

## Handout B: Supreme Court Personal Liberty Decisions

| Case Name                                    | Opinion Excerpts   | Your Summary of the Opinion | What is the constitutional question in this case? Do you agree with the Court's decision? |
|--|--|-----------------------------|---|
| <b><i>Griswold v. Connecticut</i> (1965)</b> | <b>Majority Opinion:</b> "We deal with a right of privacy older than the Bill of Rights...To hold that a right is so basic and fundamental and so deep-rooted in our society as the right of privacy in marriage may be infringed because that right is not guaranteed in so many words by the first eight amendments...is to ignore the Ninth Amendment and to give it no effect whatsoever." |                             |   |
| <b><i>Griswold v. Connecticut</i> (1965)</b> | <b>Dissenting Opinion:</b> "...The Court talks about constitutional 'right of privacy' as though there is some constitutional provision... forbidding any law ever to be passed which might abridge the 'privacy' of individuals. But there is not."   |                             |   |
| <b><i>Roe v. Wade</i> (1973)</b>             | <b>Majority Opinion:</b> "This right of privacy, whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action... or in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."  |                             |   |
| <b><i>Roe v. Wade</i> (1973)</b>             | <b>Dissenting Opinion:</b> "The fact that a majority of the States reflecting, after all, the majority sentiment in those States, have had restrictions on abortions for at least a century is a strong indication, it seems to me, that the asserted right to an abortion is not 'so rooted in the traditions and conscience of our people as to be ranked as fundamental.'"                  |                             |   |

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| <b><i>Bowers v. Hardwick</i> (1986)</b>       | <b>Majority Opinion:</b> “[The] respondent would have us announce, [that there is] a fundamental right to engage in homosexual sodomy. This we are quite unwilling to do.”  |                             |   |
| <b><i>Bowers v. Hardwick</i> (1986)</b>       | <b>Dissenting Opinion:</b> “...The mere knowledge that others... do not adhere to one’s value system cannot be... an interest that can justify invading the houses, hearts, and minds of citizens who choose to live their lives differently.”  |                             |   |
| <b><i>Lawrence v. Texas</i> (2003)</b>        | <b>Majority Opinion:</b> “Liberty presumes an autonomy of self that includes freedom of thought, belief, expression, and certain intimate conduct. <i>Bowers v. Hardwick</i> was not correct when it was decided, and it is not correct today...”   |                             |   |
| <b><i>Lawrence v. Texas</i> (2003)</b>        | <b>Dissenting Opinion:</b> “The Texas [law]...imposes constraints on liberty. So do laws prohibiting prostitution... heroin, and...working more than 60 hours per week...But there is no right to ‘liberty’ under the Due Process Clause. States [may] deprive their citizens of ‘liberty,’ so long as ‘due process of law’ is provided.” |                             |   |
| <b><i>United States v. Windsor</i> (2013)</b> | <b>Majority Opinion:</b> “By seeking to displace this protection and treating those persons as living in marriages less respected than others, the federal statute is in violation of the Fifth Amendment.”   |                             |   |
| <b><i>United States v. Windsor</i> (2013)</b> | <b>Dissenting Opinion:</b> “By formally declaring anyone opposed to same-sex marriage an enemy of human decency, the majority arms well every challenger to a state law restricting marriage to its traditional definition.”  |                             |   |