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Name: Stephen Mayfield

Date: _____

Part One:

(10 pts each: 40 pts)

1. What were the facts in *Marbury v. Madison* (b) What is the general rule decided by *Marbury v. Madison*? (b) What was the Supreme Court's reasoning for that rule?

John Adams as president appointed Marbury to a court. When Thomas Jefferson became president he refused to appoint Marbury. Marbury complained and sent his case directly to the Supreme Court, which he was only allowed to do because Congress passed a law expanding the Supreme Court's Jurisdiction. The three questions to be decided were where was Marbury entitled to his appointment, was Congress's law constitutional, and was the Supreme Court allowed to rule laws they thought unconstitutional void. (B) The ruling was that Marbury was entitled to his appointment, but Congress' law was unconstitutional. They also ruled that the Supreme Court did have the power to rule laws unconstitutional. (C) At the ratification conventions in Pennsylvania and Connecticut people wanted Judicial Review by the Supreme Court to decide if laws were constitutional or not.

Rule was only Supreme Court has power to interpret words of Constitution

Rationale: Judges supposed to be independent since appointed and not elected



2. (a) Explain how a case reaches the Supreme Court. (b) Explain how it gets accepted by the Supreme Court. (c) How it argued. (d) How decisions are written.

Cases get to the Supreme Court either by original Jurisdiction, where the case is simply in the Jurisdiction of the Supreme Court and it starts there, or by appellate Jurisdiction where it works its way up from lower courts by appeals. (b) In order for a case to go to the Supreme Court it has to be a question of federal law. The Court doesn't have to take it but if at least four Judges vote to take it, then the Supreme Court does. (c) In the Supreme Court the Petitioner lawyer and respondent lawyer both get thirty minutes, the petitioner typically speaks for about twenty-eight minutes, then the respondent speaks for thirty, and the petitioner closes with its last two. (d) The Judges take a vote. Once one side is a majority someone on that side is chosen to write the opinion of the court. Then someone on the minority writes an opposing opinion. The rest of the Judges can write their own opinions as well.

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3. Explain why the Supreme Court ruled President Truman's actions unconstitutional in *Youngstown Sheet & Tube v. Sawyer*?. The Supreme court ruled President Truman's actions unconstitutional because in order for the president to have the power to seize the mills it would either need to come from the constitution or an action of Congress. The Constitution gave no such power and it clearly wasn't approved by Congress because they had rejected an amendment to a law that would have given the president that power. Because the president cannot make laws and can only uphold and approve laws passed by Congress, the president didn't have the power to seize the mills.
4. Explain the two big differences between the *Youngstown Sheet & Tube v. Sawyer* and *United States v. Curtiss-Wright* cases. There were two big differences between *Youngstown Sheet and Tube v. Sawyer* (Yv.S) and *United States v. Curtiss-Wright* (USv.CW). One is that in (USv.CW) Congress gave legislative power to the president on a certain issue of war, whereas in (Yv.S) Congress didn't approve anything and actually played no part. The second difference was that in (USv.CW) was about foreign affairs, which the president is in charge of. In (Yv.S) everything was internal in the United States where Congress had full jurisdiction.

Part Two:

(3 pts each: 18 pts)

5. If Marbury had done this, he probably would have won his case and would never be remembered in history as he is now. What was it? If he had simply sued in a lower level case everything would have been fine.
6. Explain what an injunction is and why it is sometimes necessary?
An injunction is when the court orders one of the parties to stop an action that would be harmful to the reason for the lawsuit. It is necessary because if a lawsuit was intended to stop something, and that that thing happens while every body is in court, it defeats the purpose.

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7. Explain the difference between a regulation and a law? (b) When does the Supreme Court allow regulations that act like laws? Regulations govern internal operations of an organization, laws govern private people. (b) only when executive orders don't contradict rulings of congress.
8. Suppose President Obama issued an Executive Order making it a law that all teachers in state-run public schools can never again lead their students in the pledge of allegiance. Would this be constitutional. Explain your answer. I'm fairly certain it is not constitutional because the Public Schools are run by the state not federal government.
9. What two powers of the modern presidency are not defined in the Constitution? The power to enter into war without a declaration from congress and the power to make executive orders.
10. Since WWII what is the only war to be officially declared by Congress? The Iraq War.

True or False.

(2 pts each: 22 pts)

11. False In the *Curtiss-Wright* case Congress gave the President the power to ban machine gun sales in the USA.
12. False President Truman wanted to seize the steel mills to help rebuild Louisiana faster after a major hurricane.
13. True The President can issue an order requiring all Federal Post Offices to play Weird Al music continuously during the holidays.
14. False The ruling in the *Boerne v. Flores* case was that the Congress did not go far enough in protecting the peoples' right.
15. False If a case starts in a state trial court it can never reach the U.S. Supreme Court.
16. True The author criticizes *Boerne v. Flores* because it makes the Supreme Court's decisions the supreme law of the land instead of the Constitution.

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17. True If a person loses their case in trial court, they have a right to appeal it, and the appellate court must accept it.

18. False If a person loses their case in the federal Court of Appeals, they have a right to appeal it, and the U.S. Supreme Court must accept it.

20. ~~True~~ If a person loses their case in a state trial court, they can appeal it to the federal District Court.

20. ~~False~~ Witnesses are never called to testify in an appellate court.

21. False Five Supreme Court justices must vote yes for a case to be heard by the Supreme Court.