

# **POL 342/542 American Constitutional Law**

## **Dr. Mantzopoulos**

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**Office Hours:** Monday, Wednesday, and Friday 9:00-9:50 am

Friday 1:00-2:00 pm

and by appointment

### **Course Description:**

The basic objectives of the course are (1) to increase your understanding of the role of the federal judiciary in the American system of government; (2) to broaden your understanding of the craft of judicial statesmanship by focusing upon the methods used by the judiciary in pursuing its objectives; (3) to illuminate the basic issues and doctrines of constitutional law as they relate to the powers of the national government and the states; and (4) to provide the skills necessary to find an interpret constitutional law on your own.

The course deals generally with the origins and nature of judicial power (sometimes referred to as the rules of judicial self-restraint), the nature and scope of executive as well as legislative powers, and the rise and decline of dual federalism.

### **Text:**

Craig R. Ducat: *Constitutional Interpretation: Powers of Government, Volume I*. 7th edition, West Publishing.

### **Examinations:**

There will be three exams, each worth 23.33% of the final grade. Each exam is essay, covering terms, issues and cases. The format of the exams are definitions, usually 4 out of 5, and essay, one out of two. Students are expected to write with proper spelling and grammar. Definitions are to be complete with reference to the U.S. Constitution and/or cases as appropriate. Emphasis on questions concerning cases is placed on identifying the significance of a case. The court's legal questions and opinions are important. The facts of the case should be limited. Students should study for the exam by identifying cases that develop themes. The themes are often developed with cases that seemingly are unrelated in factual matters. Cases on different topics from different chapters are often related by a specific judicial philosophy or application. The final exam is not cumulative. Each exam covers approximately 1/3 of the course materials. **Absolutely no make-up exams are given.** Students arriving late will have only the

remaining allocated time to complete the exam.

### **Simulation**

Each student will participate in a simulated moot-court session. The whole class will participate in a moot-court representing an issue before the U.S. Supreme Court. Each student will have a role as a judge, advocate for the petitioner and respondent, legal counsel, or other actor. Some students will be grouped together as legal staffs or as interest groups. All students will be working as teams. Each student must also submit an individual journal/report containing at least three sections: a journal of their activities, the rationale for the position that the student took on behalf of his/her actor (including why, if at all, he/she dissented from any or all arguments made by his/her team), and a bibliography of sources used (be sure to note internet addresses). The report must also contain a copy of the brief submitted to the court, or the decision if the student is playing the role of a judge. The simulation is worth 20% of the final course grade. Attendance is mandatory during all days of the simulation. Every absence or tardiness during the simulation will result in a full grade reduction in the simulation grade as well as affect the overall attendance policy of the class, as outlined below.

### **Class Participation:**

All cases assigned to be read will be briefed by the students in the class. Each student will be expected to brief 4-6 cases (depending on the class enrollment) during the semester. The brief must be orally presented at the front of the classroom. A typed **one-page single-spaced** copy must be submitted to the professor at the beginning of the presentation. A guideline describing the format of a brief is attached, with another found in the appendix of the text. Missed class briefs will result in a reduction of the participation grade and count toward the class absenteeism policy outlined below. Students arriving late as their case is already being briefed by the instructor or other student will not be allowed to complete the brief. Missed briefs will not be rescheduled.

Extra credit will be given to those students who give a brief that they were not scheduled to give. At no time will extra credit exceed points deducted when a scheduled brief was missed. All briefs will total 10% of the final grade.

### **Attendance:**

Class attendance is especially important in this class. Student understanding of court cases is supported by hearing every case briefed in class. The significance of a case is always discussed in the class and is not always apparent by reading the case. Points will be deducted from the final grade based on the following absences (any student arriving late or leaving early will be considered absent):

0-1 0% deduction, 2-3 5% deduction, 4-5 10% deduction, 6 or more 20% deduction

The instructor reserves the right to deny any student missing 5 or more class meetings participation on any project or exam. The student may be required to withdraw from the course.

**Grading Scale:**

The following grading scale is used for the final course grade: 92-100% A, 90-91% A-, 88-89% B+, 82-87% B, 80-81% B-, 78-79% C+, 72-77% C, 70-71% C-, 68-69% D+, 60-67% D, 0-59% F.

