ensuring consistent and effective enforcement by all executive agencies of laws that prohibit discrimination on the basis of race, color, national origin, sex, or religion by recipients of federal financial assistance. Recipients include state and local governments and agencies and departments thereof, such as police, departments of corrections, courts and others , corporations, partnerships, and individuals. The Federal Coordination and Compliance Section also coordinates compliance with various executive orders seeking to ensure that the federal government itself does not discriminate in programs and activities of federal agencies. Second, the Federal Coordination and Compliance Section investigates allegations of discrimination based on race, color, national origin including limited English proficiency , sex, or religion against recipients receiving financial assistance from the Department of Justice. In addition, many program-specific statutes such as the Safe Streets Act, 34 U. Each of these statutes has implementing regulations that help define statutory obligations and rights and set forth enforcement procedures. The regulations authorize the administrative agencies to enforce the statutes in several ways, including by referrals to the Civil Rights Division. The Federal Coordination and Compliance Section investigates complaints alleging that recipients of federal financial assistance from the Department of Justice engaged in discrimination, primarily on the basis of race, color, national origin, and sex, in violation of Title VI or Title IX. Department of Justice funding recipients include state and local law enforcement agencies, state departments of corrections, and courts. The Department of Justice will move to dismiss any lawsuits against the federal government for alleged violations of these statutes. Executive Order requires federal agencies to examine the extent to which their own programs and activities are accessible to LEP individuals who may be eligible for the services and benefits the agencies provide. The Department of Justice has responded to the Executive Order by implementing an LEP plan covering its federally conducted activities, available at http: Like Executive Order , Executive Order reaches federally conducted programs and activities. Specifically, Executive Order prohibits discrimination based on race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in federally conducted education and training programs and activities. Though both Executive Order and Executive Order apply to federal agency conduct, neither Executive Order creates a private right of action enforceable at law against the United States. Executive Order does, however, provide for administrative enforcement by individual agencies receiving complaints alleging discrimination in agency-conducted education and training programs. Responsibility for enforcement of these statutes within the Civil Rights Division generally resides with the Special Litigation Section and the Federal Coordination and Compliance Section. These institutions include, among others, state-run hospitals and nursing facilities, intermediate care facilities for persons with intellectual or developmental disabilities, prisons, jails, and juvenile facilities. To initiate suit under CRIPA, the Attorney General must have reasonable cause to believe that the deprivation of rights is part of a pattern or practice of denial of constitutional or, in some cases, federal statutory rights. The investigations and litigation focus on a

broad range of issues depending on the type of institution and the nature of the alleged deprivation of rights. Issues may include, for example, physical and sexual abuse, medical and mental health care, fire safety, sanitation, security, adequacy of treatment and training, and education. CRIPA also authorizes the Attorney General to intervene in any action commenced in any court of the United States seeking relief from conditions depriving persons in state or local institutions of their federal rights when the Attorney General has reason to believe that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities. The Assistant Attorney General for the Civil Rights Division retains final authority to determine whether an investigation should be opened or a case should be settled, and on what terms. Investigations involving law enforcement agencies cover a broad range of issues, but may include, for example, unreasonable use of force, unlawful searches and seizures, discriminatory policing, and conditions in holding cell facilities. Investigations involving the administration of juvenile justice address issues in the delinquency process, including actions that undermine key due process protections, equal protection, and other constitutional safeguards in juvenile proceedings. Investigations involving the incarceration of juveniles cover an array of issues in the operation of juvenile justice facilities, including abuse, crowding, medical and mental health care, fire safety, sanitation, security, adequacy of treatment and training, and education. Division of responsibilities is determined on a case-by- [added March] The Freedom of Access to Clinic Entrances Act also contains a provision barring such conduct with the intent to injure, intimidate, or interfere with a person seeking to exercise religious freedom at a place of religious worship.

V. 2. EQUAL PROTECTION ; CIVIL AND CRIMINAL JUSTICE pdf

2: Civil Rights Landmark Cases | The Judicial Learning Center

In jurisprudence, selective prosecution is a procedural defense in which a defendant argues that they should not be held criminally liable for breaking the law, as the criminal justice system discriminated against them by choosing to prosecute.

