

ESSAY PROMPT

During the COVID-19 crisis of 2020-21, state sales tax revenues plummeted as citizens drastically reduced their purchases. Consequently, states have sought new ways to generate more revenue to make up for their budget shortfalls. Many states have started selling personalized license plates that car owners can customize with their choice of letters and numbers to create a message.

The state of West Washington sells personalized plates for a \$50 per year. In customizing their plates, however, drivers are restricted from choosing a combination of letters and/or numbers that do any of the following:

- (1) convey a political statement;
- (2) convey a statement expressing bias against others on the basis of race, color, creed, religion, sex, or sexual orientation,
- (3) express profanity that would offend other drivers.

Hal, a pro-life activist, wants a plate that reads: 4PROLIFE.

Mary, an African-American woman, wants a plate that reads: WHTSRDUM.

Todd, an anarchist, wants a plate that reads: FUKU.

The W. Wash. Dept. of Motor Vehicles (DMV) denies each of these persons their requested license plate, citing the state's restrictions listed earlier, and an interest in reducing distracted driving, caused by outlandish messages, and road rage among drivers who may find the plates offensive, both of which increase the risk of traffic accidents. Each person above files a separate lawsuit challenging the state's denial of their requested license plate.

Instructions. You are the judge adjudicating the three cases: *Hal v. DMV*, *Mary v. DMV*, and *Todd v. DMV*. You must rule to either uphold or overturn each of the state's decisions to deny these plates. Write an opinion in which you discuss whether any of the state's license plate restrictions violate any of the plaintiffs' freedom of speech under the 1st and 14th Amendments. (You may wish to consult the list of constitutional rules or doctrines on free speech on pp. 228-229 of E&W [8th ed.]). Besides the state interests listed in the scenario, you may identify other possible interests, and discuss whether they are sufficient to withstand strict scrutiny.