

Session :	Septembre 2017
Année d'étude :	Troisième année de Licence Droit
Discipline :	<i>Anglais juridique</i>
Examen :	Premier semestre (UEC1 7296)
Durée :	1h30
Titulaires du cours :	M. Dino MELONI, Mme Emilie PERCHE

Les documents et les appareils électroniques ne sont pas autorisés.

I. Complete the following sentences, adding between 10 and 25 words. Do not start a new sentence. (20 points)

1. Unless the police...
2. If a defendant's conviction was overturned...
3. In order to regulate...
4. Until the Fourteenth Amendment...
5. While the Establishment Clause...

II. Choose one of the following topics and write an essay in approximately 250 words (+/- 10%). (50 points)

1. If you could amend a provision of the Bill of Rights, what would it be? Use legal arguments to justify your answer.
2. How has the US Supreme Court's interpretation of the Eighth Amendment changed over time? To what extent do you agree with its current interpretation?

III. Read the following document and answer each of the questions below. (approximately ten lines/100 words for each question). Use your own words. DO NOT QUOTE DIRECTLY FROM THE TEXT. (30 points)

Supreme Court Rules Right to Speedy Trial Ends at Guilty Verdict

Adam Liptak, *The New York Times*, May 19, 2016

The Supreme Court on Thursday unanimously ruled that the Constitution's guarantee of a speedy trial does not protect people convicted of crimes from lengthy sentencing delays.

The case, *Betterman v. Montana*, No. 14-1457, concerned Brandon T. Betterman, who pleaded guilty to jumping bail in the spring of 2012. He spent the next 14 months in a Montana jail waiting to hear what his sentence would be.

He complained to the judge, saying the delay had put him on an "emotional roller coaster due to the anxiety and depression caused by the uncertainty." In the summer of 2013, the judge finally sentenced him to seven years in prison, with four years suspended.

The long delay, Mr. Betterman said, had violated his Sixth Amendment right to a speedy trial.

Justice Ruth Bader Ginsburg, writing for the court, rejected the argument. There is a difference between trials, which adjudicate guilt, and sentencings, which determine punishment, she wrote.

"As a measure protecting the presumptively innocent, the speedy trial right — like other similarly aimed measures — loses force upon conviction," Justice Ginsburg said.

She added that "the sole remedy for a violation of the speedy trial right" is dismissal of the charges, which "would be an unjustified windfall¹, in most cases, to remedy sentencing delay by vacating² validly obtained convictions."

Mr. Betterman had not sought outright dismissal of the case against him, suggesting instead that an appropriate remedy for the 14-month delay in his sentencing would be an equivalent reduction in his prison term. Justice Ginsburg rejected the possibility of "a flexible or tailored remedy." A violation of the right to a speedy trial, she said, "demands termination of the prosecution."

Nor did it matter, she wrote, that a vast majority of criminal prosecutions these days end with guilty pleas rather than trials, making sentencing proceedings more important. That "modern reality," she wrote, "does not bear on the presumption-of-innocence protection at the heart of the Speedy Trial Clause."

Justice Ginsburg did say that capital cases, in which the sentencing phase is often elaborate and crucial, may require a different speedy-trial analysis.

The court left open a different avenue to attack long sentencing delays.

Mr. Betterman, Justice Ginsburg wrote, "retains an interest in a sentencing proceeding that is fundamentally fair." It was possible, she said, that he could have attacked the delay in his case as a violation of a different constitutional right, that of due process.

"But because Betterman advanced no due process claim here," Justice Ginsburg wrote, "we express no opinion on how he might fare³ under that more pliable standard."

In a concurrence, Justice Sonia Sotomayor sketched out a possible framework for deciding whether sentencing delays violate due process. In a second concurrence, Justice Clarence Thomas, joined by Justice Samuel A. Alito Jr., said that was premature.

"We have never decided whether the Due Process Clause creates an entitlement to a reasonably prompt sentencing hearing," Justice Thomas wrote. "Today's opinion leaves us free to decide the proper analytical framework to analyze such claims if and when the issue is properly before us."

1. What was the legal issue in this case? Why did Mr. Betterman petition the Supreme Court? (10 pts)
2. What did the Supreme Court decide and on what grounds? (10 pts)
3. Comment on the underlined sentences. Do you agree with Justice Ginsburg's analysis? (10 pts)

1 Unexpected piece of good fortune

2 Make void or annul

3 Do, get on