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Biotechnology: Scientific Progress or Slippery Slope?

By Lola Adeosun, CAS '18

Every day, society's technological advancements surpass what humanity could have only dreamt about in the past. Today's world features genetically modified foods that encompass vaccinations, predetermined sexual selection of children, and cloning mechanisms. All aforementioned are components of the possibilities of biotechnology. However, despite the scientific and societal advancements of biotechnology, the practice is extremely controversial due to the lack of legal precedent.

Biotechnology is the use of living systems and organisms to develop or make products.¹ Since biotechnology is a modern phenomenon, the laws and ideas surrounding the concept are still fairly undetermined. The unclear boundaries are exacerbated by the fact that biotechnology includes a broad range of fields - pharmaceutical, agricultural, environmental, and so forth- and the majority of biotechnologies take several years to formulate from start to finish. However, there is a standard law concerning biotechnology that holds for all the differing fields.

The Coordinated Framework for Regulation of Biotechnology is the U.S. government's formal policy for biotechnology and its

“Since biotechnology is a modern phenomenon, the laws and ideas surrounding the concept are still fairly undetermined.”

resulting applications. It was enacted by the Office of Science and Technology Policy (OSTP) in 1986 under President Ronald Reagan and implemented by the Department of Agriculture (DOA), the Food and Drug Administration (FDA), and the Environmental Protection Agency (EPA).² Inside the framework, each federal agency has adopted its own principles dealing with biotechnology regulation, but the Coordinated Framework is the set universal standard as of now.

The law outlines the basic federal policy for regulating the development and introduction of products to ensure the safety of the general public. It has three tenets. First, U.S. policy will focus on the product of genetic modification (GM) techniques, not the process itself. Secondly, only regulation grounded in verifiable scientific risks will be allowed. Lastly, GM products are on a continuum with existing products and, therefore, existing statutes are sufficient to review the products.³

These tenets were first described in The Coordinated Framework for Regulation of Biotechnology, published by the President's Domestic Policy Council Working Group on Biotechnology through the OSTP in 1986.⁴ Questions such as how far the law should extend into biotechnology and where exactly the line is drawn continues to spark controversial debate. Is it ethical to select the sex of your child? Is it going too far to engineer crops to house vital vitamins that would not be found in their natural state? Biotechnology is a valuable scientific advancement. It is involved in the development of new medicines, therapies, and research tools, increasing crop yields, as well as improving the taste, texture and nutritional value of certain foods.⁵ Yet, the fundamental question remains the same; what is okay to modify and what is not. Is it alright to genetically alter embryos so that they are free from all types of health risks, or is that setting a dangerous precedent?

Many biotechnology companies are protesting the government's interference due to the setbacks all the regulations can cause. Other parties such as those in the legal profession, policy makers, and even the general public are saying that the government does not have enough commanding control in biotechnology. They are demanding contingencies like the clear labeling of genetically modified foods or the complete eradication of cloning individuals.

Where the ethical line is drawn will have to be determined by future generations, as they will be the ones to witness the long term effects of biotechnology. Biotechnology has made impressive waves in society today, and it will continue to be a practice that creates dialogue as well as leads innovation.

Sources

¹"Biotechnology." Agriculture for Impact. July 1, 2015. Accessed March 28, 2016.

²"Biotechnology Law." HG.Org Legal Resources. Accessed March 28, 2016.

³Ibid

⁴Ibid

⁵Koehler, Gus A. "III) REGULATION OF BIOTECHNOLOGY." Library.ca.gov. April 1996. Accessed March 28, 2016.

It's Not About Fashion

By Ana Amatuzzi, CAS '18

In 2008, the 17 year old Samantha Elauf, an American Muslim citizen, was denied a job at Abercrombie & Fitch stores because her dress code was not adequate to the “classic East Coast collegiate style” adopted by the store. When interviewed for the position, Elauf wore her hijab, a representation of the Muslim faith, which was not mentioned by her or the interviewer during the application process. The headscarf, however, caused the district manager to lower her score in the appearance section, since covered heads are not considered part of the store’s style, disqualifying her from the position. She claimed she was prevented to work at the store because they refused to allow her to have her

discriminatory reasons, and if the employee can prove the denial occurred on the basis of sex, race, color, national origin, and religion, the suit should be valid. Furthermore, the Court affirmed Title VII, mandating that employers offer such accommodations.

The only member of the Court which voted against the EEOC, partially agreed with the suit, but said that Elauf and the EEOC could not prove the discrimination was intentional.⁴ According to Justice Clarence Thomas, Abercrombie was only applying their neutral Look Policy, a guide of what employees should look like in order to represent the store, and, since the reason could not be proved to be discrimination, Title VII was not violated. In his opinion, the Look Policy, even though it affects people who wear religious garb disproportionately more, treats all candidates in the same manner. Moreover, Justice Thomas also argued that the statutory language should be used more carefully in order to punish

“In response to the suit against the company, Abercrombie argued that the employers had no reason to believe Elauf followed the Muslim faith since the applicant did not mention the ‘religious motivations behind her fashion decisions’ and, therefore, her rejection was not related to religious discrimination.”

head covered, even if for religious reasons, Elauf contacted the Equal Employment Opportunity Commission (EEOC), who sued Abercrombie and Fitch on her behalf for religious discrimination. The EEOC brought suit for a violation of the Title VII of the Civil Rights Act of 1964,¹ which prohibits employers from discriminating against employees on the basis of sex, race, color, national origin, and religion.

In response to the suit against the company, Abercrombie argued that the employers had no reason to believe Elauf followed the Muslim faith since the applicant did not mention the “religious motivations behind her fashion decisions” and, therefore, her rejection was not related to religious discrimination. One of the company’s spokeswoman, Carlene Benz, argued that Abercrombie’s dressing policy has become less strict and has been allowing workers to be more individualistic, in addition to providing religious accommodations when requested. The Court had to decide whether or not an employer could be held responsible for discrimination, even if the employee had said nothing about the necessity of an accommodation.²

In 2015, after accepting the U.S. Supreme Court decision in favor of the EEOC and paying \$25,670 in damages to Elauf and \$18,983 in court costs, Abercrombie & Fitch was granted the request to dismiss its appeal of the suit by the U.S. Tenth Circuit Court of Appeals.³ According to Justice Scalia, the decision of the Court, which had a majority opinion of 8-1 for the EEOC, was easy. The Court held that the Title VII of the Civil Rights Act of 1964 states that an employee cannot be refused a work position for any of the

only employers who intentionally discriminate against job applicants.

The case not only answered several questions about Title VII of the Civil Rights Act of 1964 but also raised awareness for discrimination. The retail world has been long criticized for imposing beauty and fashion models, especially as those patterns are used to justify discrimination. It is clear that no individual, being a job applicant or not, should be discriminated against, and Look Policies should be revised in order to guarantee equal treatment to all citizens. In this way, Elauf and the Equal Employment Opportunity Commission accomplished much more than a successful suit, they were able to establish the discriminatory trend of fashion.

Sources

¹Civil Rights Act 1964”, Title VII

²Equal Employment Opportunity Commission v. Abercrombie & Fitch Stores, Inc. 575 U.S. ____ (2015)

³EEOC “Abercrombie Resolves Religious Discrimination Case Following Supreme Court Ruling in Favor of EEOC” <http://www.eeoc.gov/eeoc/newsroom/release/7-28-15.cfm> (accessed March 2, 2016)

⁴Equal Employment Opportunity Commission v. Abercrombie & Fitch Stores, Inc. 575 U.S. ____ (2015)

Is It Time for a Fused Legal Profession in England?

By Aleksandra Boots, CAS '17

Unlike most legal systems in the world, the English legal profession is split between barristers and solicitors. Today, there is an ongoing debate in England concerning whether the two categories presently in their legal profession should be fused in the future or not. Although barristers and solicitors are both lawyers, they are different types of lawyers and the professional training that they are required to undertake differs as well. The primary role of barristers is to work as advocates in the courts, while solicitors are responsible for all the legal work that is done outside of court, such as meeting with clients and drafting letters.¹ The division between barristers and solicitors has been in place for hundreds of years; however, the legal profession has changed considerably in England over the years.

On one side of the debate are those who argue that the English legal profession should not be fused in the future because there are several disadvantages to the present formation. First, if the profession were fused, the high standard of advocacy would be lost. According to James Tumbridge, a barrister in England, “Advocacy is a skill that requires practice simply not available in a fused profession, which is why the English Bar remains the envy of so many jurisdictions.”² It is crucial to maintain high advocacy standards in court so that barristers will argue cases to the best of their ability. Only the highest standard of advocacy will ensure that cases are presented clearly and that justice is served. Most importantly, barristers are expert advocates. Becoming a barrister in England is incredibly difficult. An aspiring barrister must obtain an undergraduate degree in law (LLB), or an undergraduate degree in a different subject; however, this must be followed by the conversion course.³ The student then joins one of the Inns of Court and takes the Bar Practice Training Course, and once he or she is ‘called to the Bar’ by his or her Inn of Court, the final stage to becoming a practicing barrister consists of the student undertaking a pupillage.⁴ Thus, the long process demonstrates that the specialization and expertise of barristers have been acquired through many long years of studying and training. Fusion would undermine the high standard of advocacy and expertise of barristers, which solicitors do not have.

Fusion would further lead to the loss of the ‘cab rank’ rule, which is a significant mechanism used in the English legal profession. Under this rule, barristers are obligated to accept a case that is “within their knowledge and expertise provided they are free to do so, no matter how unpalatable the case.”⁵ The ‘cab rank’ rule is important to have because it prevents barristers from discriminating against individuals when selecting a case based on their race, gender, or disability. Thus, people cannot be denied representation in court. Finally, under the current division, clients have the option of obtaining a second opinion. A second opinion must be obtained to bring objectivity to a case.⁶ For instance, a second opinion is needed to make sure that the interpretation or opinion of a solicitor was not biased under any circumstances. In conclusion, the division must be preserved because there would be more discrimination in the English legal profession without the ‘cab rank’ rule, and second opinions are necessary to have in order to ensure fairness and impartiality, eliminating any possible bias from arising.

Despite these arguments, proponents of a fused legal profession claim that the division has already begun to break down, and that the system is actually becoming more fused over the last few years due to legal reforms. First of all, the role of the barrister as a “referral” profession has changed because members of the public may now instruct a barrister directly, without the need to instruct a solicitor first.⁷ Members of the bar are now also able to “conduct litigation,” a job that has been reserved for solicitors traditionally.⁸ Thus, this demonstrates that the fundamental distinction between a barrister as a specialist advocate and a solicitor as one who prepares cases outside of court is true only to a certain extent as a result of these changes that have occurred, which have blurred the division of the English legal profession. Finally, many solicitors now have the ability to conduct advocacy in the higher courts (Crown Court, High Court, Court of Appeal, and the Supreme Court), a right that has been reserved for barristers only in the past. This can be done through satisfying the Higher Rights of Audience (HRA) qualification, which allows solicitors to represent their clients in the higher courts as “solicitor-advocates.”⁹ The Higher Rights of Audience (HRA) qualification further demonstrates that fusion is already occurring as a result of these changes that have taken place in the last few years. It is important to note that opponents of the current division also emphasize that a fused profession would lead to a reduction in costs for clients, since a person would no longer have to pay two lawyers for the work that could be performed by one lawyer.

Currently, the English legal profession continues to be split between two branches: barristers and solicitors. Many people believe that it does not make sense to change a system that has functioned well for hundreds of years, claiming that there are various advantages to having a separated profession such as the high standard of advocacy and barristers’ expertise. Fusion would further lead to the loss of the ‘cab rank’ rule and second opinions, which are important mechanisms to ensure equality and fairness in the legal system. However, despite the advantages of a split profession, the distinction between barristers and solicitors has become increasingly blurred. Not only are barristers now allowed to take instructions directly from the public, but also solicitors have now gained rights of audience in the higher courts. Nevertheless, the question still remains: what does the future hold for the English legal profession?

