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# AP<sup>®</sup> United States Government and Politics

## Sample Student Responses and Scoring Commentary Set 2

### **Inside:**

#### Free-Response Question 3

- Scoring Guidelines
- Student Samples
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**Question 3: SCOTUS Comparison****4 points**

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**A.** Identify the legal doctrine that is common in both *Timbs v. Indiana* (2019) and *McDonald v. Chicago* (2010). **1 point**

- The legal doctrine common in both cases is selective incorporation.

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**B.** Explain how the holding in *McDonald* was similar to the holding in *Timbs*.

**Acceptable responses include:**

**One point** for **describing** relevant information about the holding in the required Supreme Court case. **1 point**

- In *McDonald*, the court held that the Second Amendment applied to states.
- *McDonald* incorporated the Second Amendment right to keep and bear arms for the purpose of self-defense to the states.

**OR**

**Two points** for correctly **explaining** how the holding in *McDonald* was similar to the holding in *Timbs*.

**OR**

**2 points**

- In *McDonald*, the court held that the Second Amendment applied to the states. In *Timbs*, the court held that the excessive fines clause of the Eighth Amendment applied to the states. Both cases involved the incorporation of civil liberties from the Bill of Rights to the states.

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**C.** Explain how the decision in *Timbs* affects the reserve powers of the states. **1 point**

**Acceptable explanations include the following:**

- The decision in *Timbs* incorporated the Eighth Amendment to the states and will limit states' powers related to sentencing and punishments. States will not be able to pass laws that provide for punishments exceeding the constitutional protections against excessive fines.

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**Total for question 3 4 points**

● **Important:** Completely fill in the circle that corresponds to the question you are answering on this page.

Question 1

Question 2

Question 3

Question 4



Begin your response to each question at the top of a new page. Do not skip lines.

- A. The legal doctrine that is common in both *Timbs v Indiana* and *McDonald v. Chicago* is Selective Incorporation. You could also say supremacy clause which holds the federal law is higher than state. Selective Incorporation builds off this and has cases incorporate federal laws, protections, and rights into state and local governance.
- B. McDonald's case was on whether or not possession of a fire arm was legal. In Chicago there was a law that prevented the 2nd amendment to hold. The court ~~was~~ ruled that the law was unconstitutional and struck it down, thus making selective incorporation. In *Timbs* case it was the same, it showed that the 8th amendment still applied to states again showing how court case allow selective incorporation to be implemented. Federal law such of Bill of rights applies to the states as well.
- C. States reserve the right to make their own laws and administer their own justice systems. *Timbs* decision limits the scope of what a state can do by applying federal law over a states law. This limits the reserve powers of state by hindering what a state can judge as appropriate punishment.

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● **Important:** Completely fill in the circle that corresponds to the question you are answering on this page.

Question 1

Question 2

Question 3

Question 4

Begin your response to each question at the top of a new page. Do not skip lines.

A) In ~~both~~ <sup>an amendment</sup> ~~Timbs v Indiana and McDonald v Chicago~~, the Bill of Rights from the US Constitution is used or addressed, Both argue a violation of an Amendment. In McDonald v Chicago, the second amendment is addressed. In Timbs v Indiana, the eight amendment is addressed.

B) In McDonald v Chicago, the Supreme Court ~~has~~ ruled that McDonald had the right to own a hand gun under the second amendment even though it was illegal in the city of ~~the~~ Chicago, this selectively incorporated the second amendment to the states. ~~Both~~ The court said that not allowing McDonald to own a hand gun was a violation of his liberty and the Founder's intent. Similarly, in Timbs v Indiana, the court ruled that protection against excessive fines was a violation of the eight amendment since this protection is "fundamental to our scheme of ordered liberty." Both cases involve applying an amendment from the bill of rights to the states.

C) The decision in Timbs v Indiana affects the reserve powers of the states because it limits the power of the states. This decision takes away the states' ability to place excessive fines is unconstitutional under the excessive fines clause of the eight amendment. Much like McDonald v

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**Important:** Completely fill in the circle that corresponds to the question you are answering on this page.

Question 1



Question 2



Question 3



Question 4



Begin your response to each question at the top of a new page. Do not skip lines.

Chicago, *Timbs v Indiana* limits the reserve powers of the states.

Use a pen with black or dark blue ink only. Do NOT write your name. Do NOT write outside the box.

● **Important:** Completely fill in the circle that corresponds to the question you are answering on this page.

Question 1

Question 2

Question 3

Question 4



Begin your response to each question at the top of a new page. Do not skip lines.

A. In both cases, the legal doctrine of incorporation, was used. The eighth amendment not only applies on a federal level, but also on the states.

B. In the holding of McDonald, the states gained power.

C. Powers that are not given to the federal government, are given to the states. In Timbs, the states gained power over the federal government.

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### Question 3

**Note:** Student samples are quoted verbatim and may contain spelling and grammatical errors.

#### Overview

This Supreme Court Comparison question expected students to read a case summary of a nonrequired Supreme Court case (*Timbs v. Indiana*) and compare it to a case required in the course (*McDonald v. Chicago*). Students were asked to identify the legal doctrine common to both cases. Students were then expected to explain how the holding in *McDonald v. Chicago* was similar to the holding in *Timbs v. Indiana*. Finally, students were expected to explain how the decision in *Timbs v. Indiana* affects the reserve powers of the states.

The task of comparing the required case to a nonrequired case necessitated that students demonstrate increasingly higher order thinking skills, applying their substantive knowledge of case facts, reasoning and holdings, while integrating comparison skills with other course topics/concepts.

#### Sample: 3A

##### Score: 4

The response earned 1 point in part A for identifying the doctrine of selective incorporation, as it clearly states, “The legal doctrine ... is Selective Incorporation.”

The response earned 2 points in part B for describing the holding in *McDonald*, “In Chicago there was a law ... The court ruled that the law was unconstitutional ... thus making selective incorporation” and for explaining the similarity of the *Timbs* and *McDonald* decisions. “In *Timbs* case it was the same, it showed that the 8th amendment still applied to the states.”

The response earned 1 point in part C for explaining how the *Timbs* holding limits the reserve powers of the state as “limits the reserve powers of a state by hindering what a state can judge as appropriate punishment.”

#### Sample: 3B

##### Score: 3

The response did not earn a point in part A for identifying the doctrine of selective incorporation. “In both *Timbs v. Indiana* and *McDonald* ... the Bill of Rights from the Constitution is used.”

The response earned 2 points in part B for describing the holding in the *McDonald* decision as “the Supreme Court ... this selectively incorporated the second amendment” and for explaining the similarities between *McDonald* and *Timbs*: “Similarly, in *Timbs v. Indiana*, the court ruled that protection against excessive fines was a violation of the eighth amendment ... Both cases involve applying an amendment ... to the states.”

The response earned 1 point in part C for correctly explaining how the *Timbs* decision limited the reserve powers of the state: “This decision takes away the states’ ability to place excessive fines ... under the excessive fines clause of the eighth amendment.”

### Question 3 (continued)

**Sample: 3C**

**Score: 1**

The response earned 1 point in part A for identifying the legal doctrine of selective incorporation as “the legal doctrine of incorporation.”

The response did not earn points in part B. The first point was not earned because the response does not accurately describe relevant information about the holding in *McDonald*; instead, it makes the nonspecific statement that “In the holding of McDonald, the states gained power.” The response does not make an attempt at the explanation required to earn the second point.

The response did not earn a point in part C for explaining how states’ reserved powers are limited by the *Timbs* decision. “In *Timbs*, the states gained power over the federal government” is incorrect.