**Constitutional Law I**

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Free Speech Hypotheticals: Part 5, Nonpublic forums

Discuss the arguments likely to be advanced by both sides in the following situations. Consider what additional facts might be important.

(1) Mr. Adderley, along with a group of fellow-students, participates in a protest in front of the Tallahassee jail (protesting the arrests of other students the day before). The sheriff directs Adderley to leave the jail property, and when Adderley refuses he is arrested. Adderley defends on First Amendment grounds.

(Adapted from *Adderley v. Florida*, 385 U.S. 39 (1966), in which the Court ruled against Adderley by a 5-4 vote; Justice Black’s majority opinion contained the often-quoted line “The State, no less than a private owner of property, has power to preserve the property under its control for the use to which it is lawfully directed.”)

(2) Mr. Lehman wants to buy advertising space on city-owned buses to place a political advertisement. The City generally sells advertising space on buses but has a policy against accepting political advertisements. It refuses Mr. Lehman’s advertisement, and he sues on First Amendment grounds.

(Adapted from *Lehman v. Shaker Heights*, 418 U.S. 298 (1974), in which the Court ruled against Lehman by a 5-4 vote, finding that the City rule was not “arbitrary, capricious or invidious.”) [*Lehman* is quoted extensively in *United States v. Kokinda*].

(3) The International Society for Krishna Consciousness (ISKON), a religious organization, wants to distribute flyers and solicit contributions in airports in New York City. The airport authority bans such activities. ISKON sues on First Amendment grounds.

(Adapted from *ISKON v. Lee*, 505 U.S. 830 (1992), in which a divided Court upheld the ban on solicitation but invalidated the ban on distribution.) [Note that this was pre-9/11; one may doubt the case would come out the same way today.]