Sources

¹“Solicitors and Barristers – Two Sides of the Same Coin,” Stowe Family Law, accessed February 27, 2016, <http://www.marilystowe.co.uk/2013/10/03/solicitors-and-barristers-two-sides-of-the-same-coin-by-john-bolch/>.

²James Tumbridge, “The Split Profession,” February 2003.

³Gary Slapper and David Kelly, *The English Legal System* (London: Routledge, 2015), 648-49.

⁴*Ibid*

⁵“Removal of the ‘Cab Rank’ Rule a Major Threat to Justice,” Bar Standards Board, February 27, 2016.

⁶“Barristers and Solicitors,” Sixth Form Law, February 26, 2016.

⁷“Time for a Fused Legal Profession,” Bargat Murray, accessed February 27, 2016.

⁸*Ibid*.

⁹“Higher Rights of Audience,” BPP Professional Education, Accessed February 26, 2016.

Antitrust and Google Search

By Anonymous

With the emergence of “big business” in the late 1800s, governments enacted antitrust laws and, consequently, federal and state regulation. Today, however, antitrust laws have entered a new domain with the rise of the Internet and e-commerce. In particular, the European Commission has recently filed charges against Google. The European Union’s antitrust chief, Margrethe Vestager, has “highlighted how the region’s authorities believe that Google has abused its dominance in web searches to benefit some of its own services.”¹ This has promoted further analysis of the workings of Google Search, and has sparked a debate about the competing interests of business, specifically on online platforms, and consumer protection.

The situation with Google is not novel. Applying antitrust laws to innovative and technologically advanced companies in “dynamic markets has always been a perilous proposition, and despite advances in economics and jurisprudence, it remains so.”² Successful firms like Google, with their strong reliance on intellectual property rights, are especially likely to be problematic targets.³ As such, it is no surprise that many believe that at least some of Google’s practices and patterns are suspect under antitrust law, particularly Google’s use of tying tactics. Tying refers to a seller refusing to provide one product (the “tying” product) unless the buyer also takes another (“tied”) product.⁴ Specifically, using Google Search yields algorithmic results alongside sponsored/paid results, often with links to Google’s related services, such as Google Flights, Google Images, or Google Maps. Thus, Google’s related services derive economic benefits from tied promotions with Google’s own search engine. As Google Search users are unable to choose whether or not they would like to receive Google related services in their search results, this act falls closely in line with tying and is, therefore, suspect to antitrust laws.⁵

On the other hand, many people believe that Google’s practices are valid, and well within the confines of existing antitrust laws, especially in consideration of the ever-evolving standards for online business platforms. While Google does participate in paid/sponsored search results, it reveals them amongst organic search results only with certain rules and regulations in mind. When a user enters a query into Google Search, Google’s search engine evaluates webpage content and produces a list of the pages most relevant to the user’s particular query. Amongst the query results, Google also displays sponsored links, from which Google earns money on a pay-per-click basis. However, these links are only generated by keywords that a user enters into the search engine. Google Search uses highly specialized algorithms to ensure that only the most relevant results are presented, even amongst sponsored links, and that these results are ranked in order of most to least relevant.⁶ Ultimately, Google Search employs innovative methods to ensure that its users truly get qualified search results, despite deriving large amounts of revenue from its sponsored links.

Deciding whether or not Google, and like-minded companies, follow or violate antitrust laws is not a black or white decision. As one of the leading technology companies of the modern era, and

with over one hundred billion searches every year, Google has a responsibility to protect its user/consumer base, even if it involves restricting its own capabilities. Determining whether Google carries this responsibility or not is a gray area until explicit antitrust laws and court decisions for such rapidly developing online platforms are developed. Until such a time, the task of ensuring consumer protection for emerging technologies should be shared between large corporations and consumers themselves.

Sources

- ¹Scott, Mark. “Google Rebuts Europe on Antitrust Charges.” *The New York Times*. August 27, 2015. Accessed February 28, 2016.
- ²Manne, Geoffrey A.; Wright, Joshua D. “Google and the Limits of Antitrust: The Case against the Case against Google.” *Harvard Journal of Law & Public Policy* 34.1 (2011): 171-244.
- ³*Ibid.*
- ⁴Franklin M. Fisher, *Innovation and Monopoly Leveraging, Dynamic Competition and Public Policy: Technology, Innovation, and Antitrust Issues* 139 (Jerry Ellig ed. 2001)
- ⁵Edelman, Benjamin G., *Does Google Leverage Market Power Through Tying and Bundling?* (May 12, 2014). *Journal of Competition Law and Economics* 11, no. 2 (June 2015): 365-400.
- ⁶Manne, Geoffrey A.; Wright, Joshua D. “Google and the Limits of Antitrust: The Case against the Case against Google.” *Harvard Journal of Law & Public Policy* 34.1 (2011): 171-244.

The MLB Draft: A Case of National Self-Discrimination

By Bradley Ferber, CAS '17

Recently the Major League Baseball (MLB) Draft has included a serious subject of debate in regard to international athletes. The year 2014 best depicted the issue at hand. That year Rusney Castillo- who was a former member of the Cuban national team and at the time considered one of the best baseball prospects in the world- defected from Cuba. Castillo proceeded to avoid the MLB draft and sign a seven-year, \$72.5 million contract with the Boston Red Sox.¹ That same year Masahiro Tanaka- a former five-time Nippon Professional Baseball League all-star pitcher in Japan- avoided the MLB draft as well and signed a seven-year, \$155 million contract with the New York Yankees.² Regardless of Castillo and Tanaka's prior successes they had no Major League Baseball experience. Therefore, Castillo and Tanaka would be considered MLB rookies if they were able to reach the MLB level that season. To further clarify, had Castillo and Tanaka been international basketball prospects they would have been forced to enter the National Basketball Association (NBA) draft and sign with their drafter.

During the 2014 MLB draft Carlos Rodon- considered one of the best pitching prospects in the United States at the time- was drafted third overall by the Chicago White Sox.³ Like Castillo and Tanaka, Rodon would be considered an MLB rookie if he were to reach the MLB. However, Rodon's contract, which consisted of a \$6.58 million signing bonus⁴ - the largest for a draftee that year- and a base salary of \$463,128⁵, was worth significantly less than Castillo and Tanaka's. Furthermore, draftees such as Rodon were expected to earn salaries similar to their base salaries for their first few seasons due to MLB draft rules.⁶ Unfortunately, discrepancies such as these have been seen throughout MLB in recent years. One cannot help but believe that Rodon was subjected to discrimination on the basis of origin.

How could a system in which potential, international MLB rookies have the opportunity to sign contracts that are astronomical in comparison to those offered to draftees ever come into existence? Furthermore, why would an American such as Rodon- who was a potential MLB all-star- agree to a base salary of only \$463,128? Some industry insiders strongly believe that an international MLB draft would be impossible to implement.⁷ Jayson Stark, an ESPN writer, presented an argument that if the MLB were to make the draft international, foreign legislators from countries such as the Dominican Republic and Venezuela could try to block the MLB from forcing their athletes into a draft because of financial benefits.⁸ Financial benefits include: MLB built baseball facilities, professional support for aspiring athletes, and eventual large sums of money to be paid to these athletes. Stark also noted that an international draft for rookies could deter many talented athletes from countries not currently subject to it.⁹

Aspiring professional baseball players from the United States, U.S. territories, and Canada agree to enter the draft because it is the only way for them to join an MLB team.¹⁰ The downside of entering the draft is that the draftees are only allowed to sign

with the team that drafted them, as opposed to being able to field offers from multiple teams.¹¹ Furthermore, most draftees are not allowed to sign MLB contracts immediately.¹² Thus, draftees are left with a clear disadvantage.

In contrast, most aspiring athletes from Japan make it to the MLB through the posting system.¹³ The posting system allows for MLB teams to match a fee of up to \$20 million to an athlete's Japanese club in order to negotiate a contract with the athlete- as agreed upon by the MLB and Nippon Professional Baseball League in 2013.¹⁴ In the case of Masahiro Tanaka, the Yankees paid the Tohoku Rakuten Golden Eagles \$20 million and Masahiro Tanaka was able to negotiate an enormous MLB contract immediately.¹⁵ Most Cuban defectors such as Rusney Castillo have the freedom to sign with any MLB team for an uncapped amount of money. These facts potentially justify a claim that the MLB draft discriminates against draftees on the basis of national origin, which is a clear violation of Title VII of the Civil Rights Act of 1964.¹⁶ Draftees are not only subjected to lesser salaries, unlike certain international athletes presented, but they also do not have the freedom to sign with any team. Unfortunately, for American and Canadian citizens the MLB draft presents the only opportunity to potentially become a part of the MLB, as of the present, there is no way of getting around the draft.²

Sources

¹Browne, Ian. "Red Sox Sign Cuban Star Outfielder Rusney Castillo." Major League Baseball. August 23, 2014. Accessed February 23, 2016.

²Hoch, Bryan. "Masahiro Tanaka Signs Seven-year, \$155 Million Contract with New York Yankees." Major League Baseball. January 23, 2014. Accessed February 23, 2016.

³"2014 Draft: Signing/Bonus Tracker." Major League Baseball. July 18, 2014. Accessed February 23, 2016.

⁴Ibid.

⁵WASIL. "Carlos Rodon Salary, Net worth Chicago White Sox (RELIEF PITCHER)." Celebrity Glory. May 2015. Accessed March 20, 2016.

⁶"Signing A Professional Baseball Contract." Yougoprobaseball.com. Accessed March 20, 2016.

⁷Stark, Jayson. "International MLB Draft: Inevitable or Impossible?" ESPN. June 11, 2015. Accessed February 23, 2016.

⁸Ibid.

⁹Ibid.

¹⁰"First-Year Player Draft Rules." Major League Baseball. Accessed February 23, 2016.

¹¹Ibid.

¹²OKennedy, Patrick. "MLB Draft 2015: What Happens after a Player Is Selected." Bless You Boys. June 08, 2015. Accessed February 23, 2016.

¹³MLB. NPB Reach Agreement on Posting System." Major League Baseball. December 16, 2013. Accessed March 01, 2016.

¹⁴Ibid.

¹⁵Hoch, Bryan. "Masahiro Tanaka Signs Seven-year, \$155 Million Contract with New York Yankees."

¹⁶Title VII, Civil Rights Act of 1964, Pub.L. 88-352, 78 Stat. 241

On U.S. Campaign Finance Legislation: How Much Does Money Really Influence the Electoral Process?

By Andy Gordon, CAS '18

On January 27th 2016 Donald Trump stated, “Remember, I’m self-funding my campaign. Very important. . . They’ve put up millions and millions of dollars in these PACs and those PACs control the candidates. . . Carson is controlled by his PAC, Bush is controlled by his PAC, Rubio is controlled by his PAC.”¹ Statements like this are par for the course when it comes to the increasingly vitriolic rhetoric surrounding campaign finance in the 2016 presidential election. Though Trump has become notorious for grandiose claims like this one, one does have to wonder about the corrupting influence a system of quid pro quo fueled by special interest groups might have on American politics. That being said, if one views campaign contributions as a form of free speech, then how could the government legally put a cap on it?

The law surrounding modern campaign finance finds its origins in the Federal Election Campaign Act (FECA) of 1971. The FECA served to check the campaign contributions a candidate could receive while running for either Congress or the Presidency by regulating “the size of contributions to political campaigns, the source of such contributions, public disclosure of campaign financial information, and public financing of presidential campaigns.”² The Constitutional basis for the FECA is predicated upon Article I Section IV in which the federal government is given the right to control the “time, place, and manner”³ of federal elections. Nevertheless, the legal debate over campaign contributions was only just beginning.

