

Pol Sci 344

Courts and Civil Liberties

Spring 2012

MW 11:30a.m.–1:00p.m., Seigle Hall L006

Instructor

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Office Hours

MTW 10:00a.m.–11:00a.m.
and by appointment

Teaching Assistant

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Office Hours

Tue 2:00-3:00pm
and by appointment

Course Description

This course introduces students to the basic concepts in American constitutional law and the techniques of constitutional interpretation. The goal is to familiarize students with the basic themes in the American Constitution in areas related to civil rights and liberties.

Course Objectives

After completing the course, students should:

- Possess an ability to read and understand Supreme Court decisions.
- Understand the role of the Constitution and the Supreme Court
- Have a understanding of the core principles and key precedents in constitutional law, particularly regarding the Bill of Rights.
- Be able to critically think about legal issues related to the constitutional protection of civil rights and liberties.
- Be able to assess current constitutional questions in view of the development of constitutional law

Required Texts

Epstein, Lee and Thomas G. Walker. 2011. *Constitutional Law for a Changing America: Rights, Liberties, and Justice* (7th ed.). Washington: CQ Press. ISBN-13: 978-1-60426-961-1

Helpful Links

<http://www.oyez.org>
<http://www.findlaw.com/casecode/index.html>
<http://www.law.cornell.edu/>

Special Needs

Any student with special needs should inform the professor as soon as possible, so that appropriate accommodations can be made.

Course Requirements

1. **Grading** Final grades for this course will be comprised of four components:

Component	Percent	Points
Participation	10%	400
Exam 1	25%	1000
Exam 2	25%	1000
Moot Court	40%	1600
Total	100%	4000

Resulting in the following distribution for your final letter grade:

A+	3880-4000 Points
A	3720-3879 Points
A-	3600-3719 Points
B+	3480-3599 Points
B	3320-3479 Points
B-	3200-3319 Points
C+	3080-3199 Points
C	2920-3079 Points
C-	2800-2919 Points
D+	2680-2799 Points
D	2520-2679 Points
D-	2400-2519 Points
F	<2400 Points

2. **Participation** Regular attendance is essential for successful completion of the course. This will not be a lecture course, but follow a "soft" socratic method, in which students are called on to answer questions, unless there are volunteers.

I take attendance and will deduct a half letter grade of each student that misses more than three classes. In other words, you are free to miss three classes—whether due to an illness, your grandfather's birthday, or because you just did not feel like coming in. Remember, though: you are responsible for the material covered in all classes, regardless of whether you attended them or not.

A good participation grade requires you to actively participate in the discussions. I expect students to come to class each day having read the assigned material and being prepared to discuss it. In order to prepare for discussion, Students are highly encouraged to prepare a "brief" for each of the cases we will discuss in class. I will not collect these briefs, and preparing them is not required. Preparing case briefs will help you in preparing for the exams. More importantly, it will help you develop skills necessary in law school (should you plan on getting a law degree). We will devote some time at the beginning of the semester to the writing of briefs.

Your performance in the Moot Court simulation and other in-class activities will count towards your participation grade.

3. **Examinations** There will be two examinations in this course. While the second exam is cumulative, it will focus on the material covered in the second half of the semester. The exam will consist of a

hypothetical case or an essay question that will require you to apply and/or explain and interpret the learned legal principles. Before the first exam, I will provide you with a set of example questions. You are responsible for all material from assigned readings, lectures, and other material presented in class (e.g., videos, discussions) on exams.

Unexcused missed exams receive a failing grade. If you are unable to take the exam at the scheduled time, your absence must be excused far enough in advance to enable you to take the make-up before the regularly scheduled exam. If you miss an exam due to a for sudden, unforeseen medical emergency, you must contact me as soon as it is practical to do so—do not wait until you return to class. If you are absent on an exam day for any other reason or you fail to make timely arrangements for your make-up exam, you should expect to receive a zero on the exam.

