AP® United States Government and Politics
Sample Student Responses and Scoring Commentary
Set 2

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Free-Response Question 3
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Question 3: SCOTUS Comparison  

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<th>Section</th>
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<tr>
<td>A.</td>
<td>Identify the legal doctrine that is common in both <em>Timbs v. Indiana</em> (2019) and <em>McDonald v. Chicago</em> (2010).</td>
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<tr>
<td></td>
<td>The legal doctrine common in both cases is selective incorporation.</td>
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<td>B.</td>
<td>Explain how the holding in <em>McDonald</em> was similar to the holding in <em>Timbs</em>.</td>
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<td></td>
<td><strong>Acceptable responses include:</strong></td>
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<td></td>
<td><strong>One point</strong> for describing relevant information about the holding in the required Supreme Court case.</td>
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<td></td>
<td>• In <em>McDonald</em>, the court held that the Second Amendment applied to states.</td>
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<td></td>
<td>• <em>McDonald</em> incorporated the Second Amendment right to keep and bear arms for the purpose of self-defense to the states.</td>
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<td><strong>OR</strong></td>
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<td></td>
<td><strong>Two points</strong> for correctly explaining how the holding in <em>McDonald</em> was similar to the holding in <em>Timbs</em>.</td>
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<td></td>
<td>• In <em>McDonald</em>, the court held that the Second Amendment applied to the states. In <em>Timbs</em>, 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.</td>
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<tr>
<td>C.</td>
<td>Explain how the decision in <em>Timbs</em> affects the reserve powers of the states.</td>
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<td></td>
<td><strong>Acceptable explanations include the following:</strong></td>
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<td>• The decision in <em>Timbs</em> 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.</td>
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Total for question 3: 4 points
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 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.
Begin your response to each question at the top of a new page. Do not skip lines.

A) In both **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 **Eighth Amendment** is addressed.

B) In **McDonald v Chicago**, the Supreme Court ruled that McDonald had the right to own a hand gun under the Second Amendment even though it was illegal in the city of Chicago. This selectively incorporates the Second Amendment to the States. The Court said that not allowing McDonald to own a hand gun was a violation of his liberty and the founders' intent. Similarly, in **Timbs v Indiana**, the Court ruled that prosecution against excessive fines was a violation of the Eighth 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 **Eighth Amendment**. Much like **McDonald v...**
Chicago, *Timbs v Indiana* limits the reserve powers of the states.
Important: Completely fill in the circle that corresponds to the question you are answering on this page.

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.
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 eight 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 eight 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.