Three years following the passage of the FECA, the Supreme Court case *Buckley v. Valeo* raised the question of whether or not placing limits on campaign expenditures violated the first amendment right of free speech⁴. In a per curiam opinion, the court decided that FECA’s regulation of contributions to political candidates and campaigns protected the “integrity of our system of representative democracy” by acting as a safeguard against “unscrupulous practices”⁵.

The court also found that restrictions on self-funding a political campaign was in violation of the first amendment under the assertion that such practices do not represent a threat to the integrity of the electoral process as individual donations to candidates might. The precedent *Buckley v. Valeo* has set for the 2016 presidential election is noteworthy because it gives an apparent leg up for candidates like Trump who have no limit on how much of their personal wealth they can contribute to their campaigns.

Still, the problem of soft money or “money raised for political activities in favor of or opposed to a certain candidate or issue that stops short of actually endorsing anything”⁶ yet continues to be litigated. With the passage of the Bipartisan Campaign Reform Act (BCRA) and the McCain-Feingold Act of 2002, however, several provisions were put in place to end the use of nonfederal or soft

money contributions. Specifically, the laws “limit the amount of soft money that can be given to a political party and how much money can be spent on advertising”⁷. As big of a step the BCRA was in taking money out of politics, the argument that money acts as a form of free speech reemerged ten years later in *Citizens United v. FEC*.

The case arose when Citizen United’s film *Hillary: The Movie* was blocked by the Federal Election Commission (FEC) under the assertions that it acted as a form political advertisement, and was therefore in violation of the BCRA. Similar to the case of *Buckley v. Valeo*, the Supreme Court found in a 5 to 4 vote that “under the First Amendment corporate funding of independent political broadcasts in candidate elections cannot be limited”⁸. As such, corporate interests found their way back into the political arena.

While the Supreme Court has had the ostensible goal of making elections more democratic by limiting campaign contributions as seen with the FECA and the BCRA, its allowance of self-funding (*Buckley v. Valeo*⁹) and soft money donations (*Citizens United v. FEC*¹⁰) acts as tacit approval of money in politics. If campaigns were to be publicly funded, inherent advantages of the wealthiest candidates as well as a system of quid pro quo might be limited. Thus, for the 2016 presidential election, money may still be the name of the game.

Sources

¹“<https://www.youtube.com/watch?v=STnqgejKIVM>” [Donald Trump : I am self funding my campaign so I do not owe anything to lobbyists ...] youtube. Accessed April 17, 2016.

²Federal Election Campaign Act of 1971, S. S.382 (1971).

³U.S. Const. art. I, § 4.

⁴*Buckley v. Valeo* 424 U.S. 1 (1976)

⁵*Ibid.*

⁶“Soft Money.” In *The Free Dictionary*.

⁷“McCain-Feingold Law and Legal Definition.” In U.S. Legal.

⁸*Citizens United v. Federal Election Commission* 558 U.S. ____ (2010)

⁹*Ibid.* *Buckley*.

¹⁰*Ibid.* *Citizens United*.

Curtailed but not Eliminated

By David Hunt, CAS '18

In 2012 the Environmental Protection Agency (EPA) determined that several power plants throughout the Midwest had violated the Clean Air Act (CAA) of 1963 by releasing large amounts of toxic compounds containing mercury and other heavy metals into the air around populated areas. The EPA then imposed compensatory fines on the polluters totaling in excess of \$9.6 billion. Last year, year 20 state governments and their industry allies challenged the EPA's decision to impose regulatory fines on the emissions of power plants in the case *Michigan et al. v. The Environmental Protection Agency*.¹

The legal question before the Supreme Court was whether the EPA had violated the Clean Air Act by imposing fines without considering the economic costs both to private corporations and to the public? The fines in question caused certain states to sue because they believed that the total economic cost would outweigh the environmental or health benefits from regulation.² According to provisions added to the Clean Air Act in 1990, the EPA has the ability to regulate and fine producers of toxic emissions such as power plants, foundries, etc. where "appropriate and necessary"³ Naturally, the meaning of what is "appropriate and necessary" can be nebulous at best and in the case in question, ultimately it will be left to the will of the courts. However, the decision in *Michigan v. EPA*, placed a limit on the EPA's power and gave a more concrete description to the "appropriate and necessary" clause of the CAA.⁴ The EPA now can only impose regulatory fines after running a cost benefit analysis and determine that the fines will create a larger economic benefit than burden.⁵ Thus, the power of the EPA to impose regulatory fines was not removed in this case, but it was severely weakened.

The origins of this case are based on the precedent set by *Chevron v. NRDC* (1984) where the EPA was given the regulatory power to impose fines and regulate industry as long as it did not break any civil statues while doing so.⁶ In his concurring opinion, Justice Clarence Thomas stated that "Although precedent established that the courts grant agencies a great deal of deference when agencies interpret statutes that Congress left ambiguous, such deference might result in court allowing an unconstitutional delegation of legislative power."⁷ Essentially, this meant that Justice Thomas believed that the EPA overstepped its bounds in imposing too harsh sanctions.

But, the question in this case is an inherently subjective one. All of the justices agreed that the EPA should impose restrictions when the benefits outweighed the costs; they disagreed however, on what the benefits of the regulation are.

Also of note is the vague language that appeared in the CAA. The words "appropriate and necessary" do not specify certain limits to which polluters must adhere, but instead place the burden of deciding on what is "appropriate and necessary" on the EPA and then the courts. The plaintiffs argued that the benefits would only total to \$6 million and thus the costs outweighed the benefits by several orders of magnitude.⁸ However, in her dissent Justice Kagan was of the opinion that the possible benefits could total in

excess of \$80 billion in increased revenue from a cleaner environment and in the health benefits from not having heavy metals such as mercury released into the air.⁹ Thus, the outcome of this case is ambiguous as well. To reiterate the EPA's ability to fine industry was not eliminated, but simply curtailed. The exact measure of their reduction in power will reveal itself in future cases dealing with regulatory fines of industry.

Sources

¹Michigan v. Environmental Protection Agency 576 U.S. ____ (2015)

²ibid.

³ibid.

⁴ibid.

⁵ibid.

⁶Chevron U.S.A., Inc. v. NRDC 467 U.S. 837 (1984)

⁷Michigan v. Environmental Protection Agency 576 U.S. ____ (2015)

⁸ibid.

⁹ibid.

Obama Takes on the Syrian Refugee Crisis

By Maya Kammourieh, CAS '18

On January 20th, 2016, the Senate voted on a bill that aims to stop the resettlement of Syrian and Iraqi refugees in the United States. The Democrats managed to put a halt to the bill with a 55-43 vote.¹ Since it was a closure vote as needed to stop a filibuster, 60 ballots were required in order for the bill to be approved. This legislation was previously voted on in the House of Representatives the week following the Paris attacks; it passed with a 289-137 vote.² President Obama prompted this statute in his speech after the Paris attacks, in which he claimed that he would be moving forward with his plan to accept Syrian refugees.³ Fear of the U.S becoming vulnerable to a Paris-style attack arose because one

According to Susan Fratzke, a policy analyst at the Migration Policy Institute in Washington D.C., the only action state governments can take is to slow down the settlement of the refugees. She states that stopping the administration is highly unlikely: "What state governments can do is disrupt the funding flow to prevent service providers from getting the funds they need to assist refugees in their state."⁶

The Obama Administration's plan is still in process. This issue has escalated to a point where it is one of the main talking points in the current presidential debates. The stances candidates will have regarding this topic could determine the future of their campaign. Will Obama be able to accomplish his goal or will other roadblocks and potential delays derail his project? Will he be able to pass it in time before retiring from office?

“This issue has escalated to a point where it is one of the main talking points in the current presidential debates. ”

of the attackers was in the possession of a fake Syrian passport and was posing as a refugee. This prompted Congress to draft the legislation in the hopes of stopping President Obama's efforts to accept 10,000 Syrian refugees into the United States. This matter pitted two issues against each other: national security and humanitarian efforts to help Syrian civilians.

The Obama administration stated that it would put forth severe screening measures while assessing the refugees' applications. These procedures include: searches of domestic and foreign intelligence databases for information on possible terrorist threats, vigorous interviews with all applicants and fingerprint and biometric testing. The White House issued a statement accompanying these proposed courses, declaring that, "the refugees are subject to the highest level of security checks of any category of traveler of the United States."⁴ Attorney General Loretta E. Lynch expressed her support, and declared that the U.S screening process would be superior to the European one. She is confident that the "significant and robust" security measures would be able to detect any threats to the nation.⁵

Despite attempts to appease any concerns regarding the topic, many objected to the proposed strategy. On the one hand, more than 23 states attempted to block any possible entrance of Syrian refugees. On the other hand, five more states expressed their want of more severe security checks. Furthermore, several lawmakers drafted bills to prevent the program from moving forward. Although the Refugee Act of 1980 allows state governments to give their opinion on whether refugees can be settled inside their borders, the Executive Branch is ultimately responsible for admitting, screening and deciding where the refugees are relocated.

Sources

¹"Against 2016 Backdrop, Senate to Vote on Syrian Refugees." CNN. January 20, 2016.

²LoGiurato, Maxwell Tani and Brett. "Democrats Just Delivered a Stunning Blow to Obama's Syrian Refugee Plan." Business Insider. November 19, 2015.

³Dinan, Stephen. "Obama Still Plans to Accept 10,000 Syrian Refugees despite Paris Terrorist Attacks." Washington Times. November 15, 2015. <http://www.washingtontimes.com/news/2015/nov/15/obama-still-plans-to-accept-10000-syrian-refugees-/?page=all>.

⁴"How We're Welcoming Syrian Refugees While Ensuring Our Safety." The White House. November 17, 2015.

⁵Lichtblau, Eric. "White House Affirms Syrian Refugee Plan Despite Paris Attacks." The New York Times. November 18, 2015. http://www.nytimes.com/2015/11/18/us/politics/white-house-affirms-syrian-refugee-plan-despite-paris-attacks.html?_r=1.

⁶"Congress Aims to Block Obama's Syrian Refugee Plan." US News. November 17, 2015. <http://www.usnews.com/news/articles/2015/11/17/congress-aims-to-block-obamas-syrian-refugee-plan>.

Abigail Fisher vs. University of Texas

By Shanti Khanna, CAS '18

From high school students to sociologists, many have argued that the affirmative action policies are unfair to students who do not have minority status. In 2008, Abigail Fisher, a denied applicant to the University of Texas (UT), Austin, went so far as to sue in order to declare affirmative action unconstitutional.