The office has worked on a number of initiatives with various groups throughout the district to further this goal. Brennan, who can be reached at bridget. The office has a vigorous docket on civil rights. The office has convicted more than 30 people of human trafficking and related crimes dating to And the office has used civil tools to ensure equal access to housing and voting rights and equal treatment for those with hearing or vision impairments or HIV. Among our recent successes: Sixteen people were sentenced to prison for their roles in a series of religiously motivated attacks on practitioners of the Amish faith. Indiana native Randy Linn pleaded guilty to hate crimes related to efforts to set fire to the Islamic Center of Greater Toledo, the largest mosque in northwest Ohio. Linn said during his plea hearing that he specifically targeted the mosque because of the faith of those who worshiped there. A white supremicist was sentenced to more than four years in prison after setting fire to the only predominantly African-American church in Conneaut, Ohio. That case led to the formation of United Against Hate, a group of religious leaders and clergy who have pledged to work together, regardless of denomination, to foster interfaith understanding and tolerance. Their message is that people should be able to worship as they see fit, free from intimidation. One year later, neighboring Lorain County agreed to add a bilingual ballot following discussions with our legal team. Our office reached a settlement with the Cleveland Cavs and Quicken Loans Arena following a complaint by a woman in a wheelchair who attended a concert at the arena. Under the terms of the agreement, the Cavs agreed to add additional wheelchair spaces, add captioning on arena scoreboards and ensure people with disabilities are provided accessible seating options, among other provisions. The Civil Rights Working Group consists of approximately 90 members representing more than 40 local organizations. It is jointly sponsored by the U. The goal is to increase understanding, break down barriers and educate the public and law enforcement on the prevention of hate crimes. For more information, call Mike Tobin at The National Human Trafficking Resource center is a toll-free hotline that can be used to access anti-trafficking resources, general information and to report a tip. That number is

V. 2. EQUAL PROTECTION ; CIVIL AND CRIMINAL JUSTICE pdf

3: Human And Civil Rights | USAO-NDOH | Department of Justice

The law, along with Connecticut's legalization of gay marriage in and its addition of gender identity to the list of equal protection classifications in , assured widespread rights to.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Before and during the Civil War, the Southern states violated the rights of free speech of pro-Union citizens, anti-slavery advocates, and northerners in general. During the Civil War, the Southern states stripped many white citizens of their state citizenship and banished them from the states, effectively confiscating their property. Shortly after the Union victory in the American Civil War , the Thirteenth Amendment was proposed by Congress and ratified by the states in , abolishing slavery. Many ex-Confederate states then adopted Black Codes following the war. These laws severely restricted the rights of blacks to hold property , including real property such as real estate and many forms of personal property , and to form legally enforceable contracts. These codes also created harsher criminal penalties for blacks than for whites. Sandford , and required that "citizens of every race and color Such doubts were one factor that led Congress to begin to draft and debate what would become the Equal Protection Clause of the Fourteenth Amendment. The most important among these, however, was Bingham, a Congressman from Ohio , who drafted the language of the Equal Protection Clause. The Southern states were opposed to the Civil Rights Act, but in Congress, exercising its power under Article I, section 5, clause 1 of the Constitution, to "be the Judge of the Qualifications of its own Members", had excluded Southerners from Congress, declaring that their states, having rebelled against the Union, could therefore not elect members to Congress. It was this factâ€”the fact that the Fourteenth Amendment was enacted by a " rump " Congressâ€”that allowed the Equal Protection Clause to be passed by Congress and proposed to the states. Its ratification by the former Confederate states was made a condition of their reacceptance into the Union. Here is the first version: When Senator Jacob Howard introduced that final version, he said: It protects the black man in his fundamental rights as a citizen with the same shield which it throws over the white man. Ought not the time to be now passed when one measure of justice is to be meted out to a member of one caste while another and a different measure is meted out to the member of another caste, both castes being alike citizens of the United States, both bound to obey the same laws, to sustain the burdens of the same Government, and both equally responsible to justice and to God for the deeds done in the body? A difference between the initial and final versions of the clause was that the final version spoke not just of "equal protection" but of "the equal protection of the laws". John Bingham said in January Supreme Court followed that Alabama case Burns v. State in the case of Loving v. In Burns, the Alabama Supreme Court said: The same right to make a contract as is enjoyed by white citizens, means the right to make any contract which a white citizen may make. The law intended to destroy the distinctions of race and color in respect to the rights secured by it. As for public schooling, no states during this era of Reconstruction actually required separate schools for blacks. New York gave local districts discretion to set up schools that were deemed separate but equal. The first truly landmark equal protection decision by the Supreme Court was Strauder v. A black man convicted of murder by an all-white jury challenged a West Virginia statute excluding blacks from serving on juries. We do not believe the Fourteenth Amendment was ever intended to prohibit this. Its aim was against discrimination because of race or color. The Act provided that all persons should have "full and equal enjoyment of Prohibiting blacks from attending plays or staying in inns was "simply a private wrong". Justice John Marshall Harlan dissented alone, saying, "I cannot resist the conclusion that the substance and spirit of the recent amendments of the Constitution have been sacrificed by a subtle and ingenious verbal criticism. Thus, the Clause would not be limited to discrimination against African Americans, but would extend to other races, colors, and nationalities such as in this case legal aliens in the United States who are Chinese citizens. Ferguson , the Supreme Court upheld a Louisiana Jim Crow law that

