

JUDICIAL REVIEW BY POLITICAL IDEOLOGY:
A JUDGE OR JUSTICE WILL BE MORE LIKELY TO BE AN “ACTIVIST”
 (use judicial review to declare unconstitutional a government action)
WHEN THE GOVERNMENT ACTION THREATENS THEIR CORE IDEOLOGICAL VALUES

WHEN THE GOVERNMENT ACTION <u>THREATENS</u>	POLITICAL IDEOLOGY OF JUDGE/JUSTICE			
	Liberal	Libertarian	Conservative	Populist
<u>Equality</u> (at the expense of liberty) <ul style="list-style-type: none"> • <i>Santa Fe Independent School Dist. v. Doe</i> (2000) • The liberal majority ruled unconstitutional a policy permitting student-led, student-initiated prayer at high school football games in violation of the Establishment Clause of the First Amendment. 	Yes	No	No	Yes
<u>Liberty</u> (at the expense of order) <ul style="list-style-type: none"> • <i>Miranda v. Arizona</i> (1966) • The liberal majority ruled unconstitutional the admission of statements in a criminal trial given by the defendant during police interrogation without a warning against self incrimination and a right to counsel. 	Yes	Yes	No	No
<u>Liberty</u> (at the expense of equality) <ul style="list-style-type: none"> • <i>Citizens United v Federal Election Commission</i> (2010) • The conservative majority ruled that limits on corporate funding of independent political broadcasts in candidate elections violate the Free Speech Clause of the First Amendment. 	No	Yes	Yes	No
<u>Order</u> (at the expense of liberty) <ul style="list-style-type: none"> • <i>Gonzales v. Raich</i> (2005) • The conservative majority ruled that the Commerce Clause allows Congress to criminalize marijuana even where states approve its use. 	No	No	Yes	Yes

JUDICIAL REVIEW BY POLITICAL IDEOLOGY:
A JUDGE OR JUSTICE WILL BE MORE LIKELY TO DEFER TO THE ELECTED BRANCHES
(NOT use judicial review to declare unconstitutional a government action)
WHEN THE GOVERNMENT ACTION SUPPORTS THEIR CORE IDEOLOGICAL VALUES

WHEN THE GOVERNMENT ACTION <u>SUPPORTS</u>	POLITICAL IDEOLOGY OF JUDGE/JUSTICE			
	Liberal	Libertarian	Conservative	Populist
<p style="text-align: center;"><u>Equality</u> (at the expense of liberty)</p> <ul style="list-style-type: none"> • <i>Regents of UC v. Bakke</i> (1978) • The liberal majority upheld the use of race as one of many factors in admissions policies. 	Yes	No	No	Yes
<p style="text-align: center;"><u>Liberty</u> (at the expense of order)</p> <ul style="list-style-type: none"> • <i>Gonzales v. Oregon</i> (2006) • The liberal majority upheld the Oregon law allowing assisted suicide the terminally ill. 	Yes	Yes	No	No
<p style="text-align: center;"><u>Liberty</u> (at the expense of equality)</p> <ul style="list-style-type: none"> • <i>Milliken v. Bradley</i> (1974) • The conservative majority ruled that local school boards could not be required by federal courts to engage in cross-district busing when there was no evidence of prior or current <i>de jure</i> racial segregation by that school board. 	No	Yes	Yes	No
<p style="text-align: center;"><u>Order</u> (at the expense of liberty)</p> <ul style="list-style-type: none"> • <i>Morse v. Frederick</i> (2007) • The conservative majority upheld the suspension from a public high school of a student for displaying a banner reading “BONG HITS 4 JESUS” across the street from a school-sponsored Olympic Torch Relay. 	No	No	Yes	Yes