Ms. Fisher filed a lawsuit against UT Austin, arguing that she was denied admission because of her race; she is white. The case passed through District Court in 2009, when Judge Sam Sparks

tive action policies in universities across the United States. This could change the diversity and makeup of higher educational institutions. And, according to Fisher's legal team, it would make the admissions system a more meritocratic process. With the death of Justice Scalia and the recusal of Justice Kagan, who took part in the proceedings of the lower court when she was US Solicitor general, the remaining seven judges are set to make a decision on the case for the second time.⁵

“The implications of the Fisher case are significant. If the court rules in Fisher’s favor, it could mean the abolishment of affirmative action policies in universities across the United States...”

upheld the affirmative action policy. Appellate Court judges later affirmed Spark's decision in a Fifth Circuit panel.¹

The case reached the Supreme Court for the first time in 2011, where Supreme Court Justice Sonia Sotomayor argued that the point of the case could be moot, as Abigail Fisher may not have been a qualified applicant, regardless of her race. Fisher failed to graduate in the top 10% of her high school class. After dissenting opinions from Justice Scalia, who believed in eliminating affirmative action policies, and Justice Ginsburg, who upheld affirmative action, the case was sent back to the Fifth Circuit.² The case returned to the Supreme Court for a second time on June 29th, 2015.³

This is not the first time a case such as this one has reached the Supreme Court. In 2003, the court heard the case of *Grutter v. Bollinger*, in which Barbara Grutter, a white applicant to the University of Michigan Law School, was denied admission; her legal team argued that this decision was made on the basis of race. The University of Michigan Law School admits to using race as a factor in admissions in order to promote diversity among the student body. In a 5-4 decision, the Supreme Court ruled in favor of the Law School's affirmative action policies, because due to the individualized review process, no applicant could be denied solely on the basis of race. Ultimately, according to Justice O'Connor, “the Law School's race-conscious admissions program does not unduly harm non-minority applicants.”⁴

The implications of the Fisher case are significant. If the court rules in Fisher's favor, it could mean the abolishment of affirma-

Sources

- ¹Fisher v. University of Texas at Austin, 570 U. S. ____ (2013)
- ²Fisher v. University of Texas at Austin, 570 U. S., (Ginsburg, J., dissenting slip op., at 3-4)
- ³Fisher v. University of Texas at Austin, 570 U. S. ____ (2013)
- ⁴Grutter v. Bollinger, 539 U. S. 306 (2003)
- ⁵Fisher v. University of Texas at Austin, 570 U. S. ____ (2013)

Intent and Effect: Analysis and Prediction of Whole Woman's Health v. Hellerstedt

By Ryan Knox, SAR '16

Abortion continues to be a controversial and polarizing issue in the United States. On March 2, 2016, the Supreme Court of the United States heard *Whole Woman's Health v. Hellerstedt* (No. 15-274), a case regarding the constitutionality of a Texas abortion law, titled "Relating to the regulation of abortion procedures, providers, and facilities; providing penalties."¹ This Texas law, passed in 2013 and abbreviated as HB2 (Texas House Bill 2), aimed to protect women's health by regulating the setting in which abortions can be performed.^{2,3} Two provisions of the bill are under dispute. The first provision requires that doctors who perform abortions have admitting privileges at a hospital within 30 miles of the clinic at which the abortion is performed.⁴ The second requires facilities that provide abortions meet the standards of an ambulatory surgical center, a type of healthcare facility that is essentially an outpatient operating room.⁵ These provisions would close many clinics that do not comply with these standards, leaving no more than ten abortion providers open in Texas and severely limiting access to abortion.^{6,7} The remaining providers are largely located in urban areas and would likely increase the distance many women would have to travel to access an abortion.

This law does not ban abortion in Texas, and therefore is consistent with *Roe v. Wade* at face value, which upheld the constitutional right to an abortion.⁸ *Planned Parenthood v. Casey*, which sets rules regarding what types of restrictions can be placed on abortion, is more relevant to this case.⁹ Using *Casey*'s "undue burden standard," the court must determine "if its purpose or effect [of the restrictions in Texas] is to place substantial obstacles in the path of a woman seeking an abortion before the fetus attains viability."¹⁰ Simply put, were these provisions intended to prevent women from accessing an abortion and did these provisions stop women from being able to access an abortion? The aims of Texas legislators have been repeatedly argued. Supporters of the law assert these provisions are necessary to protect the health of the woman seeking an abortion and prevent harm from complications.¹¹ Opponents, including the American Medical Association, stress that these requirements serve no medical purpose and are thus needlessly restricting women's access to abortion.^{12,13} The intentions of the legislators, or the "purpose" of the law, will likely be one major factor under consideration in the case.

The other issue of this case, as expressed in the petition, is whether the court can and should consider whether the restrictions not only serve, but successfully achieve the stated government interest.¹⁴ The government is allowed to put restrictions on abortion, but only when there is a compelling state interest such as protecting women's health.^{15,16} The aim was to protect women's health, but experts disagree as to whether the provisions achieve this goal. If the court decides that they can consider whether or not the government interest is successfully achieved, these restrictions may qualify as an undue burden.

Antonin Scalia, the court is slightly less polarized, but no less divided on the issue of abortion. With only eight justices voting on the case, the likely outcome will be 4-4 tie or a 5-3 vote in favor of striking down the law. In the case of a tie vote, the lower court decision, which upheld the Texas abortion restrictions with one exception, will stand but no country wide legal precedent will be set.¹⁷

Associate Justice Anthony Kennedy is the predicted swing vote.¹⁸ Justice Kennedy's past opinions on abortion have varied from supporting abortion rights and the undue burden test in *Casey*¹⁹ to restricting access and asserting women's abortion regrets in the partial-birth abortion case *Gonzales v. Carhart*.²⁰ If the focus is whether increasing the distance for women to travel to access an abortion is an undue burden, Kennedy may be more likely to vote in favor of upholding the provisions as a waiting period was deemed not an undue burden in *Casey*²¹ and the lower courts explained that distance to an abortion provider had not served as a barrier in the past in Texas.²² On the other hand, if the focus is on whether the restrictions achieve the government's interest in protecting women's health, Kennedy may be more likely to find the law unnecessary and unconstitutional. The decision is expected in late June 2016.²³

Sources

¹Relating to the regulation of abortion procedures, providers, and facilities; providing penalties. Texas House Bill 2 (July 18, 2013).

²Ibid.

³Center for Reproductive Rights, "Whole Woman's Health v. Hellerstedt," Center for Reproductive Rights, accessed February 28, 2016, <http://www.reproductiverights.org/case/whole-womans-health-v-hellerstedt>.

⁴Relating to the regulation of abortion procedures, providers, and facilities; providing penalties. Texas House Bill 2 (July 18, 2013).

⁵ASCs: A Positive Trend in Health Care," Ambulatory Surgery Center Association, accessed February 29, 2016, <http://www.ascassociation.org/advancingurginalcare/aboutasc/industryoverview/positivetrendinhealthcare>.

⁶Center for Reproductive Rights, "Whole Woman's Health v. Hellerstedt," Center for Reproductive Rights, accessed February 28, 2016, <http://www.reproductiverights.org/case/whole-womans-health-v-hellerstedt>.

⁷Jan Hoffman, "Better Care or Onerous Restrictions? Texas Abortion Law Going Before Supreme Court," The New York Times, February 26, 2016, <http://www.nytimes.com/2016/02/27/health/texas-abortion-law-supreme-court.html>.

⁸*Roe v. Wade*, 410 U.S. 113 (1973).

⁹*Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).

¹⁰Ibid.

¹¹Center for Reproductive Rights, "Whole Woman's Health v. Hellerstedt," Center for Reproductive Rights, accessed February 28, 2016, <http://www.reproductiverights.org/case/whole-womans-health-v-hellerstedt>.

¹²Ibid.

¹³Erik Eckholm, "Supreme Court Abortion Case Seen as a Turning Point for Clinics," The New York Times, February 24, 2016, http://www.nytimes.com/2016/02/25/us/whole-womans-health-v-hellerstedt-supreme-court.html?_r=1.

¹⁴Petition for a Writ of Certiorari, *Whole Woman's Health v. Hellerstedt*, No. 15-274 (U.S. Feb. 24, 2016).

¹⁵*Roe v. Wade*, 410 U.S. 113 (1973).

¹⁶*Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).

¹⁷*Whole Woman's Health v. Cole*, No. 14-50928 (5th Cir. Jun. 9, 2015).

¹⁸Irin Carmon, "Which Justice Kennedy will rule on abortion," MSNBC, February 26, 2016, <http://www.msnbc.com/msnbc/which-justice-kennedy-will-rule-abortion>.

¹⁹*Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).

²⁰*Gonzales v. Carhart*, 2007 U.S. 4338 (2007).

²¹*Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).

²²*Whole Woman's Health v. Cole*, No. 14-50928 (5th Cir. Jun. 9, 2015).

²³Lindsey Cook and Kimberly Leonard, "Explaining the Whole Woman's Health v. Cole Abortion Case," US News, January 11, 2016, <http://www.usnews.com/news/blogs/data-mine/2016/01/11/supreme-court-and-abortion-why-whole-womans-health-v-cole-matters>.

Apple versus FBI: Looking Beyond the War of Words

By Sam Kocharov, CAS '17

After the San Bernardino terrorist attack in 2015 the FBI obtained a warrant and searched through Syed Rizwan Farook's Lexus, in which investigators found and confiscated Farook's iPhone.¹ This search was done under the same precedents that allow authorities to search through U.S. citizens' homes.² The fact that these acts are legally and socially permissible illustrates the public's acceptance of certain invasions of privacy in the name of justice and security. Unfortunately, this is the end of any agreeable flow of logic between the two sides of Apple versus FBI. Apple versus FBI is a combination of requests by the FBI to have courts compel Apple to assist the Bureau with gaining access to various iPhones, the most controversial being Syed Farook's. The FBI believes its request should be accepted on the grounds that this is a national security issue, and that there is no law outright prohibiting the court from providing them with this relief.³ The responses from Apple and its tech-world supporters branch away from this argument, pointing towards not only the future of technological privacy, but also the expansion of the executive branch's power.⁴

Although, as the most controversial example, the San Bernardino iPhone has been given the spotlight in the PR battle between Apple Inc. and the FBI, there are eight other iPhones to which the government is simultaneously requesting access.⁵ Judge Orenstein of New York recently denied one of these requests in his ruling on February 29th, providing the issue with a legal analysis that can be applied to the San Bernardino iPhone case as well. In his ruling, Judge Orenstein argued that there is simply no legal interpretation by which compelling Apple to assist the FBI would not be an overreach of executive power.⁶ Until this ruling, the debate has basically been a war of words, with both sides supplying the public with their own emotionally charged arguments as to why the public should be siding with them.

In their request to compel Apple to assist in obtaining access to both Syed Farook's iPhone as well as the iPhone in question in Judge Orenstein's case, the FBI is invoking the All Writs Act (AWA).⁷ Simply put, the AWA gives courts jurisdiction to compel a company to assist the authorities with an investigation against its will.⁸ However, the AWA is limited in scope, and it is on the basis of these limitations that Judge Orenstein denied the government's motion to require Apple to bypass the passcode security on a suspected drug trafficker's iPhone device. Judge Orenstein argued that the issuance of the writ is not "agreeable to the usages and principles of the law" because the court order would "accomplish something Congress has considered but declined to adopt - albeit without explicitly or implicitly prohibiting it..."⁹ The government is therefore attempting to use the AWA as a means for the executive branch to achieve a legislative goal, which Congress has already considered and rejected.¹⁰ Orenstein proposes that the FBI, as an extension of the Executive Branch, wants the court to "give it authority that Congress chose not to confer".¹¹ Accepting the government's interpretation of the AWA in this case could set a precedent for future violations of the separation of powers.

It is important to note that Congress has not passed legislation on issues involving technology and privacy since 1994.¹² Assuming the San Bernardino iPhone is not the last phone the government will need to decrypt in the name of national security, rather than subjecting it to various interpretations of AWA, a law written 220 years ago, this issue must be clarified and resolved by a Congress representing the voice of its citizens. Acting in haste and deriving precedents from such a crucial and reoccurring issue will only lead to further complications down the road.

Sources

¹Patricia A. Donahue, Tracy L. Wilkison, and Allen W. Chiue, "SB-Shooter-MOTION-Seeking-Asst-iPhone," February 15, 2016, pg. 3, accessed March 20, 2016, <https://www.documentcloud.org/documents/2714000-SB-Shooter-MOTION-Seeking-Asst-iPhone.html>

²Ibid

³Patricia A. Donahue, Tracy L. Wilkison, and Allen W. Chiue, "SB-Shooter-MOTION-Seeking-Asst-iPhone," February 15, 2016, section goes here, accessed March 20, 2016, <https://www.documentcloud.org/documents/2714000-SB-Shooter-MOTION-Seeking-Asst-iPhone.html>

⁴Tim Cook, "A Message to Our Customers," Apple, February 16, 2016, section goes here, accessed March 1, 2016, <http://www.apple.com/customer-letter/>

⁵James Orenstein, "Civil Docket For Case #: 1:15-mc-01902-JO," February 29, 2016, 9, accessed March 20, 2016, <https://drive.google.com/a/bu.edu/file/d/0B7EX8WxpPipGQ2xCclNzb1JoQnM/view?pref=2&pli=1>

⁶Ibid, 16.