required the segregation of blacks and whites on railroads and mandated separate railway cars for members of the two races. Brown , ruled that the Equal Protection Clause had been intended to defend equality in civil rights , not equality in social arrangements. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. Such "arbitrary separation" by race, Harlan concluded, was "a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the Constitution. Bancroft, a former railway company president. Bancroft, acting as court reporter , indicated in the headnotes that corporations were "persons", while the actual court decision itself avoided specific statements regarding the Equal Protection Clause as applied to corporations. Since the New Deal , however, such invalidations have been rare. For example, in Missouri ex rel. Canada , Lloyd Gaines was a black student at Lincoln University of Missouri , one of the historically black colleges in Missouri. He applied for admission to the law school at the all-white University of Missouri , since Lincoln did not have a law school, but was denied admission due solely to his race. The Supreme Court, applying the separate-but-equal principle of Plessy, held that a State offering a legal education to whites but not to blacks violated the Equal Protection Clause. Kraemer , the Court showed increased willingness to find racial discrimination illegal. The Shelley case concerned a privately made contract that prohibited "people of the Negro or Mongolian race" from living on a particular piece of land. The companion cases Sweatt v. Painter and McLaurin v. Oklahoma State Regents , both decided in , paved the way for a series of school integration cases. Vinson , said that Oklahoma had deprived McLaurin of the equal protection of the laws: There is a vast differenceâ€”a Constitutional differenceâ€”between restrictions imposed by the state which prohibit the intellectual commingling of students, and the refusal of individuals to commingle where the state presents no such bar. The present situation, Vinson said, was the former. The Court again through Chief Justice Vinson, and again with no dissenters invalidated the school systemâ€”not because it separated students, but rather because the separate facilities were not equal. They lacked "substantial equality in the educational opportunities" offered to their students. All of these cases, as well as the upcoming Brown case, were litigated by the National Association for the Advancement of Colored People. It was Charles Hamilton Houston , a Harvard Law School graduate and law professor at Howard University , who in the s first began to challenge racial discrimination in the federal courts. Both men were extraordinarily skilled appellate advocates, but part of their shrewdness lay in their careful choice of which cases to litigate, selecting the best legal proving grounds for their cause. While Vinson was still Chief Justice, there had been a preliminary vote on the case at a conference of all nine justices. At that time, the Court had split, with a majority of the justices voting that school segregation did not violate the Equal Protection Clause. Warren, however, through persuasion and good-natured cajolingâ€”he had been an extremely successful Republican politician before joining the Courtâ€”was able to convince all eight associate justices to join his opinion declaring school segregation unconstitutional. To separate [children in grade and high schools] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Warren discouraged other justices, such as Robert H. In Brown II , decided in , it was concluded that since the problems identified in the previous opinion were local, the solutions needed to be so as well. Thus the court devolved authority to local school boards and to the trial courts that had originally heard the cases. Brown was actually a consolidation of four different cases from four different states. The trial courts and localities were told to desegregate with "all deliberate speed". The Court that decided Brown Partly because of that enigmatic phrase, but mostly because of self-declared " massive resistance " in the South to the desegregation decision, integration did not begin in any significant way until the mids and then only to a small degree. In fact, much of the integration in the s happened in response not to Brown but to the Civil Rights Act of The Supreme Court intervened a handful of times in the late s and early s, but its next major desegregation decision was not until Green v. Brennan , writing for a unanimous Court, rejected a "freedom-of-choice" school plan as inadequate. This was a significant decision; freedom-of-choice plans had been very common responses to Brown. Under these plans, parents could choose to send their children to either a formerly white or a formerly black school. Whites

almost never opted to attend black-identified schools, however, and blacks rarely attended white-identified schools. In response to Green, many Southern districts replaced freedom-of-choice with geographically based schooling plans; because residential segregation was widespread, little integration was accomplished. In , the Court in Swann v. Charlotte-Mecklenburg Board of Education approved busing as a remedy to segregation; three years later, though, in the case of Milliken v. Bradley , it set aside a lower court order that had required the busing of students between districts , instead of merely within a district. Bradley is one of several reasons that have been cited to explain why equalized educational opportunity in the United States has fallen short of completion. Rodriguez that the Equal Protection Clause allowsâ€”but does not requireâ€”a state to provide equal educational funding to all students within the state. Society of Sisters allowed families to opt out of public schools, despite "inequality in economic resources that made the option of private schools available to some and not to others", as Martha Minow has put it. Whether due to Brown, or due to Congressional action, or due to societal change, the percentage of black students attending majority-black school districts decreased somewhat until the early s, at which point that percentage began to increase. By the late s, the percentage of black students in mostly minority school districts had returned to about what it was in the late s. Seattle School District No. This is especially evident in the charter school system where parents of students can pick which schools their children attend based on the amenities provided by that school and the needs of the child. It seems that race is a factor in the choice of charter school. Sharpe , has been interpreted as imposing some of the same restrictions on the federal government: Texas the Supreme Court added: For example, Michael W. McConnell has written that Congress never "required that the schools of the District of Columbia be segregated. Tiered scrutiny[edit] Despite the undoubted importance of Brown, much of modern equal protection jurisprudence originated in other cases, though not everyone agrees about which other cases. This modern doctrine was pioneered in Skinner v. Oklahoma , which involved depriving certain criminals of the fundamental right to procreate: Until , the Supreme Court usually ended up dealing with discrimination by using one of two possible levels of scrutiny:

V. 2. EQUAL PROTECTION ; CIVIL AND CRIMINAL JUSTICE pdf

4: 10 Supreme Court cases about the 14th Amendment - National Constitution Center

Justice Tom Clark's majority opinion incorporated the Fourth Amendment's protection of privacy using the Due Process Clause of the 14th Amendment, a very controversial move. Gideon v. Wainwright (18 Mar) â€• Before , indigent Americans were not always guaranteed access to legal counsel despite the Sixth Amendment.

