



# You Be the Judge Scenarios

## Scenario #1: Gun Laws

In 1990, Congress passed the Gun Free School Zones Act. In an effort to reduce gun violence in and around schools, the act prohibited people from knowingly carrying a gun within 1,000 feet of a school. Alfonso Lopez Jr., a high school senior, was convicted in a federal district court for knowingly possessing a concealed handgun and bullets at his San Antonio high school. Lopez appealed his conviction. The Fifth Circuit Court of Appeals agreed with Lopez and reversed the decision and his conviction, ruling that the law was beyond the reach of Congress's power under the commerce clause. The United States government asked the U.S. Supreme Court to hear the case. Is the 1990 Gun-Free School Zones Act unconstitutional because it exceeds the power of Congress?

## Scenario #2: Medical Marijuana

In 1996, the citizens of California approved a referendum called Proposition 215, the Compassionate Use Act. The law allowed citizens of the state to use marijuana for medicinal purposes. Federal drug law, the Controlled Substances Act, did not provide a similar exemption for critically ill people—federal agents continued to investigate and prosecute people who possessed “medical” marijuana.

Ms. Angel Raich had been using marijuana for terminal medical issues. According to her physician, she had exhausted “essentially all other legal alternatives.” Her medical condition prevented her from growing the marijuana; therefore, Diane Monson, a California citizen with similar medical problems, grew her marijuana.

In August 2002, deputies from the county sheriff's department came to Monson's home, along with agents from the Drug Enforcement Agency (DEA). After an investigation, the county deputies decided that marijuana was legal under California's Compassionate Use Act. However, the county district attorney and U.S. Attorney argued over jurisdiction and applicable law. Eventually, the DEA destroyed six marijuana plants belonging to Monson.

The district court ruled against Diane Monson, but the appellate court reversed the lower court, ruling that localized and noncommercial cultivation, sharing, possession, and use of marijuana under the direction of a physician was intrastate commerce and, therefore, beyond the power of Congress to regulate or prohibit. The case was appealed to the U.S. Supreme Court. Does Congress have the power to stop the medical sale and growth of marijuana where the state has deemed it legal?



### **Scenario #3: Affordable Care Act (Obamacare)**

Amid intense public interest, Congress passed the Patient Protection and Affordable Care Act (ACA), which became effective on March 23, 2010. The ACA sought to address the fact that millions of Americans had no health insurance yet actively participated in the healthcare market, consuming healthcare services for which they did not pay.

The ACA contained a minimum coverage provision by amending the tax code and providing an individual mandate, stipulating that by 2014, non-exempt individuals who failed to purchase and maintain a minimum level of health insurance must pay a tax penalty. The ACA also contained an expansion of Medicaid, which states had to accept in order to receive Federal funds for Medicaid, and an employer mandate to obtain health coverage for employees.

Shortly after Congress passed the ACA, cases were brought in the United States District Court seeking a declaration that it was unconstitutional on several grounds. First, can Congress require a tax penalty if you do not have individual health insurance? Can the U.S. Congress remove all federal funding for Medicaid if the states refuse to expand it?

### **Scenario #4: Rule of Law**

In 1974, a special prosecutor, appointed by the president because of congressional and public pressure, wanted access to audio tapes of conversations recorded by the president in the White House. The president claimed executive privilege and refused to turn over the tapes. He argued that the concept of executive privilege gave him the power to withhold sensitive information, such as tapes, from other government branches in order to maintain confidential communications within the executive branch and to secure the national interest. Should the president have unlimited executive privilege to safeguard information?

### **Scenario #5: Lawmaking Power**

The Line Item Veto Act allowed the president to veto specific parts of a law before they signed it. The constitutionality of this act was challenged twice during the Clinton administration. In the first, the City of New York, two hospital associations, a hospital, and two healthcare unions, challenged the president's cancellation of a provision in the Balanced Budget Act of 1997, which relinquished the federal government's ability to recoup nearly \$2.6 billion in taxes levied against Medicaid providers by the State of New York.

In the second, the Snake River Farmers Cooperative and one of its individual members challenged the president's cancellation of a provision of the Taxpayer Relief Act of 1997. The provision permitted some food refiners and processors to defer recognition of their capital gains in exchange for selling their stock to eligible farmers' cooperatives. After a district court decided the case, the Supreme Court heard an expedited appeal. Should the president be able to selectively cancel portions of bills before they are signed into law?