⁷Ibid, 9.

⁸Ibid, 2.

⁹Ibid, 16.

¹⁰"FAQ on the CALEA Expansion by the FCC," Electronic Frontier Foundation, section goes here, accessed March 24, 2016, <https://www.eff.org/pages/calea-faq#1>

¹¹James Orenstein, "Civil Docket For Case #: 1:15-mc-01902-JO," February 29, 2016, 31, accessed March 20, 2016, <https://drive.google.com/a/bu.edu/file/d/0B7EX8WxpPipGQ2xCclNzb1JoQnM/view?pref=2&pli=1>

¹²"FAQ on the CALEA Expansion by the FCC," Electronic Frontier Foundation, section goes here, accessed March 24, 2016, <https://www.eff.org/pages/calea-faq#1>

Commonwealth v. Twitchell

By India Mazzearelli, QSB '17

Commonwealth v. Twitchell¹ was a criminal case that captivated Massachusetts as parents, David and Ginger Twitchell, stood trial for involuntary manslaughter in the 1986 death of their two-year-old son, Robyn Twitchell. However, this case probed at a question beyond guilt or innocence: it was a clash of cultures as state child protection statutes tested the faith of the church and parental autonomy.²

Robyn Twitchell passed away from an obstructed bowel, which could have been easily treated by traditional medicine. However, the Twitchells were practitioners of Christian Science, a religion that denounces the use of medical practice and reverts to prayer for healing. In the days leading up to his death, Robyn's parents called a Christian Science practitioner and church nurse to attend to their son's ailment and consulted with other Church officials. The Twitchell investigation was unusually sensitive, as the Christian Science Church is headquartered in Boston and top officials knew about Robyn's condition before he died.³ First responders testified that they believed the child had been dead anywhere from 45 minutes to three hours before they arrived to the home.⁴ After further investigation, the district attorney eventually made the decision to charge the parents knowing very well the church's outreach and history in the community.

The Christian Science Church was outraged by the charges brought against the Twitchells. Church officials felt that prosecutors were unfairly targeting their belief system. They alleged that there was a double standard in regard to children who die in medical care versus those who die from failed alternative healing measures. This dichotomy is ostensibly unjust; the Constitution explicitly grants citizens the right to religious freedom. It should logically follow that Robyn's death was constitutionally protected. The Twitchells asserted they were exercising both their parental and First Amendment rights. The parents declared they had an undeniable interest in shaping their child's religious upbringing, especially given that Robyn was at a developmentally sensitive age for such instruction. The parents believed that their religious convictions, 1st Amendment and state statutes allowed them to forgo conventional medical treatments. Defense lawyers also noted that his clients were complaint with Massachusetts "religious exemptions" for child-abuse laws, which are specifically meant to accommodate religious families. Nonetheless, the jury found it particularly difficult to accept the death of a helpless child without holding someone responsible, and the Twitchells were found guilty.

This verdict was consistent with precedent set by *Employment Division v. Smith*, a United States Supreme Court case which held that the "free exercise" clause does not allow a person to use religious reasoning to disobey state statutes.⁵ The Twitchells were sentenced to ten years of probation and were ordered to periodically bring their remaining children to pediatricians.⁶ While the jury and prosecution both expressed their sympathies after the verdict, they believed that a line had to be drawn in order to protect children's lives. K. C. Skull, prosecutor of a similar case in Phoenix noted, "your right to practice religion is absolutely subservient to your child's right to live."⁷

The Twitchells' convictions were later overturned 6-1 on appeal to the Supreme Judicial Court of Massachusetts. The justices determined that the Twitchells had reasonably believed that they could rely on spiritual treatment without fear of criminal persecution, because Mr. Twitchell was assured by the church and Attorney General of this fact.⁸ This ruling nonetheless meant that the state can force parents to provide medical care for their children, despite their religious beliefs, and that doing so would not be in violation of the Free Exercise Clause or the Establishment Clause of the Constitution.⁹

The precedent set by this case was salient to all law enforcement and religious organizations throughout the Commonwealth. However, with exemption statutes in place for followers of Christian Science and similar religions, the legal waters remain murky. Despite the fact that both judicial and legislative action have been taken to address this topic, Massachusetts has yet to draw an unambiguous line to demarcate the point at which the rights of the child outweigh the rights of the parents.

Sources

¹Commonwealth v. Twitchell 416 Mass. 114 (1993)

²Shelli Dawn Robinson, "Commonwealth v. Twitchell: Who Owns the Child?" *Journal of Contemporary Health Law & Policy*, Volume 7 Issue 1, 1991.

³Laura Stepp, *Death of a Son a Test of Law and Faith*, *The Washington Post*, February 22, 1988

⁴Doris Sue Wong, "Twitchell Boy may Have Been Dead Hours Before Help Arrived, Jury Told," *The Boston Globe*, May 8th, 1990.

⁵*Employment Div., Dep't of Human Resources v. Smith*, 110 S. Ct. 1595, 1597-98 (1990).

⁶David Margolick, "In Child Deaths, a Test for Christian Science," *The New York Times*, August 6, 1990, <http://www.nytimes.com/1990/08/06/us/in-child-deaths-a-test-for-christian-science.html>.

⁷*Ibid.* Margolick.

⁸*Ibid.* Stepp.

⁹*Ibid.* Margolick.

What is the Plan for Climate Change?

By Kelsie Merrick, CAS '18

The third major storm in two weeks blasted a wide swath of beleaguered New England with more than two feet of snow Monday, again smashing records and paralyzing travel in hard-hit Boston.¹ Anyone residing in Boston last year understands the detrimental impact 110 inches of snowfall has on a city that usually only receives an average of 48 inches a year.

Why was there such an incredible accumulation this past winter of 2015? A great number of scientists, as well as world leaders, have blamed these unusual weather events on global warming and climate change. However, these effects are not specific to the New England area. The west coast has also witnessed constant droughts and a complete lack of rain or snowfall. Moreover, coastal areas around the world are affected by increased water levels, which cause flooding. Due to the severity of the impact of these weather

Greenhouse gases are the leading cause as to why Earth's temperature is rising at an exponential rate. The Earth's temperature has a direct correlation to the sea levels. Therefore, when the temperature rises, sea levels rise. If emissions continue at the rate they are at now, "the ocean could rise as much as three or four feet by 2100."⁸

The EPA's intention with the Clean Air Act is to create a partnership between states, tribes and the federal government to "implement air pollution reduction programs to protect public health and the environment."⁹ They have established two different types of plans for the federal government to implement the Clean Power Plan emission guidelines. Each of these plans offers states model-trading rules that the states can follow in developing their own plans to "capitalize on the flexibility built into the final Clean Power Plan."¹⁰ The federal plans will be implemented in any state that does not create an adequate plan of their own in time to be

“President Obama is working with the Environmental Protection Agency in an attempt to stop or at least slow down the rate of climate change that our world is currently at.”

changes in the United States, as well as those seen around the world, President Obama is working with the Environmental Protection Agency in an attempt to stop or at least slow down the rate of climate change that our world is currently at.

This past December, the Conference of Parties congregated in Paris to discuss climate change. This topic attracted close to 50,000 participants including 25,000 official delegates from government, intergovernmental organizations, UN agencies, NGOs and civil societies. In all, 70 countries were represented in Paris.² "The purpose of the meetings is to continually assess the nations' progress in dealing with climate change and, every so often, negotiate agreements and set goals for reducing greenhouse gas emissions that are the primary drivers of climate change."³

The main topic of this COP was managing the world's global temperature. Currently, the global average temperature is ".85°C higher than it was in the late 19th century."⁴ Scientists have concluded that "the threshold beyond which there is a much higher risk that dangerous and possibly catastrophic changes in the global environment will occur"⁵ when the Earth's temperature increases a full 2°C

President Obama and the Environment Protection Agency (EPA) have teamed up to help protect our environment through the Clean Power Plan under the Clean Air Act. The plan is "to cut methane emissions from the oil and gas sector by 40-50 percent from 2012 levels by 2025."⁶ The largest source of U.S. carbon dioxide emissions comes from fossil fuel-fired power plants, which account for 31 percent of the total greenhouse gas emissions.⁷

approved by the deadline. A state can create its own separate plan while under the federal plan that has a chance of implementation if it adheres to the requirements put in place. There is a rate-based and mass-based federal plan for each state that will affect the electric generating units (EGUs) to help meet carbon dioxide emission standards. The point of these models is to gain support from both federal and state governments.

The Obama Administration and the EPA have created a plan that could lead to change. The problem is with every great plan, especially this one, there are critics that disagree with the plan and attempt to limit it to the point that it does not succeed. If everyone can come to an agreement on how to successfully enforce this act, then there is a good possibility of change occurring within the United States and the entire globe.

Sources

- ¹Bacon, John. "Snowstorm Wallops Boston with 20 More Inches; Records Fall." USA Today. February 10, 2015. Accessed February 25, 2016.
- ²Key Information on the Last Meeting Prior to COP21." COP21. Accessed February 22, 2016.
- ³Miller, Brandon. "5 Things You Need to Know about COP21." CNN. Accessed February 26, 2016.
- ⁴Causes of Climate Change." European Commission. Accessed February 24, 2016.
- ⁵Ibid
- ⁶News Releases - Air." 01/14/2015: FACT SHEET: Administration Takes Steps Forward on Climate Action Plan by Announcing Actions to Cut Methane Emissions. Accessed February 27, 2016.
- ⁷FACT SHEET: Clean Power Plan Proposed Federal Plan." EPA. Accessed March 1, 2016.
- ⁸Gillis, Justin. "Seas Are Rising at Fastest Rate in Last 28 Centuries." The New York Times. 2016. Accessed March 1, 2016.
- ⁹FACT SHEET: Clean Power Plan Proposed Federal Plan." EPA. Accessed March 1, 2016.
- ¹⁰Ibid

The Precarious Future of the Supreme Court

By Sonali Paul, QSB '19

Justice Antonin Scalia's unexpected death in early February is a notable loss for the United States Supreme Court and will have numerous political and legal ramifications set to unfold in the upcoming months. Known for his oftentimes controversial and divisive opinions, as well as his unwavering textual interpretation of the Constitution, Scalia was a highly respected member of the Court who delivered precedent-setting arguments in many landmark cases.¹ In one such case, *Crawford v. Washington*, Scalia argued that because the Confrontation Clause of the Constitution explicitly states "the accused "shall have the right to be confronted with the witnesses against him"", statements made to police by witnesses who did not appear in Court proceedings and had no prior cross examination, are inadmissible and a violation of a criminal defendant's right to "confront" witnesses who deliver antagonistic testimony.² A rather intricate analysis of the word "confront" within the context of the Confrontation Clause thus resulted in Scalia's assertion becoming the law, with the Court overturning previous rulings against Crawford, the defendant. *Crawford v. Washington* ultimately exemplifies Scalia's well-known commitment to the precise interpretation of written law.³

The fact that Justice Scalia's death occurred in the middle of a presidential election year has been a major cause of additional contention among Republicans and Democrats. Although President Obama has assured conservatives he will be appointing a new justice, he faces several challenges, the most significant being the selection of a nominee whom a Republican-controlled Senate would be willing to confirm. With the ideological composition of the Court in the balance (the new nominee will be the tie-breaking vote on a currently evenly split Court), Republicans have a huge incentive to delay the confirmation process.⁴ They cannot hold off for too long however, because on March 16th, President Obama nominated Merrick B. Garland to fill Scalia's vacant seat on the Court. Garland, who serves as Chief Judge of the U.S. Court of Appeals for the D.C. Circuit, is a moderate known for his open-mindedness and "collegiality", characteristics the president was likely hoping Republicans would view favorably.⁵ Obama's expeditious nomination of Garland is a challenge to Republican senators to disregard public pressure and follow through with the confirmation process for a judge many view as level-headed and affable. In spite of this, Republicans are dead-set on denying Garland a hearing and remain steadfast in their decision to delay the nomination until the next president takes office in 2016.⁶

Scalia's death is also having immediate effects that transcend presidential politics. On Wednesday, March 2nd the Supreme Court "appeared deeply divided" over the implications of a 2013 Texas law placing extreme restrictions on abortion clinics and doctors.⁷ The four liberal justices on the Court made it apparent they would vote against the invasive law. Without Scalia, many expected the Supreme Court to deadlock with a 4-4 vote and final decision upholding the Texas law and similar pieces of legislation in Mississippi and Louisiana. Surprisingly, it seems as though Justice Anthony Kennedy, who could potentially be the one to cast the fifth vote necessary for the abrogation of the Texas law, may return the case to the state to gather more information about the

law's constitutionality and medical legitimacy. In the event that such an investigation leads Kennedy to strike down any portion of the law, the resulting 5-3 decision would be the most high-profile victory for abortion rights activists since *Roe v. Wade* and *Planned Parenthood v. Casey*.⁸

The Texas abortion case was just one on a full docket of other cases for the Supreme Court. Later this year, justices will address affirmative action, labor rights, and the scope of presidential power in immigration and energy policy. These cases were expected to result in 5-4 rulings, but Scalia's death means tied 4-4 outcomes are more likely, resulting in the respective lower court opinions being upheld.⁹ As of March 2016, it is uncertain whether Republicans will eventually acknowledge Obama's presidential right to appoint Scalia's successor but, for now, the eight remaining justices on the Supreme Court will continue to fulfill their duties and hand down rulings on several cases. All in all, Scalia's vacant seat on the Court is so significant because the person who fills it has the potential to dictate the outcomes of some of the most critical cases of this generation.