On July 9, , Louisiana and South Carolina voted to ratify the amendment, after they had rejected it a year earlier. The votes made the 14th Amendment officially part of the Constitution. But in the ensuing years, the Supreme Court was slow to decide how the new and old rights guaranteed under the federal constitution applied to the states. In the early Supreme Court decisions about the 14th Amendment, the Court often ruled in favor of limiting the incorporation of these rights on a state and local level. But starting in the s, the Court embraced the application of due process and equal protection, despite state laws that conflicted with the 14th Amendment. Here is a look at 10 famous Court decisions that show the progression of the 14th Amendment from Reconstruction to the era of affirmative action. The privileges and immunities of U. Plessy argued that the Louisiana statute violated the 13th and 14th Amendments by treating black Americans inferior to whites. Plessy lost in every court in Louisiana before appealing to the Supreme Court in In a decision, the Court held that as long as the facilities were equal, their separation satisfied the 14th Amendment. Justice John Marshall Harlan authored the lone dissent. Passionately he clarified that the Constitution was color-blind, railing the majority for an opinion which he believed would match Dred Scott in infamy. A socialist named Benjamin Gitlow printed an article advocating the forceful overthrow of the government and was arrested under New York state law. Gitlow argued that the First Amendment guaranteed freedom of speech and the press. When police asked to search her home, Mapp refused unless the police produced a warrant. The police used a piece of paper as a fake warrant and gained access to her home illegally. After searching the house without finding the bombing suspect, police discovered sexually explicit materials and arrested Mapp under state law that prohibited the possession of obscene materials. Mapp was convicted of possessing obscene materials and faced up to seven years in prison before she appealed her case on the argument that she had a First Amendment right to possess the material. Gideon, a Florida resident, was charged in Florida state court for breaking and entering into a poolroom with the intent to commit a crime. Due to his poverty, Gideon asked the Florida court to appoint an attorney for him. The court declined to do this and pointed to state law which said that the only time indigent defendants could be appointed an attorney was when charged with a capital offense. Left with no other choice, Gideon represented himself in trial and lost. He filed a petition of habeas corpus to the Florida Supreme Court, arguing that he had a constitutional right to be represented with an attorney, but the Florida Supreme Court did not grant him any relief. Estelle Griswold was the director of a Planned Parenthood clinic in Connecticut when she was arrested for violating a state statute that prohibited counseling and prescription of birth control to married couples. The question before the Supreme Court was whether the Constitution protected the right of married couples to privately engage in counseling regarding contraceptive use and procurement. It remains at the core of substantive due process debate today. Mildred and Richard Loving were residents of one such state, Virginia, who had fallen in love and wanted to get married. The two traveled to Washington D. Because their offense was a criminal conviction, after being found guilty, they were given a prison sentence of one year. The trial judge suspended the sentence for 25 years on the condition that the couple left Virginia. Furthermore, the Court concluded that the law was rooted in invidious racial discrimination, making it impossible to satisfy a compelling government interest. The Loving decision still stands as a milestone in the Civil Rights Movement. Regents of the University of California v. Bakke 26 Jun â€” Allan Bakke, a white man, had been denied access to the University of California Medical School at Davis on two separate occasions. The medical school set aside 16 spots for minority candidates in an attempt to address unfair minority exclusion from medical school. Bakke contested that his exclusion from the Medical School was entirely the result of his race. However, in his opinion, Powell said that the rigid use of racial quotas violated the equal protection clause of the 14th Amendment. Does the Constitution Require Birthright Citizenship?

V. 2. EQUAL PROTECTION ; CIVIL AND CRIMINAL JUSTICE pdf

5: What Trump's Pick for Supreme Court Could Mean for States' Rights | The Pew Charitable Trusts

