

POL 346/546 Civil Liberties

Winter Term II --2003

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Office Hours: 9:00-9:50 Monday, Wednesday, 1:00-2:00 Friday and by appointment

Course Description:

This course examines federal and state court structures and jurisdiction. 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 development of civil liberties and civil rights; and (4) to provide you with the skills necessary to find and interpret constitutional law.

This course will examine the recent developments and court decisions on the frontiers of civil rights and liberties. Some historic and contemporary cases will be examined such as segregation, discrimination, the right-to-vote, the limits of religious values, and the right-to-die. Special focus includes women's rights and the right to privacy.

Text:

Craig R. Ducat, Constitutional Interpretation: Rights of the Individual Volume II. 7th Edition, West Publishing, 1999. (Be careful when purchasing the text, the book is one of two volumes of a previously larger-combined text. Both volumes look similar with a slight variation in the title. Look for the Rights of the Individual.)

Examination:

There will be three exams worth 25% each. Each exam will cover cases as well as issues. All exams are written essay exams. Students are expected to write with proper spelling and grammar. 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. Cases on different topics from different chapters are often related by a specific judicial philosophy or application. The final exam is not cumulative. **ABSOLUTELY NO MAKE-UP EXAMS!!!** 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, plaintiff, respondent, legal counsel, or other actor. Some students will be grouped together as legal staffs or as interest groups. Each student must also submit a 4-5 page journal/report of their activities, their role, and rationale for their position. 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 15% of the final course grade. Attendance is mandatory during all days of the simulation. Every absence 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 2-4 cases (depending on the class enrollment) during the semester. The brief must be orally presented at the front of the classroom. **A written 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. Cases are presented in the order outlined on the syllabus. Students arriving late may not be able to present their case. If a student arrives 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 case-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 4 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.

Honor Students:

Honor students in the course must fulfill the requirements set forth above. In addition, honor students must write two 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 and second 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 was originally worth 40% of the exam grade, the in-class essay and the out-of-class paper will be worth 20% each, as counted toward the exam score.

READINGS AND CASE SCHEDULE

Jan	6	Introduction
	8	Court Structure
	13	Court Structure
	15	Film: Marbury v. Madison
	20	No Class
	22	Film: McCulloch v. Maryland
	27	Equal Protection, Chapter 13
	29	Suspect Classification
		_____ Plessy v. Ferguson
		_____ Sweat v. Painter
	_____ Brown v. Board of Education of Topeka I and II	
	_____ Bolling v. Sharpe	
	_____ Cooper v. Aaron	
	_____ Swann v. Charlotte-Mecklenberg County Schools	
	_____ Milliken v. Bradley	
Feb	3	_____ Palmer v. Thompson
		_____ Note: Racial Discrimination during jury selection
		_____ Regents of the Univ. of Cal.--Davis v. Bakke (full case not in book)
		Private Discrimination
		_____ Civil Rights Cases
		_____ Jones v. Alfred H. Mayer Co.
		_____ Bob Jones University v. U.S.
	_____ Roberts v. U.S. Jaycees	
Feb	5	Voting Discrimination--
		The Voting Rights Act
		_____ South Carolina v. Katzenbach
		_____ Thornburg v. Gengles
		_____ Kramer v. Union Free School District No. 15
		Malapportionment
		_____ Baker v. Carr
		_____ Reynolds v. Sims
		_____ Shaw. v. Reno
	10	Economic and Social Discrimination
	_____ Shapiro v. Thomson	
	_____ San Antonio School District v. Rodriguez	
	Gender	