**Notes:**

The instructor reserves the right to make necessary changes to these requirements.

The instructor reserves the right to set a seating arrangement at any time.

Students leaving early or arriving late will be considered absent from class.

Plagiarism, fraud, or academic misconduct will result in an F for the course and a report to the Dean's office.

**Graduate Students:**

Graduate students in the course must fulfill the requirements set forth above. In addition, graduate students must write a 5 page paper; take leadership roles in the moot court simulation; and complete an additional brief. The topic for the 5-page paper is one of the optional essay questions contained on the first examination, which was not completed as part of the examination process. The paper will be due one-week after the exam was given in class. Late papers will not be accepted. The paper and the written essay portion of the exam will be combined to get the grade for the written essay, that is, if the essay question on the exam is worth 40 points, the in-class portion will be worth 20 points and the take-home question worth 20 points. All graduate students will be expected to perform and be graded at the graduate level, this includes conduct, class participation, writing skills and research skills.

## Reading and Briefing Supreme Court Opinions

The title of each case is taken from the names of the two parties of the controversy. Thus, Marbury v. Madison involved one William Marbury who brought suit for his seat as Justice of the Peace in the District of Columbia, and one James Madison, Secretary of State under President Jefferson, whose alleged duty it was to deliver Marbury's commission as Justice of the Peace.

The name which appears first in a case is the Plaintiff or the party which is bringing the action. The Defendant or Respondent is the other party, against whom the action is taken. Each of the parties may be referred to as indicated in the hypothetical case which follows:

### Pensyltucky v. Arkansas 335 U.S. 1 (1949)

Pensyltucky	v.	Arkansas
Plaintiff and		Defendant and
Petitioner		Respondent
(Certiorari) or	or	
Appellant (Appeal)		Appellee

In reading and analyzing each case, students will undoubtedly diverge in their study habits and approaches. However, in order to grasp the essential points of each case, the following outline must be followed:

- a. Title of the Case: Who is doing what to whom?
- b. Facts of the Case: Who are the parties to the case? How do they fit into the case. (You may have to dig into the opinion, or even the dissenting opinions to discover all the facts) Get the facts straight or else the opinion will be meaningless.
- c. Legal Question or Questions: What legal question is the Court trying to answer. The Court may include a great deal of obiter dicta in a case, but the crucial material found in the Court's answer to specific legal question which the Court must answer. Most legal questions in Constitutional Law and Civil Liberties/Rights focus on a Constitutional power, amendment, or law/public policy. Usually laws are challenged as unconstitutional or individual/group behavior is challenged as unconstitutional. When a constitutional challenge is presented, a constitutional citation is necessary.
- d. Holding: What was the Court's answer to the legal questions. Usually a yes or no is sufficient at this stage.
- e. Opinion: What were the Court's reasons for its decision. How did they legally arrive at the answer? It is helpful if you can outline the Court's reasons for the decision to see how logical they are.
- f. Concurring and Dissenting Opinions: What are the major points of the conflict with the majority opinion? Who or why did other judges dissent?
- g. Significance of the Case: What impact does this case have? What makes it important enough for us to have discussed it? Are there any major flaws in the case that will need to

be resolved in other cases? Does it set a precedent or overturn one?

**CONSTITUTIONAL LAW CASE LIST AND OUTLINE  
TERM I, 2002-03**

Sept.	4	Introduction
	9	Judicial system
	11	Judicial system
	16	film: Marbury v. Madison
	18	Origins and Nature of Judicial Review, Chapter 1
		Rules of disqualification
		_____ Eakin v. Raub
		_____ Martin v. Hunter's Lessee
		_____ Ex Parte McCordle
	23	Rules of the Supreme Court
	25	Case and controversy
		_____ Muskrat v. U.S.
		Mootness
		_____ Defunis v. Odegaard
		Ripeness
		_____ Renne v. Geary
		Standing
		_____ Allen v. Wright
		_____ Los Angeles v. Lyons
		Political Questions
		_____ Baker v. Carr
	30	Legislative Power, Chapter 2
		Video: McCulloch v. Maryland
Oct	2	Sources and Scope of Legislative Power, Chapter 2
		_____ South Carolina v. Katzenbach
		_____ Missouri v. Holland
		_____ Hampton & Co v. U.S.
		_____ Panama Refining Co. v. Ryan
		_____ INS v. Chadha
	7	_____ Bowsher v. Synar
		_____ Mistretta v. U.S.
		_____ Watkins v. U.S.
		_____ Barenblatt v. U.S.