These remarks examine how the legal principle of 'equal justice under law' is widely violated in America. The United States holds the most lawyers, but its legal system is among the least adequate when it comes to equal legal assistance.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Annotations Generally Due process requires that the procedures by which laws are applied must be evenhanded, so that individuals are not subjected to the arbitrary exercise of government power. However, it does not follow that a procedure settled in English law and adopted in this country is, or remains, an essential element of due process of law. Due process may also require an opportunity for confrontation and cross-examination, and for discovery; that a decision be made based on the record, and that a party be allowed to be represented by counsel. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment. Just as in criminal and quasi-criminal cases, an impartial decisionmaker is an essential right in civil proceedings as well. At the same time, it preserves both the appearance and reality of fairness. The justice was elected, declined to recuse himself, and joined a 3-to-2 decision overturning the jury verdict. It has spoken out not only in criminal cases,. Although this issue arises principally in the administrative law area, it applies generally. To demonstrate compliance with this elementary requirement, the decisionmaker should state the reasons for his determination and indicate the evidence he relied on, though his statement need not amount to a full opinion or even formal findings of fact and conclusions of law. Kelly, the Court held that a government agency must permit a welfare recipient who has been denied benefits to be represented by and assisted by counsel. Rather, the Court focuses on the circumstances in individual cases, and may hold that provision of counsel is not required if the state provides appropriate alternative safeguards. Since then, the Court has followed an inconsistent path of expanding and contracting the breadth of these protected interests. For instance, where household goods were sold under an installment contract and title was retained by the seller, the possessory interest of the buyer was deemed sufficiently important to require procedural due process before repossession could occur. This principle, discussed previously in the First Amendment context, was pithily summarized by Justice Holmes in dismissing a suit by a policeman protesting being fired from his job: Indeed, for a time it appeared that this positivist conception of protected rights was going to displace the traditional sources. As noted previously, the advent of this new doctrine can be seen in Goldberg v. This approach, the Court held, was inappropriate. Rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state lawâ€”rules or understandings that secure certain benefits and that support claims of entitlement to those benefits. Sindermann, a professor employed for several years at a public college was found to have a protected interest, even though his employment contract had no tenure provision and there was no statutory assurance of it. Lopez, an Ohio statute provided for both free education to all residents between five and 21 years of age and compulsory school attendance; thus, the state was deemed to have obligated itself to accord students some due process hearing rights prior to suspending them, even for such a short period as ten days. In Town of Castle Rock v. Gonzales, the Court considered whether police officers violated a constitutionally protected property interest by failing to enforce a restraining order obtained by an estranged wife against her husband, despite having probable cause to believe the order had been violated. Kennedy, an incipient counter-revolution to the expansion of due process was rebuffed, at least with respect to entitlements. Three Justices sought to qualify the principle laid down in the entitlement cases and to restore in effect much of the right-privilege distinction, albeit in a new formulation. The case involved a federal law that provided that employees could not be discharged except for cause, and the Justices acknowledged that due process rights could be created through

statutory grants of entitlements. The Justices, however, observed that the same law specifically withheld the procedural protections now being sought by the employees. But the other six Justices, although disagreeing among themselves in other respects, rejected this attempt to formulate the issue. While the legislature may elect not to confer a property interest in federal employment, it may not constitutionally authorize the deprivation of such an interest, once conferred, without appropriate procedural safeguards. Although the majority opinion was couched in terms of statutory construction, the majority appeared to come close to adopting the three-Justice Arnett position, so much so that the dissenters accused the majority of having repudiated the majority position of the six Justices in Arnett. And, in Goss v. Lopez, Justice Powell, writing in dissent but using language quite similar to that of Justice Rehnquist in Arnett, seemed to indicate that the right to public education could be qualified by a statute authorizing a school principal to impose a ten-day suspension. Inadvertently, the Commission scheduled the hearing after the expiration of the days and the state courts held the requirement to be jurisdictional, necessitating dismissal of the complaint. Although the traditional concept of liberty was freedom from physical restraint, the Court has expanded the concept to include various other protected interests, some statutorily created and some not. Wright, the Court unanimously agreed that school children had a liberty interest in freedom from wrongfully or excessively administered corporal punishment, whether or not such interest was protected by statute. Among the historic liberties so protected was a right to be free from, and to obtain judicial relief for, unjustified intrusions on personal security. Rather, his interest in reputation is simply one of a number which the State may protect against injury by virtue of its tort law, providing a forum for vindication of those interest by means of damage actions. A number of liberty interest cases that involve statutorily created entitlements involve prisoner rights, and are dealt with more extensively in the section on criminal due process. However, they are worth noting here. Fano, the Court held that a state prisoner was not entitled to a fact-finding hearing when he was transferred to a different prison in which the conditions were substantially less favorable to him, because 1 the Due Process Clause liberty interest by itself was satisfied by the initial valid conviction, which had deprived him of liberty, and 2 no state law guaranteed him the right to remain in the prison to which he was initially assigned, subject to transfer for cause of some sort. As a prisoner could be transferred for any reason or for no reason under state law, the decision of prison officials was not dependent upon any state of facts, and no hearing was required. Thus, the Court has recognized, in this case and in the cases involving revocation of parole or probation, a liberty interest that is separate from a statutory entitlement and that can be taken away only through proper procedures. But, with respect to the possibility of parole or commutation or otherwise more rapid release, no matter how much the expectancy matters to a prisoner, in the absence of some form of positive entitlement, the prisoner may be turned down without observance of procedures. For instance, persons adversely affected by a law cannot challenge its validity on the ground that the legislative body that enacted it gave no notice of proposed legislation, held no hearings at which the person could have presented his arguments, and gave no consideration to particular points of view. The Constitution does not require all public acts to be done in town meeting or an assembly of the whole. General statutes within the state power are passed that affect the person or property of individuals, sometimes to the point of ruin, without giving them a chance to be heard. Their rights are protected in the only way that they can be in a complex society, by their power, immediate or remote, over those who make the rule. While acknowledging that history and settled practice required proceedings in which pleas, answers, and trials were requisite before property could be taken, the Court observed that the distress collection of debts due the crown had been the exception to the rule in England and was of long usage in the United States, and was thus sustainable. The fact that the execution was issued in the first instance by a governmental officer and not from a court, followed by personal notice and a right to take the case into court, was seen as unobjectionable. The person may be remitted to other actions initiated by him or an appeal may suffice. Accordingly, a surety company, objecting to the entry of a judgment against it on a supersedeas bond, without notice and an opportunity to be heard on the issue of liability, was not denied due process where the state practice provided the opportunity for such a hearing by an appeal from the judgment so entered. Nor could the company found its claim of denial of due process upon the fact that it lost this opportunity for a hearing by inadvertently pursuing the wrong procedure in the state courts.