4. **Moot Court** Forty percent of your grade will depend on your performance in the Moot Court simulation, held on April 16 and 18. On those two days we will transform the classroom into the Supreme Court of the United States. A few students will be asked to volunteer to play the role of petitioning and respondent lawyers. The rest of the class will be assigned the role of a former or current justice on the Supreme Court.
 - (a) Those volunteering to take on the role of petitioning and respondent lawyers are required to fulfill the following tasks:
 - Write a brief to the Court, arguing your side of the case (due at beginning of class on April 11th, approximately 10 pages). The brief will be distributed to the Court.
 - Present oral arguments to the assembled Court on April 16 and 18.
 - (b) The remaining students will play the role of an assigned former or current justice on the Supreme Court. They are required to fulfill the following tasks:
 - Write a analytical paper on the assigned Justice, addressing biographical facts, but concentrating on their ideological preferences and historic impact. You should address the confirmation hearing, how newspapers judged the justice before confirmation, and their behavior on the bench in contrast to the confirmation hearing and newspaper predictions (due at beginning of class on April 4th, approximately 5 pages)
 - Sit *en banc* with your fellow justices to hear oral arguments on April 16 and 18.
 - Write the opinion of the Court—following the process on the Supreme Court (with slight modifications):
 - Record your preliminary vote in conference
 - Produce written opinions (due at beginning of exam on May 8)
 - (c) Assignment of justice roles and lawyer roles, as well as the distribution of the hypothetical cases will take place on February 29th. Please let me know by email or in person by **Monday, February 27th, noon** if you are interested in taking on a lawyer role. The luck of the draw will determine lawyer roles if more students are interested in a lawyer role than roles are available.
 - (d) All written assignments are due at the beginning of the class period on the assigned due date. Formatting requirements are:
 - 1" margins
 - size 11 or 12 font in standard font styles (i.e. Ariel or Times New Roman)
 - doublespaced
 - follow APSA citation style (see <http://www.ipsonet.org/data/files/APSASStyleManual2006.pdf> or <http://writing.wisc.edu/Handbook/DocAPSA.html>)
 - (e) All assignments must be handed in as hard copies. *No assignments will be accepted via email.* A letter grade will be deducted for each beginning day an assignment is late. You will receive a failing grade if your paper is more than two days late.
 - (f) Wikipedia, Yahoo! Answers, infoplease.com, etc. are *NOT* a valid source of information for any academic assignment. If you are unsure about valid sources, please come and see me during office hours.

Academic Integrity & Plagiarism

Cheating, plagiarism and academic misconduct will not be tolerated. If you are unfamiliar with standards regarding plagiarism, learn them. A good place to start is: <http://www.wustl.edu/policies/undergraduate-academic-integrity.html> & <http://www.plagiarism.org/>. I reserve the right to use anti-plagiarism software to test turned in assignments.

Expectations for Classroom Behavior

We will discuss controversial issues and positions in this class. I expect all students to be respectful towards the views of their classmates. I furthermore will not tolerate disruptive behavior in class. That includes the use of cell phones (all cell phones are to be turned off or silenced during class). Students are also asked to refrain from behavior that might be distracting to those around them, such as surfing the web, sending text messages or IMs, or reading the newspaper.

Course Schedule

The course syllabus provides a general plan for the course; I may deviate from the schedule, and will announce changes in class or by email.

Course Outline

1. Week of Jan. 18: Overview
2. Week of Jan. 23 & 25: 'How to Brief a Case' & The Judiciary
 - Reading: Epstein and Walker, Chapters 1, 2 & 3, p. 741-756, p. 777-778
 - Focus Cases:
 - *Marbury v. Madison* (1803)
 - *Ex Parte McCordle* (1869)
 - *Barron v. Baltimore* (1833)
 - *Palko v. Connecticut* (1937)
3. Week of Jan. 30 & Feb. 1: The Bill of Rights & Religion
 - Reading: Epstein and Walker, Chapter 4 (p. 89-165)
 - Focus Cases:
 - *Cantwell v. Connecticut* (1940)
 - *Sherbert v. Verner* (1963)
 - *Wisconsin v. Yoder* (1972)
 - *Employment Division v. Smith* (1990)
 - *City of Boerne v. Flores* (1997)
 - *Everson v. Board of Education* (1947)
 - *Lemon v. Kurtzman* (1971)
 - *Agostini v. Felton* (1997)
 - *Zelman v. Simmons-Harris* (2002)
4. Week of Feb. 6 & 8: Religion & Freedom of Speech
 - Reading: Epstein and Walker, Chapter 4, 5 (p. 165-226)
 - Focus Cases:
 - *Edwards v. Aguillard* (1987)
 - *School District of Abington Township v. Schempp* (1963)
 - *Lee v. Weisman* (1992)
 - *Van Orden v. Perry* (2005)
 - *Schenck v. United States* (1919)
 - *Abrams v. United States* (1919)
 - *Gitlow v. New York* (1925)
 - *Dennis v. United States* (1951)
 - *Brandenburg v. Ohio* (1969)
5. Week of Feb. 13 & 15: Freedom of Speech
 - Reading: Epstein and Walker, Chapter 5 (p. 226-290)
 - Focus Cases:
 - *United States v. O'Brien* (1968)
 - *Texas v. Johnson* (1989)
 - *Cohen v. California* (1971)
 - *R.A.V. v. City of St. Paul, Minnesota* (1992)
 - *Wisconsin v. Mitchell* (1993)
 - *Tinker v. Des Moines* (1969)
 - *Morse v. Federick* (2007)
 - *West Virginia Board of Education v. Barnette* (1943)
6. Week of Feb. 20 & 22: Freedom of the Press & Libel
 - Reading: Epstein and Walker, Chapter 6 & p. 338-356
 - Focus Cases:

- *Near v. Minnesota* (1931)
 - *New York Times v. United States* (1971)
 - *Hazelwood School District v. Kuhlmeier* (1988)
 - *Branzburg v. Hayes* (1972)
 - *New York Times v. Sullivan* (1964)
 - *Gertz v. Welch* (1974)
 - *Hustler Magazine v. Falwell* (1988)
7. Week of Feb. 27 & 29: Obscenity & Exam Review
- **Monday, February 27th, noon: Deadline Applying for Lawyer Role**
 - **Wednesday, February 29th: Drawing of Moot Court Roles**
 - Reading: Epstein and Walker, Chapter 6 (p. 319-338)
 - Focus Cases:
 - *Roth v. United States* (1957)
 - *Miller v. California* (1973)
 - *New York v. Ferber* (1982)
8. Week of Mar. 5 & 7: Exam & Moot Court Review
- **Monday, Mar. 5: Exam #1**
9. Week of Mar. 12 & 14: Spring Break – no classes
10. Week of Mar. 19 & 21: Discrimination
- Reading: Epstein and Walker, Chapter 13 (p. 575-624)
 - Focus Cases:
 - *Plessy v. Ferguson* (1896)
 - *Sweatt v. Painter* (1950)
 - *Brown v. Board of Education, I & II* (1954, 1955)
 - *Loving v. Virginia* (1967)
 - *Shelley v. Kraemer* (1948)
 - *Moose Lodge No. 107 v. Irvis* (1972)
11. Week of Mar. 26 & 28: Discrimination, cont.
- Reading: Epstein and Walker, Chapter 13 (p. 624-649, 659-689)
 - Focus Cases:
 - *Reed v. Reed* (1971)
 - *Craig v. Boren* (1976)
 - *United States v. Virginia* (1996)
 - *Romer v. Evans* (1996)
 - *Regents of the University of California v. Bakke* (1978)
 - *Adarand Constructors, Inc. v. Peña* (1995)
 - *Grutter v. Bollinger* (2003)
12. Week of Apr. 2 & 4: The Right to Privacy
- **Wednesday, April 4th: Paper on Justices Due at Beginning of Class**
 - **Wednesday, April 4th: Activity: SCOTUS oral argument**
 - Reading: Epstein and Walker, Chapter 10
 - Focus Cases:
 - *Griswold v. Connecticut* (1965)
 - *Roe v. Wade* (1973)
 - *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992)
13. Week of Apr. 9 & 11: Week of Right to Privacy, cont. & Moot Court Review

- **Wednesday, April 11th: Petitioner & Respondent Briefs Due at Beginning of Class**
 - Reading: Epstein and Walker, Chapter 10
 - Focus Cases:
 - *Bowers v. Hardwick* (1986)
 - *Lawrence v. Texas* (2003)
 - *Cruzan v. Director, Missouri Department of Health* (1990)
14. Week of Apr. 16 & 18: **Moot Court Oral Arguments**
15. Week of Apr. 23 & 25: Moot Court Conference & Catch Up, Exam Review
- **Monday, April 23: Moot Court Conference**
 - **Wednesday, April 25: Catch Up, Exam Review**
16. **Tuesday, May 8 10:30a.m.–12:30p.m.: Final Exam**
(Court Opinions Due at Beginning of Exam)