Class 7

Statutory and Constitutional Analysis

Constitutional Analysis

- Heavily based on case law!

- Use IRAC approach
  - Identify client's issue
  - State the rule of law (constitutional provision)
    - Explain cases that interpret constitution
  - Apply the rule of law (constitution) to client's facts
  - Reach a conclusion

Constitutional Analysis & Federalism

- Federalism—both federal and state governments make laws
- Supremacy Clause—where conflicts exist between federal and state laws, federal law controls
- Key issue in analysis is whether a conflict exists
  - U.S. Supreme Court case law is important

Statutory Analysis

- Outline statutory language
  - Elements and requirements
- Apply language to client facts
- Review case law interpreting code provisions
- Review other code sections
  - Definitions
  - Other applicable statutes
- Be aware of implementation dates
- Decisions notes (cases)
  - Review legislative history if appropriate

Applying Statutory Law to a Fact Pattern

- Follow the IRAC approach
  - "I" state the ISSUE
  - "R" state the RULE of law that applies (the statute & cases that interpret the code)
  - "A" ANALYZE the situation by applying the law to the facts
  - "C" reach a CONCLUSION

Statutory Interpretation

- Overarching Goal of Statutory Interpretation: Effectuate the intent of the Legislature

1. Examine the language of the statute itself, giving effect to the "plain meaning."
2. Construed in the context of the statute as a whole
3. Were the language is ambiguous, or statute appears somehow inconsistent, look to the legislative history.

Example: *In re Shannon*, 25 N.Y.3d 345, 351-53, 34 N.E.3d 351, 355-57 (2015)

- Under Mental Hygiene Law § 81.44(e), the Legislature allowed a guardian to retain from the estate of a deceased incapacitated person property equal in value to the claim for administrative costs, liens and debts, which suggested that the Legislature meant to permit the retention only of property equal in value to the expenses incurred with respect to the administration of the guardianship. Does the statute allow the guardian to withhold from the ward's estate funds to pay her debt to the nursing facility.

Example (continued): *In re Shannon*, 25 N.Y.3d 345, 351-53, 34 N.E.3d 351, 355-57 (2015)

- Court States Goal and Methodology:

"It is fundamental that a court, in interpreting a statute, should attempt to effectuate the intent of the Legislature". Inasmuch "[a]s the clearest indicator of legislative intent is the statutory text, the starting point in any case of interpretation must always be the language itself, giving effect to the plain meaning thereof". "We are also guided in our analysis by the familiar principle 'that a statute ... must be construed as a whole and that its various sections must be considered together and with reference to each other'" Of course, "where 'the language is ambiguous, we may examine the statute's legislative history'". . . . [Internal citations omitted].

Example (continued): *In re Shannon*, 25 N.Y.3d 345, 351-53, 34 N.E.3d 351, 355-57 (2015)

1. Ct. examines the language of the statute itself, striving to give effect to the "plain meaning:"

"This is one of those instances in which the statutory language is unclear. . . . Viewed in isolation, the fact that the legislature did not insert such a limitation into subdivision (d) could suggest that it meant to allow the retention of guardianship funds to secure *administrative* costs, as well as *any* claim or *any* lien. "

Example (continued): *In re Shannon*, 25 N.Y.3d 345, 351-53, 34 N.E.3d 351, 355-57 (2015)

2. Court construes the meaning in the context of the statute as a whole:

"Our review, however, is not that constrained. The plain language of subdivision (d) of Mental Hygiene Law §81.44 requires that it is to be read in conjunction with subdivision (e) of the same section, . . . Given the discord between subdivisions (d) and (e) of Mental Hygiene Law §81.44, our analysis turns to the legislative history of that section. "

Example: In re Shannon, 25 N.Y.3d 345, 351-53, 34 N.E.3d 351, 355-57 (2015)

3. Because the language is ambiguous, and statute appears somehow inconsistent, Ct. looks to the legislative history:

"Given the discord between subdivisions (d) and (e) of Mental Hygiene Law § 81.44, our analysis turns to the legislative history of that section. On this point the Sponsor's Memorandum is decisive. . . . (Sponsor's Mem., Bill Jacket, L. 2008, ch. 175 at 10, 2008 N.Y. Legis. Ann. at 127). . . .Put simply, it compels the conclusion that the legislature did not intend for section 81.44 to permit . . . ."

Bluebook
Rule 8 - Capitalization

- First word in titles and headings
- The word following a colon
- Nouns that identify specific:
  - Groups
  - Persons
  - Government offices
  - Government bodies and groups

The Bluebook
Rule 8 - Capitalization

- Act
  - Only when referring to a specific act
- Circuit
  - Only when referring to a specific circuit
- Code
  - Only when referring to a specific code

The Bluebook
Rule 8 - Capitalization

Constitution

- When referring to the U.S. Constitution
- Naming a constitution in full

- Judge
  - When naming a specific judge
  - Referring to a U.S. Supreme Court Justice