Eldridge, which concerned termination of Social Security benefits. The termination of Social Security benefits at issue in Mathews would require less protection, however, because those benefits are not based on financial need and a terminated recipient would be able to apply for welfare if need be. Moreover, the determination of ineligibility for Social Security benefits more often turns upon routine and uncomplicated evaluations of data, reducing the likelihood of error, a likelihood found significant in Goldberg. Finally, the administrative burden and other societal costs involved in giving Social Security recipients a pretermination hearing would be high. Therefore, a post-termination hearing, with full retroactive restoration of benefits, if the claimant prevails, was found satisfactory. Earlier cases, which had focused upon the interests of the holders of the property in not being unjustly deprived of the goods and funds in their possession, leaned toward requiring predeprivation hearings. Newer cases, however, look to the interests of creditors as well. Resolution of the due process question must take account not only of the interests of the buyer of the property but those of the seller as well. Shevin, which struck down a replevin statute that authorized the seizure of property here household goods purchased on an installment contract simply upon the filing of an ex parte application and the posting of bond, has been limited, so that an appropriately structured ex parte judicial determination before seizure is sufficient to satisfy due process. Eldridge standard in the context of government employment, the Court has held, albeit by a combination of divergent opinions, that the interest of the employee in retaining his job, the governmental interest in the expeditious removal of unsatisfactory employees, the avoidance of administrative burdens, and the risk of an erroneous termination combine to require the provision of some minimum pre-termination notice and opportunity to respond, followed by a full post-termination hearing, complete with all the procedures normally accorded and back pay if the employee is successful. The principal difference with the Mathews v. Whether the case signals a shift away from evidentiary hearing requirements in the context of regulatory adjudication will depend on future developments. In City of Los Angeles v. When he subsequently sought to challenge the imposition of this impoundment fee, he was unable to obtain a hearing until 27 days after his car had been towed. The Court held that the delay was reasonable, as the private interest affectedâ€”the temporary loss of the use of the moneyâ€”could be compensated by the addition of an interest payment to any refund of the fee. Further factors considered were that a day delay was unlikely to create a risk of significant factual errors, and that shortening the delay significantly would be administratively burdensome for the city. For instance, in an alteration of previously existing law, no hearing is required if a state affords the claimant an adequate alternative remedy, such as a judicial action for damages or breach of contract. Neff, the Court enunciated two principles of jurisdiction respecting the states in a federal system In Personam Proceedings Against Individuals. Consent has always been sufficient to create jurisdiction, even in the absence of any other connection between the litigation and the forum. For instance, with the advent of the automobile, States were permitted to engage in the fiction that the use of their highways was conditioned upon the consent of drivers to be sued in state courts for accidents or other transactions arising out of such use. Thus, a state could designate a state official as a proper person to receive service of process in such litigation, and establishing jurisdiction required only that the official receiving notice communicate it to the person sued. The outer limit of this test is illustrated by Kulko v. Superior Court, in which the Court held that California could not obtain personal jurisdiction over a New York resident whose sole relevant contact with the state was to send his daughter to live with her mother in California. Before International Shoe Co. Those demands may be met by such contacts of the corporation with the State of the forum as make it reasonable, in the context of our federal system. The company mailed premium notices to the insured in California, and he mailed his premium payments to the company in Texas. Acknowledging that the connection of the company with California was tenuousâ€”it had no office or agents in the state and no evidence had been presented that it had solicited anyone other than the insured for businessâ€” the Court sustained jurisdiction on the basis that the suit was on a contract which had a substantial connection with California. It cannot be denied that California has a manifest interest in providing effective means of redress for its residents when their insurers refuse to pay claims. Denckla, decided during the same Term, the Court found in personam jurisdiction lacking for the first time since International Shoe Co. Washington, pronouncing firm due process limitations. In Hanson, the issue was whether a Florida court considering a contested will obtained jurisdiction over corporate trustees of disputed property through use of