Sources

¹Kristin Linsley Myles, "Tribute: The incomparable Antonin Scalia," SCOTUSblog, February 29, 2016.

²*Crawford v. Washington*, 541 U.S. 36 (2004).

³*Ibid*

⁴David S. Cohen, "What Antonin Scalia's Death Means for the Supreme Court and the Country," RollingStone, February 13, 2016, <http://www.rollingstone.com/politics/news/what-antonin-scalias-death-means-for-the-supreme-court-and-the-country-20160213>.

⁵Bill Chappell and Carrie Johnson, "Merrick Garland Is Name As President Obama's Supreme Court Nominee," NPR, March 16, 2016, <http://www.npr.org/sections/thetwo-way/2016/03/16/470643431/i-ve-made-my-decision-on-supreme-court-nominee-president-obama-says>.

⁶Michael D. Shear, Julie Hirschfeld Davis, and Gardiner Harris, "Obama Choose Merrick Garland for Supreme Court", NYTIMES, March 16, 2016, http://www.nytimes.com/2016/03/17/us/politics/obama-supreme-court-nominee.html?_r=0.

⁷Richard Wolf, "Supreme Court closely divided on abortion case," USATODAY, March 3, 2016, <http://www.usatoday.com/story/news/politics/2016/03/02/supreme-court-abortion-clinics-restrictions-texas/81176634/>.

⁸*Ibid*

⁹Rick Hasen, "Justice Scalia's Death And Implications For The 2016 Election, The Supreme Court And The Nation", TPM, February 13, 2016, <http://talkingpointsmemo.com/caf/scalia-death-2016-implications/>.

Taking Politics out of Gerrymandering

By Yvette Pollack, COM '17

When Arizona residents voted to add the Arizona Redistricting Commission (ARC) to the state constitution in 2000, Arizonans thought they were going to divorce redistricting from politics.¹ According to the *Harris v. Arizona Redistricting Commission* Supreme Court hearing, the ultimate goal of the ARC was to obtain judicial preclearance, which it had failed to accomplish since the 1960's, under the Voting Rights Act of 1965 (VRA).² The VRA was originally made to curtail Jim Crow voting laws, but it ended up creating new obligations on other states including Arizona. A group of citizens including Mr. Harris challenged the newly redrawn ARC districts, claiming that they violated the 14th Amendment.³ They charged the ARC with vote dilution in the ARC's creation of over-populated, white, Republican-leaning districts and under-populated, Hispanic, and Democrat-leaning districts.⁴ The Republicans have continually won a majority of House seats due to the alleged vote dilution.⁵ *Harris v. ARC* has asked the Supreme Court to clarify if intentionally over-populating districts to gain a political party advantage denies voters the Equal Protection Clause of the 14th Amendment and if a favorable Justice Department preclearance allows states to ignore the one-person, one-vote principal.⁶ The current 8 justices have the chance to either kick politics out redistricting or re-establish the affirmative action voting program the justices struck down in 2013.

The recent precedent in the Supreme Court case of *Shelby County v. Holder* (2013) should make the judicial preclearance defense irrelevant because it eliminated (5-4) Section 5 and 4(b) of the VRA.⁷ These sections were interpreted to be so outdated that their heavy means no longer justified their burden.⁸ Section 4b had required states to obtain judicial preclearance from the federal justice department.⁹ Section 5 froze the process of creating new voting laws until Section 4b was fulfilled.¹⁰ Justices Roberts, Scalia, Kennedy, Thomas, and Alito were the majority for *Shelby County v. Holder* and would want to uphold this decision in order to remain consistent.¹¹ Section 4b and 5 would remain as forgotten training wheels. Justice Ginsberg joined by Justices Breyer, Sotomayor, and Kagan dissented through an eerie warning that states were doomed to repeat forgotten history.¹² These justices would want to use this case as a springboard to overturn Shelby.

Unfortunately, *Harris v. ARC* seems to have little potential to boot politics out of redistricting to the best of man's ability. Human nature prevents the U.S. from ever having truly unbiased districts and there has not been a proven way to have impartial districting decisions. Justice Alito brought up in oral arguments that the Supreme Court has long ignored the Equal Protection Clause in redistricting cases since *Reynolds v. Sims*,¹³ meaning that in Justice Alto's opinion, Harris has little chance of persuading the court. The stickiest question of *Harris v. ARC* was the role of partisanship in redistricting. Scalia's death and assumed lack of time to write or voice an opinion in this case may leave this question open for future consideration.

The Justices are poised to answer the ignored another question that the plaintiff has posed about the role of race in redistricting.

In *Shelby County*, the majority had said that the originally targeted counties had continuously met their diversity requirements, so these sections of the VRA were no longer necessary.¹⁴ The dissent had disagreed. The question was not about politics, but about race. The politics argument from the Supreme Court hearing seemed very weak.¹⁵ Southern states may have to deal with a messy dissent as the Justices try to skate around the race question while arguing either for or against upholding *Shelby County*.¹⁶ The result will either re-install the training wheels on state voting laws or maintain the trust that the states have overcome their burden. The current volatile climate of U.S. race relations along with Scalia's death may make the court reconsider reestablishing or restating some of the stricken VRA sections, or suggest Congress revisit these issues.

Sources

¹Amy Howe, "Argument preview: Does 'one person, one vote' yield to partisan politics or the Voting Rights Act?" SCOTUSblog, published December 6, 2015, accessed March 2, 2016, <http://www.scotusblog.com/2015/12/argument-preview-does-one-person-one-vote-yield-to-partisan-politics-or-the-voting-rights-act/>

²*Harris v. Arizona Independent Redistricting Commission* 578 U.S. ____ (2016)

³*Ibid.*

⁴*Ibid.* Howe.

⁵"The Shelby County Decision." The United States Department of Justice. accessed March 28, 2016. URL.

⁶*Ibid.* Harris.

⁷*Ibid.*

⁸*Shelby County V. Holder* 570 U.S. ____ (2013)

⁹*Ibid.*

¹⁰*Ibid.*

¹¹*Ibid.*

¹²*Ibid.*

¹³*Ibid.* Harris.

¹⁴*Ibid.* Shelby County.

¹⁵*Ibid.* Harris.

¹⁶*Ibid.* Shelby County.

Applying the Daubert Standard to the Expert Testimony of FBI Criminal Profilers

By Maxwell Robidoux, CAS '17

While criminal profiling is mainly an investigative tool, FBI profilers have been called upon to testify as expert witnesses at trial. This claim of expertise is based upon an agent's experience and training through the FBI's Behavioral Analysis Unit (BAU), which conducts research on criminal behavior

added four additional provisions: that the scientific expert's claims (1) can and have been tested (are falsifiable), (2) have been subject to peer review, (3) possess a known level of reliability and error rate, and (4) are subject to maintained standards controlling their use. A later Supreme Court ruling in the case of *Kumho Tire Co. v. Carmichael* extended the *Daubert* standard to all expert witnesses.¹⁰

“While many law enforcement officers accept profiling as useful, its reliability and validity are a matter of contention amongst police psychologists,² as the BAU does not always utilize the empirical methodology to which scientists are beholden.”

and develops psychological profiles of offenders to aid in criminal investigations.¹ While many law enforcement officers accept profiling as useful, its reliability and validity are a matter of contention amongst police psychologists,² as the BAU does not always utilize the empirical methodology to which scientists are beholden.

This issue was raised in a 2003 detention hearing in the U.S. District Court for the District of Maryland, the Hon. Susan K. Gauvey presiding.³ The defendant had been indicted on multiple charges related to possession of child pornography.^{4,5,6} Prosecutors requested that the defendant be remanded. Under the Bail Reform Act of 1984, the question before the court was whether there was clear and convincing evidence that denial of bail would be the only means by which to ensure public safety.⁷

The prosecution called Supervisory Special Agent (SSA) James Clemente, a criminal profiler with the FBI's BAU, who testified that the defendant was the type of sexual offender likely to reoffend, and that the court should therefore remand him.

Judge Gauvey was ultimately unsatisfied by SSA Clemente's attempts to substantiate his claims with empirical evidence, and thus she ruled in favor of the defense's proposed plan to place the defendant in his parents' custody pending trial. The decision was appealed to the presiding District Court Judge, Hon. Catherine C. Blake, who upheld the ruling. In 2006, Judge Gauvey published her memorandum opinion for the case, in which she reexamined her ruling by testing SSA Clemente's testimony against the *Daubert* standard.

The *Daubert* standard for expert witness testimony was established by the U.S. Supreme Court ruling in *Daubert v. Merrell Dow Pharmaceuticals*.⁸ The decision set forth stricter standards for evaluating the admissibility of scientific expert testimony. Previously, judges utilized the *Frye* standard, which mandated that testimony be useful to the trier of fact and that claims be generally accepted within the relevant scientific community.⁹ The *Daubert* standard

Although Judge Gauvey acknowledged that SSA Clemente's theories were generally accepted within the law enforcement community, she found his testimony unable to satisfy the additional *Daubert* requirements. When asked whether his risk assessment methodology was testable, he admitted that his methods were outside of scientific analysis and that the studies he referenced were anecdotal. Judge Gauvey described the agent's answers as “[failing] to identify anything that could be even remotely construed as either testing or validation.”¹¹ SSA Clemente was also unable to cite instances in which his sexual offender typology had been peer reviewed, as Judge Gauvey did not view oversight by FBI supervisors as equivalent to academic peer review. Furthermore, SSA Clemente conceded that the FBI has been unable to calculate error rates for risk assessments based on offender typology because follow-up information on future offenses is rarely available. Lastly, Judge Gauvey pointed out that the only control measure mentioned by SSA Clemente was oversight by FBI supervisors, which does not meet empirical standards. Judge Gauvey opined that because SSA Clemente's claims only satisfied one out of the five *Daubert* requirements, her ruling was the correct decision under the law.

Sources

¹Douglas, John E., Ann W. Burgess, Allen G. Burgess, and Robert K. Ressler. *Crime Classification Manual*. 3rd ed. Hoboken: John Wiley & Sons, Inc., 2013. 8-9, 22.

²Bartol, C. “Police psychology: Then, now, and beyond.” *Criminal Justice and Behavior* 23 (1996): 70-89.

³*United States v. Thomas*, NO. CCB-03-0150.