- _____ Bradwell v. Illinois
 _____ Reed v. Reed, (not in book... 404 U.S. 71, 92 S.Ct. 251 (1971))
 _____ Frontiero v. Richardson
 _____ Craig v. Boren
 _____ Califano v. Westcott
- 12 _____ U.S. v. Virginia
 _____ Stanton v. Stanton (not in book) 421 U.S. 7 (1975)
 _____ Orr v. Orr, (not in book...) 440 U.S. 268 (1979)
 _____ Rostker v. Goldberg, (not in book) 453 U.S. 57 (1981)
 _____ Michael M. v. Sup Ct of Sonoma County, 450 U.S. 464 (1981)
- Age
 _____ Massachusetts Board of Retirement v. Murgia
 _____ Steffan v. Perry
- Feb 17 EXAM I**
- 19 Due Process of Law Chapter 7
 Selective Incorporation of the Bill of Rights into the 14th Am.
 _____ Slaughterhouse Cases
 Incorporation theories
 _____ Palko v. Connecticut
 _____ Rochin v. California
 Jury Trial
 _____ Duncan v. Louisiana
 _____ Williams v. Florida
 Right to Counsel
 _____ Due Process Model--Report
 _____ Crime Control Model--Report
 _____ Powell v. Alabama
 _____ Gideon v. Wainwright
- 24 _____ Miranda v. Arizona
 _____ Nix v. Williams
 _____ Schmerber v. California
 _____ New York v. Quarles
 _____ Maryland v. Craig
- Cruel and Unusual Punishment
 _____ Furman v. Georgia
 _____ Gregg v. Georgia (full text not in book)
 _____ Coker v. Georgia
 _____ McCleskey v. Kemp
- Feb 26 The Exclusionary Rule, Chapter 8
 _____ Mapp v. Ohio
 _____ Stone v. Powell
 _____ U.S. v. Leon
- Warrantless Searches
 _____ Florida v. Bostick

- _____ Chimel v. California
 _____ Warden v. Hayden
 _____ Coolidge v. New Hampshire
- March 10 _____ California v. Ciraolo
 _____ Terry v. Ohio
 _____ Sibron v. New York and Peters v. New York
 _____ U.S. v. Montoya de Hernandez
 _____ Cupp v. Murphy
 Current Controversies in Search and Seizures
 _____ National Treasury Employees Union v. Von RAAB
 _____ New Jersey v. T.L.O.
 _____ Michigan Dept. of State Police v. Sitz
 _____ California v. Greenwood
- March 12 Right to Privacy, Chapter 9
 _____ Griswold v. Connecticut
 _____ Other cases after Griswold (summary briefs)
 _____ Roe v. Wade
 _____ City of Akron v. Akron Center for Reproductive Health
 _____ Planned Parenthood of Southeastern Pennsylvania v. Casey
- 17 _____ Freedom of Access to Clinic Entrances Act (report, not a brief)
 _____ Mayer v. Roe
 _____ Bowers v. Hardwick
 _____ Grusendorf v. City of Oklahoma City
 _____ Cruzan by Cruzan v. Dir. of Missouri Public Health (full text not in book)
 _____ Washington v. Glucksberg
 _____ Vacco v. Quill
- March 19 EXAM II**
- 24 Freedom of Speech, Chapter 10
 _____ Schenck v. U.S.
 _____ Gitlow v. New York
 _____ Brandenburg v. Ohio
 _____ Madsen v. Women's Health Center, Inc.
 _____ West Virginia State Board of Education v. Barnette
 _____ Tinker v. Des Moines Independent
 _____ U.S. v. O'Brien
 _____ Barnes v. Glen Theatre, Inc.
- 26 _____ R.A.V. v. City of St. Paul
- Freedom of the Press, Chapter 11
 _____ Near v. Minnesota
 _____ New York Times v. U.S.
 _____ Branzburg v. Hayes
 _____ Houchins v. KQED, Inc.
 Obscenity
 _____ Roth v. U.S.
 _____ Miller v. California

_____ Paris Adult theatre I v. Slaton

March 31 Libel

_____ New York Times v. Sullivan

_____ Curtis Publishing Co. v. Butts

Freedom of Religion, Chapter 12

_____ Lemon v. Kutzman

_____ Edwards v. Aguillard

_____ Thomas v. Indiana Employment Security Review Board

_____ Wisconsin v. Yoder

_____ Employment Div., Dept. of Human Resources of Oregon v. Smith

April 2 Simulation: Library research

7 Simulation: Library research

9 Simulation: Library research

14 Simulation: Petitioner and I.G.

16 Simulation: Respondent and I.G.

Final Exam Tuesday April 22, 2:00-3:50 Decision of Court and Journal/reports due.

Reading and Briefing Supreme Court Opinions
(Please check to see if the edition of the text in use contains an example of a brief)

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?