ordinary mail and publication. The will had been entered into and probated in Florida, the claimants were resident in Florida and had been personally served, but the trustees, who were indispensable parties, were resident in Delaware. Thus, circulation of a magazine in a state was an adequate basis for that state to exercise jurisdiction over an outofstate corporate magazine publisher in a libel action. In World-Wide Volkswagen Corp. Plaintiffs had sustained personal injuries in Oklahoma in an accident involving an alleged defect in their automobile. The car had been purchased the previous year in New York, the plaintiffs were New York residents at time of purchase, and the accident had occurred while they were driving through Oklahoma on their way to a new residence in Arizona. Defendants were the automobile retailer and its wholesaler, both New York corporations that did no business in Oklahoma. The Court found no circumstances justifying assertion by Oklahoma courts of jurisdiction over defendants. The Court identified two standards for limiting jurisdiction even as products proceed to foreseeable destinations. The more general standard harked back to the fair play and substantial justice doctrine of International Shoe and requires balancing the respective interests of the parties, the prospective forum state, and alternative fora. All the Justices agreed with the legitimacy of this test in assessing due process limits on jurisdiction. Action, not expectation, is key. Doctrinal differences on the due process touchstones in streamofcommerce cases became more critical to the outcome in J.

V. 2. EQUAL PROTECTION ; CIVIL AND CRIMINAL JUSTICE pdf

6: Equal Protection, Poverty, and Inequality of Wealth

A major issue facing the criminal justice system today is the growing population of and rising crime rates associated with: illegal immigrants In which case did the plaintiffs claim that they were being denied their right to equal protection of the law and that the laws of "separate but equal" were, in fact, not equal.

A new chapter in this struggle has now emerged. How has the quest for equality and citizenship fared in this new era of mass incarceration? Criminal justice policies developed in the U. Policy makers must evaluate the racially disparate impact of these laws, and begin to develop new policies to counter the devastating effects of these policies on communities of color. A Historical Perspective Law, in its many forms - Declaration of Independence, Constitution, Supreme Court decisions, state law, and criminal codes - has played a critical role in defining the basic human principles of citizenship and equal opportunity in American. Unfortunately, for African-Americans and other people of color, the law has been at the undergirding of inequality in America. The first chapter of this history began with the oppressive colonial slave codes of the early eighteenth century and continued up to the American Revolution. The revolution of our founding fathers presented an opportunity to fully embrace equality. Even after the Emancipation Proclamation and the civil rights amendments, racism and economic exploitation that were the foundation for slavery, remained intact. The advent of the Black Codes, the convict lease system, and sharecropping shattered the dream of freedom and equality for African-Americans in the nineteenth and twentieth century. From through the shadow of Jim Crow spread across America. Replacing the social control of slavery, states began to systematically codify the separation of the races. Government enacted sanctions combined with attitudes and actions that permitted acts of discrimination against African Americans. The law of the land ensured inequality. By a series of legal maneuvers - and the extralegal practice of lynching - African American people were disenfranchised and stripped of any semblance of citizenship. The poll tax, the literacy test, and the Grandfather Clause were all legal devices employed to prevent access to political power and maintain inequality. Through the middle of the twentieth century African American remained segregated, barred from full and free participation in American life and rendered politically powerless. This wall of separation was shaken by the civil rights movement and a shift in the law embodied in the landmark case of Brown v. Board of Education, U. By the mids, the civil rights campaign had successfully abolished segregation in education, discrimination in public accommodations and employment, and eliminated many of the impediments to enfranchisement. It appeared Jim Crow was on the run. For those who celebrated the elimination of the barriers to full participation in American society for African Americans, their optimism was short-lived. As Justice Thurgood Marshall warned in his speech at Howard Law School in , we cannot become complacent about the strides toward equality made by the civil rights movement. Take if from me, it has not been solved. They are still laying traps for us. Some policymakers used crime as a tool to advance a racial agenda without violating the newly created civil rights norms, and a justification for creating harsh and draconian laws that resulted in mass incarceration and racial disparities within the criminal justice system. The harsh criminal justice laws were combined with civil disabilities, which disqualified people from housing, jobs, and social services based on a criminal record alone. In there were more than 2. If current trends continue, one in three African American men born today will be incarcerated during their lifetime. In this era of mass incarceration African Americans are seven times more likely to be incarcerated than whites. For this disproportionately African American prison population the punishment neither starts nor ends at the prison gate. The collateral consequences of a conviction - laws and regulations that bar people from jobs, education, voting - continue long after the sentence has been served. The architects of Jim Crow constructed barriers to enfranchisement, employment, education and equality in order to suppress the struggle for full citizenship for African Americans in America. The effort to deny full citizenship has reemerged. These policies are the catalysts for a new age of segregation and the roadblock to participation in civic life. It is a new inequality with deep historical roots. Justice Thurgood Marshall must be looking down on America, shaking his head in dismay. He sees an America where a criminal conviction has become the surrogate for race discrimination. The following are key national and state-level activities that