⁴18 U.S.C. § 2251(a).

⁵18 U.S.C. § 2252(a)(4)(B).

⁶18 U.S.C. § 2252(a)(2).

⁷18 U.S.C. § 3142(f).

⁸509 U.S. 579 (1994).

⁹*Frye v. United States*, 293 F. 1013 (D.C. Cir 1923).

¹⁰526 U.S. 137, 119 S.Ct. 1167, 1171 (1999).

¹¹*United States v. Thomas*, 55.

Agency Fees: Round Two

By Skyler Splinter, CAS '17

Public-employee unions are anxious. When the Supreme Court decided to hear the case of *Friedrichs v. California Teachers Association*, they agreed to tackle two questions: first, whether “agency-shop” arrangements infringe upon individuals’ First Amendment rights, and second, whether public-employee unions violate the First Amendment rights of their members by forcing those who do not wish to support the political causes of the union to annually and explicitly opt out of contributions to these causes.¹ The first question was at the center of debate during oral arguments.

One must understand the workings of public-employee unions in order to make sense of this particular case. An agency-shop is an agreement between an employer and a union that allows the employer to hire union and non-union employees, and permits the union to collect “agency fees.”² An agency fee is levied on members and non-members of unions to cover expenses related to collective bargaining. In this case, the employer is the state of California, and the union in question is the public schoolteachers’ union. Since the decision of *Aboud v. Detroit Board of Education* in 1977, the Court has held that compulsory agency fees are constitutional if the funds therefrom cover costs associated with collective bargaining.³ A union cannot, however, mandate agency fees for the purpose of political lobbying.⁴ Many unions spend a portion of the money from union dues on endorsements of political positions that they believe will benefit their workers or even the institution of organized labor.

Supporters of public-employee unions contend that since it is possible to opt out of the portion of fees that go toward political contributions, these mandatory fees do not impinge upon the petitioners’ First Amendment rights. This argument is rejected by the named petitioner in the case, a California schoolteacher named Rebecca Friedrichs, who claims that the collective bargaining process itself is inherently political: “The official you put into office is one side and the union is on the other side and you’re bargaining for taxpayer money, only the taxpayer doesn’t get invited to the table. That’s political, in my opinion.”⁵ This characterization of collective-bargaining appeared to be supported by Chief Justice Roberts during oral arguments when he affirmed that, “the amount of money that’s going to be allocated to public education as opposed to public housing, welfare benefits, that’s always a political issue.”⁶ The petitioners reason that if collective bargaining itself is inherently political, then compulsory agency fees issued by public employee unions are unconstitutional under the First Amendment, since such fees force the petitioner to support a political process with which they do not agree. As a result, in his opening statement, the counsel for the petitioners, Michael A. Carver, asked the Court to overturn the “erroneous” judgment made in *Aboud*.⁷

Although the petitioners remain confident in the validity of their First Amendment argument, the respondents point to *stare decisis*, which is a doctrine of precedent that judges cite in order to maintain the consistency and validity of the Court’s decisions.⁸ Counsel for the respondents hold that the Court already settled the issue

of agency fees in *Aboud*.⁹ However, *stare decisis* is not a legally binding principle, and the Supreme Court does have the ability to overrule itself. The respondents also argue that the functionality of the teachers union itself would be compromised by free riders who opt not to pay for the collective bargaining that benefits them.¹⁰ During questioning, some justices questioned whether this would actually hurt the union, and pointed to other unions that do not collect agency fees, yet still operate.

The outcome of the case will revolve around whether the Court decides to overturn *Aboud*. If the court finds that collective bargaining is in fact a political activity, and that agency fees unconstitutionally mandate the funding of this activity, then agency fees will be scrapped, and agency-shops will be undermined. Both sides have cause for concern. The untimely death of Justice Scalia has cast doubt on the chances of the petitioners, as he seemed ready to strike down agency fees during oral arguments. That being said, the fact that *stare decisis* is not legally binding does nothing to calm the nerves of the California Teachers Association.

This case has been concluded and the decision has been delivered. The vote was 4-4, which resulted in the Appellate Court being affirmed. Agency fees are still acceptable. *Aboud* is still a good ruling.

Sources

- ¹Friedrichs v. California Teachers Association, No. 14-915, 2016 U.S. Supreme Court.
²“Glossary,” United States Department of Labor, accessed February 20, 2016.
³Aboud v. Detroit Board of Education, No. 75-1153, 1977 U.S. Supreme Court.
⁴Ibid.
⁵“Two Teachers Explain Why They Want to Take Down Their Union,” by Emma Brown, Washington Post, accessed February 20, 2016.
⁶Friedrichs v. California Teachers Association, No. 14-915, 2016 U.S. Supreme Court.
⁷Ibid.
⁸“Stare decisis,” Cornell University Law School, accessed February 20, 2016.
⁹Friedrichs.
¹⁰Ibid.

The Constitutionality of Donald Trump's "Muslim Ban"

By Isaiah Tharan, CAS '18

Donald Trump's campaign has been fraught with controversy, often about the legality and feasibility of his policy proposals. From the infamous proposed wall between the United States (US) and Mexico, to his refusal to denounce David Duke, it appears everything Trump does will draw both ire and support. The most prominent of these divisive policies is his stance on Islam. After calling for a database of Muslims and monitoring all mosques in America, on December 7, 2015 Trump suggested a ban on all Muslims. The policy would apply not just to immigrants but also to natural born citizens.¹

Trump's stance on Islamic immigration is particularly extreme not because of the restriction of immigration, but how the immigrants are restricted by ethnicity and religion, combined with his desire to ban current US citizens. In fact, the US has a long history of restricting immigrants, with the most obvious precedent being the Chinese Exclusion Act of 1889.² While these laws all banned immigrants from individual countries, another case being used as a precedent for barring immigrants for their beliefs is *Kleindienst v. Mandel*.³ This court case banned a Belgian author for his support

this means that Trump might be able to partially implement his ban constitutionally if he were president, just not to the extent he wishes.

Despite being legal as a policy, enforcing this prohibition on Muslim immigrants would be unfeasible at best. The main reason this law would be almost impossible to implement legally is the No Religious Test Clause. Clause three of Article VI of the constitution, the No Religious Test Clause, only applies to federal employees. Arguments have been made that requiring federal employees to religiously test immigrants would violate the spirit of this clause.⁵ Additionally, banning Muslims would violate a major international law. Ratified by the United Nations in 1966, the International Covenant on Civil and Political Rights is not binding for the United States but may cause the US to lose many of our allies and severely diminish our international influence.

As a whole, Trump's ban on Muslims would never be realistic and has little legal justification. A ban on Muslim immigrants does have some precedent, though mostly in older court cases, so whether the Supreme Court desires to hold it up is anyone's guess. Finding a legal justification for requiring federal employees to administer religious tests would be nigh impossible. If Trump managed to overcome these hurdles, there would be extreme consequences on the international stage, making a ban on Muslims unlikely to ever be ratified in the US.

Trump's stance on Islamic immigration is particularly extreme not because of the restriction of immigration, but how the immigrants are restricted by ethnicity and religion, combined with his desire to ban current US citizens.

of Marxism. Indeed, the rationale in this case was not based on an immigrant's religion, but supporters of Trump's proposal are claiming that this case establishes that a set of beliefs may be used to ban individuals from immigrating.⁴

One common argument against Trump's proposal is that the ban on Muslims would violate the first amendment. This argument holds water, but only for Muslims who are citizens. It would be nearly impossible to flat out ban Muslims who are currently citizens, as they are a protected class under the first amendment. However, not all constitutional rights are granted to non-citizens;

Sources

¹Diamond, Jeremy. "Donald Trump: Ban All Muslim Travel to U.S." CNN. December 8, 2015. Accessed March 03, 2016. <http://www.cnn.com/2015/12/07/politics/donald-trump-muslim-ban-immigration/>.

²Chinese Exclusion Act of 1889, 130 U.S.C. § 581 (1889)

³*Kleindienst v. Mandel*, 408 U.S. 753 (1972).

⁴Melber, Ari. "Legal Scholar: Trump's Muslim Ban Is Probably Legal." Msnbc.com. 2015. Accessed March 28, 2016. <http://www.msnbc.com/msnbc/trump-muslim-ban-probably-legal>.

⁵Mebler, Ari. "What Law Experts Say of 'Odious' Trump Plan." NBC News. Accessed March 28, 2016. <http://www.nbcnews.com/politics/2016-election/law-experts-weigh-donald-trumps-plan-ban-muslims-n476041>.

Flo & Eddie Inc. vs Sirius XM

By Anaheeta Verma, QSB '18

On August 1st 2013, Mark Volman and Howard Kaylan, former members of Turtles (now incorporated as Flo & Eddie), filed a class action suit against digital music provider Sirius XM Radio, Inc. in the Los Angeles Superior Court.¹ This case challenged the universally accepted norm of broadcasting and copyright laws. The legal rights surrounding broadcasting and copyrights are long and complicated. This is because the Federal Copyright Act of 1976 extends copyright protection only to sound recordings made on or after February 15, 1972. Sound recordings that were made before this date continue to remain subject to state laws until February 16, 2067.² Broadcasters such as Sirius XM, have taken advantage of this loophole as they play songs recorded before 1972 without having to pay royalties to the owners of the recordings.³

more pre-1972 recordings, and that the high risk of liability is going to deter innovation and reduce new businesses from entering the market.

Due to this class action suit multiple broadcasting companies might be liable to pay millions in settlements. However, it is unfair to punish these companies for gaps in the law. Therefore, the best way to address the anxiety that broadcasters are currently facing is for congress to develop a standardized system. Congress should repeal the provision in the Copyright Act of 1976 that allows pre-1972 recordings to be protected by various state laws. Post 1972 recordings are federalized and federalizing pre-1972 recordings will reduce ambiguity and help create uniformity going forward.

Due to this class action suit multiple broadcasting companies might be liable to pay millions in settlements. However, it is unfair to punish these companies for gaps in the law.

Volman and Kaylan, both recorded multiple songs before 1972 and only licensed a few distributors to reproduce and distribute copies of their work. Sirius XM was not one of those distributors, but that didn't stop Sirius XM from "publically performing" the Turtles recordings over the years without paying them royalties. While the Federal law did not protect the recordings, the two band members argued that they were indeed protected by a combination of state laws. The court granted summary judgment in favor of the plaintiffs, as it was found that Sirius XM had violated their exclusive right to publically perform their recordings.³ This decision was based on Section 980 of the California Civil Code, which states that the author of an original work has exclusive ownership; therefore, if anyone wishes to publically perform such recordings they must first seek authorization from the recording's owners.⁴ Since the text of the statute is unambiguous, the court relied on the plain text meaning rather than looking into legislative history.

Since this case is the first successful case of its kind, there are much larger implications. For instance, in section 980 the meaning of "exclusive ownership" has not been defined. This means owners of pre-1972 recordings now have exclusive ownership to all types of public performances (i.e. FM broadcasters and digital music providers). Where as, post 1972 recordings have exclusive ownership only for digital audio transmission. As a result, broadcasters, nightclubs, and satellite radio providers may not be able to play songs by the Beatles, Elvis, the Rolling Stones and many

Sources

¹"Flo & Eddie, Inc. v. Sirius XM Radio – Part Two," July 13, 2015,

²Sound Recording Act, Federal Copyright Act. 1976.

³Noah Drake, "Flo & Eddie, Inc. v. Sirius XM Radio, Inc.: Public Performance Rights for Pre-1972 Sound Recordings," California Law Review Circuit Vol. 6 (2015): 61-69, March 15th 2016, http://www.californialawreview.org/wp-content/uploads/2015/08/Drake_FloEddie.pdf

⁴"Flo & Eddie, Inc. v. Sirius XM Radio – Part Two," July 13, 2015, <http://cohornlaw.com/flo-eddie-inc-v-sirius-xm-radio-part-two/>.

