

Theories for Construing State Constitutions

05 - Differently Worded Provisions

But first, let's finish with...

Similarly Worded Provisions

Blum v. Merrell Dow Pharmaceuticals Inc.

626 A.2d 537 (Penn. 1993)

U.S. Constitution, Sixth Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Pennsylvania Constitution, Article I, §6

Trial by jury shall be as heretofore, and the right thereof remain inviolate. The General Assembly may provide, however, by law, that a verdict may be rendered by not less than five-sixths of the jury in any civil case. Furthermore, in criminal cases the Commonwealth shall have the same right to trial by jury as does the accused.

Four-Part Test

- 1) text of the Pennsylvania Constitutional provision;
- 2) history of the provision, including Pennsylvania case law;
- 3) related case law from other states;
- 4) policy considerations, including unique issues of state and local concern, and applicability within modern Pennsylvania jurisprudence.

Reccap

Reasons to follow the U.S. Supreme Court's interpretation of a similarly worded provision?

Reasons *not* to follow the U.S. Supreme Court's interpretation of a similarly worded provision?

Cases - Similarly Worded Provisions

Sitz v. Department of State Police

506 N.W.2d 209 (Mich. 1993)

State v. Hempele

576 A.2d 793 (N.J. 1990)

State v. Wright

961 N.W.2d 396 (Iowa 2021)

Blum v. Merrell Dow Pharmaceuticals Inc.

626 A.2d 537 (Penn. 1993)

Cases - Differently Worded Provisions

Racing Association of Central Iowa v. Fitzgerald

675 N.W.2d 1 (Iowa 2004)

State v. Jordan

156 P.3d 893 (Wash. 2007)

State v. Mixton

478 P.3d 1227 (Ariz. 2021)

State v. Scottize Danyelle Brown

930 N.W.2d 840 (Iowa 2019)

Racing Association of Central Iowa v. Fitzgerald

675 N.W.2d 1 (Iowa 2004)

U.S. Constitution, Fourteenth Amendment

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State ... deny to any person within its jurisdiction the equal protection of the laws.

Iowa Constitution, Article 1, § 6

All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not apply equally to all citizens.

State v. Jordan

156 P.3d 893 (Wash. 2007)

State v. Mixton

478 P.3d 1227 (Ariz. 2021)

U.S. Constitution, Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Washington Constitution, Article 1, § 7

No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

Arizona Constitution, Article 2, §8

No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

State v. Scottize Danyelle Brown

930 N.W.2d 840 (Iowa 2019)

**State court rulings that address
both federal and state bases for
decision**

Ohio v. Robinette

653 N.E.2d 695 (Ohio 1995)

519 U.S. 33 (1996)

685 N.E.2d 762 (Ohio 1997)%% %%

Important Precedent:

Michigan v. Long

463 U.S. 1032 (1982)