would work to end the back door discrimination against people with criminal records. At The Federal Level: Encourage policymakers to fully fund the Second Chance Act and pass additional legislation that would eliminate certain bars and barriers facing people with criminal records and support community reintegration programs. Support a Federal standard based on Equal Employment Opportunity Commission guidance on use of background checks for employment purposes when screening people for arrest and conviction records. Strengthen Federal programs that encourage employers to hire people with criminal records such as the Federal Bonding Program and the Work Opportunity Tax Credit. Advocate for full reinstatement of Pell Grant eligibility for people who are currently incarcerated so that they can participate in higher education while incarcerated. Support further reform of the Higher Education Act to eliminate the remaining provisions that bar people convicted of drug offenses from access to federal financial aid. At the State Level: Encourage legislators to restore eligibility for the state and private education programs and financial aid that allow people in prison to participate in higher education. Work with legislators and college officials to eliminate application procedures that make it difficult for prospective students with criminal records to get admitted to college. Support effective programs that promote community reintegration and reentry. Advocate for legislation that prohibits employers, housing authorities and other non-law enforcement agencies from inquiring about or using information about arrests that did not lead to conviction. Advocate for legislation that lifts automatic bars to employment, occupational licenses, public housing, and political enfranchisement. Advocate for legislation that prohibits across-the-board employment bans based on arrest or conviction records and require employers to assess applicants individually on their merits. Educate policymakers on the important role that voting rights play in reintegration.

V. 2. EQUAL PROTECTION ; CIVIL AND CRIMINAL JUSTICE pdf

7: Unchaining Civil Rights: Equality

pretrial process in civil and criminal matters, "the Constitution extends less procedural protection to an imprisoned human being than is required to test the propriety of garnishing a commercial bank account, the custody of a.

Kavanaugh clerked under Kennedy. As a judge on the D. Circuit Court of Appeals, Kavanaugh has had the chance to rule on cases involving the balance of state and federal power. In one case, he concluded that the Environmental Protection Agency overstepped its bounds in regulating greenhouse gases. In another, he questioned the setup of the Consumer Financial Protection Bureau and whether it had too much power outside of congressional oversight. Sam Erman, associate professor and constitutional law expert at the USC Gould School of Law, said decisions limiting federal power might portend good things for states. If confirmed by fall, as the president has suggested, Kavanaugh could take his place just in time to consider the case, Timbs v. Board of Education racial discrimination , Roe v. Wade reproductive rights and Bush v. Forfeiture also stuffs federal coffers. The report said assets in forfeiture funds within the U. Department of Justice and the U. A number of states are considering changes. In Ohio, for example, Republican Gov. Kavanaugh has shown a particular interest in the 14th Amendment from his earliest law school days at Yale University. Kentucky that outlawed using race as the sole criteria for preemptive challenges to jurors, under the Equal Protection Clause. Kavanaugh wrote the decision did not lay out enough specific criteria on how to strike jurors aside from their race, and made some suggestions that were later employed by courts. He brought up that issue again in , in his hearing on his nomination as a federal judge for the D. It was ratified largely to allow the newly freed slaves to have the same rights as other Americans. It has come to be used as something of a magic wand for judges who want to conjure up a certain result. His comments at the first confirmation were puzzling. Looking to how Kavanaugh might follow Kennedy on the Timbs case specifically, Graglia said Kennedy was something of a moralist. It certainly seems that forfeiting your property in those cases seems totally unfair and unjust.

8: - Enforcement Of Civil Rights Civil Statutes | JM | Department of Justice

Discrimination in the Criminal Justice System a right to equal protection. the Supreme Court struck down the "separate but equal" doctrine, and the civil.

9: Equal Protection Clause - Wikipedia

Describe how the expansion of the bill of rights to state proceedings changed the due process and equal protection of law clauses. Trace the development of the application of the bill of rights to criminal procedure from colonial times to the present.

V. 2. EQUAL PROTECTION ; CIVIL AND CRIMINAL JUSTICE pdf

The Two New Yorks The immortality of man, by J. Maritain. The origins of the Cold War : the longest war Formal and functional parameters for markedness The lion of the Kalahari The College Board International Student Handbook 2001 Frommers The Civil War Trusts Official Guide to the Civil War Discovery Trail The urbanization of Singapores rural landscape John W. Humphrey. The Rules to Love Energy Band Theory (Pure and Applied Physics) Chaos in Australia Polly Flinders party. What is supervision in management Introduction to the library and information professions Time management in the bible Wild meghan obrien Current Neurologic Drugs Me before you a novel by jojo moyes Modern Shakespearean criticism The Frozen Deep (Large Print Edition) Twentieth Century Scottish Poems (Poet to Poet: An Essential Choice of Classic Verse) Liverpool, a capital of the long twentieth century Plant ecology by shukla and chandel The beauty of big cats Convex hulls of random processes Ya. G. Sinai Instructors manual to accompany Organizational behavior, experiences and cases Increase your interpersonal effectiveness The Corporate Game Effective training blanchard 5th edition The Poet at the Breakfast Table, His Talks with His Fellow Boarders and The Reader Great Seal of the State of California The Black Panties Advances and Technical Standards in Neurosurgery Volume 15 Fastest gun in Texas. Heather and Kevin Urban Cowboy (That Special Woman/Hearts Of Wyoming) The Secret Cave of Janina Dumbing down or reaching out: is it tabloidisation wot done it? Steven Barnett Health information management professionals Marketization models : how much buying and selling in government?