Reigning in the Pharmaceutical Industry

By Cleo Yahn, COM '16

Over the past year, Martin Shkreli, CEO of Turing Pharmaceuticals, has become “the most hated man in America.” The outlandish 32-year-old former hedge fund manager and entrepreneur acquired this notorious title when he raised the price of a 62-year-old drug called Daraprim from \$13.50 to \$750 per pill.¹ The absence of drug price regulation in the United States (US) coupled with the lack of competition made this skyrocketing 5,000% price increase on the drug conceivable. This unethical, yet completely legal decision rekindled a dormant concern surrounding the U.S. healthcare industry: ever-increasing pharmaceutical drug prices. Shkreli’s actions demonstrate the need for government control, if not regulation, over the pharmaceutical industry.

With an estimated 4.27 billion retail prescriptions to be filled across the country in 2016, it is clear that the pharmaceutical industry is growing.² Its growth, however, has coincided with a growth in drug prices, which 72% of Americans find unreasonable, especially when compared to the costs of drugs in other countries, which are typically 50% cheaper.³ For example, in the United Kingdom (UK) Daraprim sells for less than a dollar a pill. According to Bloomberg News, “Of about 3,000 brand-name medicines, prices more than doubled for 60 products, and at least quadrupled for 20 of those, since December 2014.”⁴ The research also revealed many drug prices rose at annual rates over 10%.⁵ An abundance of pharmaceutical mergers has created a lack of competition in the market, and strict patent laws have formed monopolies. Consequently, many pharmaceutical companies have been able to set their own steep prices without any repercussions.⁶

Some of the blame for these rising costs has been placed on research and development (R&D). According to the Pharmaceutical Research and Manufacturers of America or PhRMA, it takes more than 10 years and \$2.6 billion to bring a drug to market.⁷ Even then, only 12 percent of drugs actually get approved for sale.⁸ However, for previously developed drugs like Daraprim, Len Nichols, a healthcare economist at George Mason University, believes R&D is not a convincing justification for the price hikes. He stated, “The current revenue doesn’t pay for past R&D; it pays for current R&D.”⁹ Moreover, John Rother, chief executive of the National Coalition on Health Care, argues R&D is not a valid reason because these costs are “...sunk costs and have little to do with pricing.”¹⁰ Therefore, R&D is not the most plausible explanation for higher drug prices. Rather, they believe pharmaceutical companies base the prices of lifesaving medications like Stelara, Cycloserine, Isuprel, Nitropress, and Doxycycline simply on the highest costs the free market can bear.

In recent years, the public has taken greater notice of prescription drugs’ unjustifiable prices. As a result, pharmaceutical companies have already started disclosing payments, providing clinical trial results, and offering unanalyzed data to the public.¹¹ However, lawmakers and congressmen are calling for even more transparency, specifically through cost transparency bills.¹² These bills, which have been proposed in several states, including California and

North Carolina, would make drug companies disclose expenditures. This would, in theory, force drug companies to justify their expensive prices.¹³ Skeptics of this solution have recommended alternatives like capping copayments, limiting mergers, price controls, and compulsory licensing, which requires companies to license drugs to other manufacturers.¹⁴ Though, many people fear that any proposed bills, regulations, and controls could deter pharmaceutical companies from creating new drugs, which would leave people without lifesaving medications.

Without government intervention, people are going to struggle to afford their necessary medications. As U.S. Representative Elijah Cummings stated, “...it’s like putting a gun to somebody’s head and saying you need to pay me this very high price for the drug or you die.”¹⁵ Unless there is a balanced system for monitoring drug prices, there will never be a limit to how much pharmaceutical companies can charge. Therefore, the key to remedying the problem will first be reevaluating the regulatory framework set in place by the FDA to close various loopholes like closed distribution.¹⁶ Once the system has been rebuilt from the bottom-up, the industry will be able to set standards to prevent outrageous price hikes like the ones set by Shkreli. Only then will the country be able to find an equilibrium that suits the needs of the pharmaceutical companies, the politicians, and of course, the people.

Sources

¹Tom McKay, “Hedge Fund Manager’s Turing Pharmaceuticals Raises 62-Year-Old Drug From \$13.50 to \$750,” MIC, September 21, 2015, accessed February 2, 2016.

²“Total Number of Retail Prescriptions Filled Annually in the U.S. from 2013-2021,” Statista, 2016, accessed February 25, 2016.

³Nadia Kounang, “Why Pharmaceuticals Are Cheaper Abroad,” CNN, September 28, 2015, accessed February 12, 2016.

⁴Ed Silverman, “Pharma Industry Has More in Common with Martin Shkreli Than it Likes to Admit,” STAT, February 9, 2016, Accessed February 29, 2016.

⁵Ibid.

⁶Andrew Pollack, “Drug Goes From \$13.50 a Tablet to \$750, Overnight,” The New York Times, September 20, 2015, accessed February 20, 2015.

⁷“Prescription Medicines: Costs in Context,” PhRMA, 2015, accessed February 7, 2016.

⁸Andrew Pollack, “Drug Prices Soar, Prompting Calls for Justification,” The New York Times, July 23, 2015, accessed February 15, 2016.

⁹Rafi Mohammed, “It’s Time to Rein Exorbitant Pharmaceutical Prices,” Harvard Business Review, September 22, 2015, accessed February 24, 2015.

¹⁰Pollack, “Drug Prices Soar, Prompting Calls for Justification.”

¹¹Ibid.

¹²Ibid.

¹³Kaiser Health News, “Here are Actual Ideas on the Table to Stop Drug-Price Increases,” MedCityNews, October 19, 2015, accessed February 25, 2016.

¹⁴James Surowiecki, “Taking on the Drug Profiteers,” The New Yorker, October 12, 2015, accessed February 16, 2016.

¹⁵Lydia Ramsey, “Interview with Rep. Elijah Cummings on Drug Prices,” Business Insider, February 24, 2016, accessed March 23, 2016.

¹⁶Kasier Health News, “Here are Actual Ideas.”

Battered Women's Syndrome & Imminent Danger

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Approximately one third of women in the United States experience physical violence by an intimate partner in their lifetime.¹ Some of these women kill their batterers, and claim self-defense. Proving self-defense can be difficult, and becomes especially complicated when it is unclear whether the defendant was in imminent danger. U.S. law allows a person accused of homicide to claim they acted in self-defense, “when the act of killing is necessary or reasonably appears to be necessary in order to preserve his own life or to protect himself from serious bodily harm.”² The jury decides whether the homicide “reasonably appear[ed] to be necessary,”³ according to their estimation of what “a reasonable man would have done under the circumstances.”⁴ Yet, the jury’s assessment of a “reasonable” response may differ from the battered defendant’s view.

Many psychologists and domestic violence victim advocates argue that expert witnesses should be permitted to present to the jury the effects of Battered Women’s Syndrome (BWS), “a mental disorder that develops...as a result of serious, long-term abuse.”⁵ Advocates argue that victims who kill their abusers feel they are in imminent danger, urging the jury to consider the defendant’s psychological condition and to rule based on what the defendant believed to be necessary. In contrast, proponents of the “objective standard of criminal responsibility” believe that, if a jury does not find the defendant’s fear of immediate bodily harm to be the reaction of “a reasonable man,” a self-defense claim cannot be justified.⁶ While a jury ultimately decides the validity of the self-defense justification, each state decides whether expert testimony on BWS is admissible in its court.

In the past, states often decided against the admissibility of expert testimony on BWS. In *State v. Bess* (1968), the New Jersey Supreme Court ruled that a jury must decide based on an “objective test,” or what they believe to be reasonable, as opposed to a “subjective exploration” of the defendant’s psyche, or what appeared reasonable to the defendant.⁷ It held that expert testimony on psychological factors that made the homicide appear reasonable to the defendant was not relevant.⁸ The Court cited as precedent *State v. Sikora* (1965), which stated that, “criminal blameworthiness cannot be judged on a basis that negates free will and excuses the offense.”⁹ Many cases that denied admissibility of expert testimony also argued that, since the jury acts as an objective party, its judgment should not be based on the defendant’s view.¹⁰

In 1972, the Committee on the Judiciary House of Representatives created “Federal Rules of Evidence” to standardize the admissibility of evidence in trials in federal jurisdictions. Article VII, Rule 702 states that a qualified expert may testify if they meet a specific set of criteria: (a) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based

on sufficient facts or data; (c) the testimony is the product of reliable principles and methods; and (d) the expert has reliably applied the principles and methods to the facts of the case.¹¹

In the 1977 case, *Dyas v. United States*, the District of Columbia Court of Appeals provided further guidance to states regarding the admissibility of expert witnesses by creating a three-pronged assessment, now called the Dyas test. According to the test, testimony by expert witnesses is admissible if: the subject matter is “so distinctively related to some science, profession, business or occupation as to be beyond the ken of the average layman”; “the witness must have sufficient skill, knowledge, or experience in that field or calling as to make it appear that his opinion or inference will probably aid the trier in his search for truth”; and “the state of the pertinent art or scientific knowledge” must permit an expert to assert a “reasonable opinion.”¹²

When considering whether to admit expert testimony on BWS, states usually apply principles of Rule 702, the Dyas test, or a state version of the Federal Rules of Evidence.¹³ Many states now allow expert witnesses to testify about BWS for cases in which victims of domestic violence kill their abusers. In 1984, *State v. Kelly* argued against the earlier decision in *State v. Bess*, determining that expert testimony on BWS “is admissible to help establish a claim of self-defense in a homicide case.”¹⁴ In 1984, *Commonwealth of Pennsylvania v. Stonehouse* ruled that trial counsel must present BWS to the jury to show that “battered women who kill” often view “the final incident that precipitates the killing...as ‘more severe and more life-threatening than prior incidents.’”¹⁵

Continuing this development, the Court in *People v. Humphrey* ruled that expert testimony is relevant to the jury’s decision, because explaining BWS helps jurors understand how a battered woman could view homicide as necessary.¹⁶ According to the Supreme Court of California, it is not jurors’ responsibility to decide whether a belief was reasonable, but simply whether the defendant actually believed it was necessary to kill her batterer in order to preserve her own life.¹⁷ While many states now allow expert witnesses to testify about BWS, the question remains as to whether the determination of a homicide as self-defense should be based on the jurors’ or the defendant’s judgment of what is reasonable and necessary.

Sources

¹Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization – National Intimate Partner and Sexual Violence Survey, United States, 2011,” Centers for Disease Control and Prevention, 2014

²*State of New Jersey v. Ford Hipplewith*, 33 N.J. 300, (1960).

³*Ibid.*

⁴*State of New Jersey v. Calvin Bess*, 53 N.J. 10, (1968).

⁵“Battered Women’s Syndrome,” FindLaw, 2016

⁶*State of New Jersey v. Calvin Bess*, 53 N.J. 10, (1968).

⁷*Ibid.*

⁸*Ibid.*

⁹*State of New Jersey v. Walter J. Sikora*, 44 N.J. 453, (1965).

¹⁰*State of New Jersey v. Ford Hipplewith*, 33 N.J. 300, (1960).

¹¹The Committee on the Judiciary House of Representatives, Federal Rules of Evidence, Article VII, Rule 702, enacted by Public Law 93-595, as amended April 26, 2011

¹²*John Dyas v. United States*, 376 A.2d 827, (1977).

¹³Cynthia L. Coffee, “Trend Emerges: A State Survey on the Admissibility of Expert Testimony Concerning the Battered Woman Syndrome, A,” *Journal of Family Law* 25.2 (1986-1987): 373-396.

¹⁴*State of New Jersey v. Gladys Kelly*, 97 N.J. 178, (1984).

¹⁵*Commonwealth of Pennsylvania v. Carol Stonehouse*, 521 Pa. 41, (1989).

¹⁶*The People v. Evelyn Humphrey*, 13 Cal.4th 1073, (1996).

¹⁷*Ibid.*

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