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Blue Book

EXAMINATION BOOK

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QUESTION 2

Immig. Regul. Rule (IRR)

The IRR here provides conditions for all immigrants from the middle east if they want to enter the U.S. Since entering the U.S. is a privilege & not everyone has a right to it, it can impose conditions on its terms.

Here the conditions imposed consisted of a probationary period, registration req, notification of changes, etc.

When Mr. Abdul entered ~~the~~ the U.S & filed appropriate paper works, he subjected himself to those conditions. And since entering, as we stated earlier, is only a privilege. These conditions are fine.

However, a problem arises with the issue of whether the unbridled discretion - in whether ~~the~~ in 2 yrs a determination is made whether the immigrant is a threat - is unconstitutional.

There are no guidelines to determine what exactly constitutes an immigrant as a national threat. There are no specific formula in the rule to enable for the requirement of IP. w/o IP it gives the agency an unfettered authority to decide in w/ ~~the~~ whatever discretion, whether this person or that person is a national threat. (Panama & Poultry)

However this act/rule could be defended if it is argued that flexibility is needed in this field. ~~as~~ The argument for a need of innovation

to allow this governing body to experiment to gather information to ascertain just what those IP, those guidelines & specific formula should be.

This is a strong argument here b/c national security ^{turns} ~~depends~~ on a fact to fact basis. ~~Back to~~ ~~enable an~~ ~~off~~ The problem is whether we want an effective legal system where we have something set in stone or whether we want a "safer" environment is a tough call.

I would suggest for there to be some sort of standard / & guideline. In saying so, I am not suggesting an exhaustive list of what is & is not a national threat. I am recommending a guideline

that is not necessarily rationally perfect, but
as long as it isn't perfectly irrational.

DUE PROCESS

- Deportation hearing?

Mr. Abdul was subject to a deportation
hearing b/c of his evasiveness & national origin.

These were all conditions he was aware of
prior to entering. Even if he wasn't aware,
a notice & opportunity to comment was available.

It was published & ∴ the hardships ^{from an} of innocent
ignorance is not given a lot of weight.

"Men must turn to the corners of the
statute when dealing w/ the gov." (Merrill)

Mr. Abdul was apprehended & set for a hearing

✓ 30 days from date of apprehension. (Postponed hearings

are constitutional ^{wrong case. This case derived a hearing! see p. 583 in text} (Hollinrake) & it could also ^{Shelby vs. Matthews p. 1115}

be argued that since this is expressly classified as

a serious problem it could also be looked at as

✓ an Emergency situation (Mullan - the Bank case) ^{you get this one right!}

When we are dealing w/ a postponed hearing,

✓ we must balance the individual's private rights

& the delays effect on those rights. Here, being

apprehended (& I am assuming he is detained) Mr.

Abdul probably won't be able to work & provide

for his family. But the fact that he is a neurosurgeon

might not be beneficial as it indicates that he makes

a lot of \$\$ & that the family is living pretty well.

in such a situation, it is not about 90 days, however
1000000

However not having the final decision until 60 more days present a bigger problem that helps Mr. Abdul. The total of 90 days (30+60) seems to be too long of a delay and ~~the~~ the Abdul's has a good/strong argument against the postponement (This is all assuming that detention is involved & Mr. Abdul won't be able to provide for his family for a month a half).

Also, once a decision is made, the findings need to be sufficiently detailed to apprise all parties & the courts as to the basis of the decision. This is needed to guard against arbitrary, capricious, & abuse of discretion.

This will allow Mr. Abdul to know why exactly

He was a threat & deported. It will also notify similarly situated parties & also help the reviewing court in their determination.

As for Mrs. Abdul - The notice & publication of the rule didn't state the consequence for a late registration, in terms of a monetary fine.

The rule process will only work if there is a publication system. Since \$100 fine a day wasn't expressly stated Mrs. Abdul has a strong argument.

Her being denied access to her husband is another issue. Since the husband is under custody & the purpose of this rule is for public safety in terms of fighting terrorism, the gov't can argue

... b/c