- \_\_\_\_\_ U.S. v. North
- Oct 9 EXAM 1
- 14 The Nature of Executive Power, Chapter 3  
 \_\_\_\_\_ Myers v. U.S.  
 \_\_\_\_\_ Humphrey's Executor v. U.S.  
 \_\_\_\_\_ Morrison v. Olson  
 \_\_\_\_\_ Ex Parte Milligan  
 \_\_\_\_\_ Korematsu v. U.S.  
 \_\_\_\_\_ Youngstown Sheet & Tube Co v. Sawyer
- 21 \_\_\_\_\_ Articles of Impeachment for Nixon (not a brief)  
 \_\_\_\_\_ U.S. v. Nixon  
 \_\_\_\_\_ In Re Lindsey  
 \_\_\_\_\_ In Re Sealed Case : Secret Service
- 23 \_\_\_\_\_ Articles of Impeachment for Clinton (not a brief)  
 \_\_\_\_\_ Nixon v. Fitzgerald  
 \_\_\_\_\_ U.S. v. Belmont  
 \_\_\_\_\_ Dames & Moore v. Regan (not in book)  
 \_\_\_\_\_ U.S. v. Curtiss-Wright Export Corp
- 28 \_\_\_\_\_ War Powers Resolution (not a brief)  
 \_\_\_\_\_ Dellums v. Bush  
 \_\_\_\_\_ Excerpts of the Senate Debate on the Persian Gulf War (not a brief)
- 30 The Exercise of National Power, Chapter 4  
 Dual and Cooperative Federalism  
 video: Gibbons v. Ogden
- Nov 4 \_\_\_\_\_ Stafford v. Wallace  
 \_\_\_\_\_ Champion v. Ames  
 \_\_\_\_\_ Heart of Atlanta Motel v. U.S.  
 \_\_\_\_\_ Katzenbach v. McClung
- Regulating Production  
 \_\_\_\_\_ U.S. v. E.C. Knight Co.  
 \_\_\_\_\_ Hammer v. Dagenhart  
 \_\_\_\_\_ Carter v. Carter Coal co.
- 6 \_\_\_\_\_ N.L.R.B. v. Jones & Laughlin Steel Corp.  
 \_\_\_\_\_ U.S. v. Darby

\_\_\_\_\_ Wichard v. Filburn

Taxing and Spending

\_\_\_\_\_ McCray v. U.S.

\_\_\_\_\_ Bailey v. Drexel Furniture Co.

\_\_\_\_\_ U.S. v. Butler

\_\_\_\_\_ South Dakota v. Dole

Nov 11 EXAM II

Nov 13 The Regulatory Power of the States, Chapter 5

\_\_\_\_\_ Jacobson v. Massachusetts

\_\_\_\_\_ Pacific Gas & Electric v. State Energy Resources Conservation

\_\_\_\_\_ New York v. United States

\_\_\_\_\_ Edwards v. California

\_\_\_\_\_ Cooley v. Board of Wardens of the Port of Philadelphia

\_\_\_\_\_ City of Philadelphia v. State of New Jersey

Property Rights and Economic Liberties, Chapter 6

\_\_\_\_\_ Fletcher v. Peck

\_\_\_\_\_ Trustee of Dartmouth College v. Woodward

\_\_\_\_\_ Home Building & Loan Association v. Blaisdell

18 \_\_\_\_\_ The Slaughterhouse Cases

\_\_\_\_\_ Munn v. Illinois

\_\_\_\_\_ Allegeyer v. Louisiana

\_\_\_\_\_ Lochner v. New York

\_\_\_\_\_ West Coast Hotel Co. v. Parrish

\_\_\_\_\_ Penn Central Transportation co v. City of New York

\_\_\_\_\_ Dolan v. City of Tigard

20 Moot Court--Research day

25 Moot Court--Research day

27 Moot Court--Research day

Dec 2 Moot Court

4 Moot Court

**FINAL EXAM: Tuesday, December 10, 2:00 pm**