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Civil Rights/Civil Liberties

POLS 5212
Spring 2007

Pornography, Obscenity and "Indecency"

Terms:

Obscenity

Pornography

Blasphemy

Roth Test

Miller Test

Child Pornography

Assigned Cases:
Roth v. US; Miller v. CA; New York v. Ferber

Questions for Reading Assigned Cases:

What does the concept of "contemporary community standards" mean in the day of mail order video sales, the Internet, and satellite TV? What is the meaning of "patently offensive"?

In *NY v. Ferber*, what is the difference that makes child pornography so different? Why may child pornography be prohibited even when it is not obscene?

Additional Cases:

Queen v. Hicklin (UK, 1868). This case defined the common law ruled applied in the United States for many years. Material might be criminalized if "the tendency of matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall."

Stanley v. GA (1969). Private possession of obscene materials in one's home is not subject to prosecution because of privacy interest in one's own reading (or viewing) material.

Young v. American Mini-Theatres (1976). The Supreme Court upheld a Detroit ordinance that adult movie houses must be dispersed and could not be located within 1,000 feet of two other adult theatres, adult bookstores, burlesque joints, pool halls, hotels, dance halls, or taverns, nor within 500 feet of a residential area. At the same time, the Court did not allow Detroit to zone adult theatres so severely that they would be effectively prohibited.

Barnes v. Glen Theatre (1991). Indiana's public decency law requires "nude" dancers to wear pasties and G-strings. The Court ruled (5-4) that nudity was not itself expression, but conduct, as the state did not prohibit nude dancing specifically, but all public nudity. Dissent argued that nudity communicates "eroticism and sensuality" and that these messages were being targeted.