

POLS 313 (sec. 01): American Constitutional Law – Civil Liberties & Civil Rights

Dr. Laura Moyer
Classroom: 407 Ford Hall
Class: 9:00-9:50 MWF

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Course Description and Objectives

Pre-requisites: POLS 201, POLS 209 or faculty consent

This course uses the traditional case method as well as a court simulation (moot court) to introduce students to the study of American constitutional law. Because the case law on civil liberties and civil rights is vast, we will primarily focus on due process, privacy doctrine, and the First Amendment protections for speech, press, and religion. In addition, we will examine the development of Equal Protection doctrine as it has been applied to classifications based on race, gender, and sexual orientation.

Students will learn how to (1) distill cases to their most important components, (2) analyze and apply legal arguments about civil liberties and civil rights, (3) distinguish between and analyze different modes of Constitutional interpretation, and (4) think critically about the role of courts in making legal and social policy.

Requirements for the Course

Attendance

While no grade will be assigned for attendance alone, failing to attend class regularly will undermine your ability to succeed in the class. Special consideration for students who miss class on a day when graded work is due is limited **ONLY to students with documented, excused absences**. Students must alert their instructor in advance if missing class for a documented, school-sponsored event or because of a religious holiday; in the event of a family emergency or personal illness, notification by email must occur on the day of the missed class unless physically impossible.

Participation: in-class discussion and writing

I expect students to check their university email account and Blackboard regularly for announcements about class, questions to guide your reading, and other pertinent information. Attendance is a necessary, but not sufficient, condition for a good participation grade. Students are expected to attend class on time and for the duration of the class period, read all assigned materials before class, take notes during class, complete all written assignments on time, conduct themselves in a mature and professional manner, and treat other students and the instructor with courtesy and respect (including on email). **Please silence and put away phones and other unrelated materials before class begins. NO LAPTOPS are allowed unless required by Disability Services.**

*Because the study of law requires both dense reading and cumulative comprehension, it is essential that students **brief all assigned cases before coming to class and bring those briefs in hard copy with you**. The process of briefing will prepare you for class discussions and save you many hours of time in test preparation. **Your participation**

grades will be determined by your ability to convey the information in your briefs, as well as your ability to analyze the implications, strengths, and weaknesses of legal arguments.

The quality of participation will be evaluated through both spoken and written contributions to class. **In-class discussion will be worth a maximum of 3 points, and in-class writing will be worth a maximum of 7 points.** To earn all of points for participation, students must be outstanding and consistent in their ability to examine the implications of assigned reading, make connections across readings, demonstrate the fundamentals of legal reasoning, and analyze alternative explanations; they must also be conscientious, responsible, and respectful in person and over email. Lack of attendance, preparedness, or respect for others in the course will result in lower grades.

Exams

In-class discussions and the readings listed on the class schedule will serve as the basis for your exams (essay format). There will be **two midterm exams** and **one final exam** (not cumulative) to test your understanding of concepts as well as your ability to apply and analyze them. Students are expected to be present on all testing days. However, **students who miss an exam (for any reason) will make it up in class on the designated make-up day: Friday, April 17. Make-ups for the final exam are totally at the discretion of the instructor** and will be only for those absences necessitated by a documented, legitimate emergency as governed by university policy. (Forgetting the correct time of the exam is not grounds for a make-up on the final exam.)

Special Accommodations

*Graduate students, students wishing to receive honors credit, and students with documented disabilities who require special testing accommodations: please notify me privately at the beginning of the semester so that we can make appropriate arrangements.

Case briefs and quiz

At the end of each class, I will randomly select several students to **submit a briefed case or cases** to me for a grade (check plus, check, check minus). **Bring a hard copy of the brief to class (you may continue to add to the brief during class); emailed briefs are not acceptable.** The purpose of this is to evaluate your progress in developing the skill of briefing, not so much to determine whether the content is “right” or “wrong.” As such, the **briefs must represent your own work and adhere to the university policy on academic honesty. This means that copying briefs from any outside source is unacceptable. Dishonesty on case briefs will result in a ZERO for that portion (15%) of your course grade.** There will be no make-ups; however, at the end of the semester, I will drop your lowest brief grade.

There will also be **one quiz** at the beginning of the semester. To encourage you to stay on top of briefing cases, this will be open notes (but not open book). The purpose of this assignment is to alert you to gaps in your notes and understanding BEFORE the first

exam: it is an active study tool. Makeups are only granted for legitimate emergencies under university policy and if notification occurs on or before the day of the assignment.

Supreme Court Simulation

Every student in class will participate in an in-class Supreme Court simulation. The simulation will involve the consideration of a hypothetical case that requires the resolution of a legal issue relevant to our course. Students will play one of the following roles: (1) a specific justice from the past or present, (2) an attorney who represents an organized interest filing an amicus brief, or (3) an attorney representing a direct party in the case. More information about this exercise will follow in class. **Failure to participate fully in the simulation will negatively affect your grade.**

Academic Honesty

Every student is expected to be familiar with and abide by the University's policy on academic honesty before performing any academic work. (See the Student Code of Conduct for details.) Examples of academic dishonesty described in the Code of Student Conduct include, but are not limited to cheating on tests, plagiarizing written work from any source (including Wikipedia and your friends), selling or buying academic assignments, writing a single paper for multiple classes, collaborating on an assignment without the instructor's permission, and helping another student do any of these things. **Academic dishonesty will result in a failing grade.**

Grading Policy

Exams: 45 pts. (15 each x 3)

Simulation: 20 pts.

Written participation: 7 pts.

Spoken participation: 3 pts.

Case briefs: 15 pts.

Quiz: 10 pts.

The course is graded on a 100-point scale. There is **no extra credit available** for any student. Borderline final grades (defined as less than 1 point away from the next letter grade) will be decided based on the quality of participation. Grades will NOT be discussed over email, for confidentiality reasons; please make an appointment with me if you have a question. Written assignments are due at the beginning of class, in hard copy form; work submitted later will be subject to grade penalties.

A+ : 97-100	C+ : 76-79
A: 93-96	C : 73-75
A- : 90-92	C- : 70-72
B+ : 86-89	D (60-69)
B: 83-85	F (59 & below)
B- : 80-82	

Required texts

- **Craig R. Ducat. *Constitutional Interpretation: Rights of the Individual*, 10th ed. VOLUME 2. ISBN: 1-111-83299-4. Please note that Volume 2 is HALF of the regular 10th ed. (and much cheaper). Used versions of the 9th edition, volume**

2 may also be acceptable, but be sure to check for changes in page numbers and cases. You may also purchase/rent the entire 10th edition.

- **Bob Woodward and Scott Armstrong. *The Brethren: Inside the Supreme Court*. Simon & Schuster. ISBN: 978-067124110-0**
- Additional readings posted on Blackboard [Denoted as **BB** on reading schedule]

Spring 2015: Important dates

- Drop/add period ends: Tuesday, January 13
- Last day to withdraw: Monday, March 9
- Last Day of Class: Wednesday, April 22
- **Final exam:** Friday, April 24 (8:00 a.m. – 10:30 a.m.) Ford Hall 407.

Note: the syllabus represents a general plan for the course and may be subject to change, based on the discretion of the instructor.

Schedule of Readings and Assignments (to be read PRIOR to coming to class)

Wed., Jan. 7	Introduction to course
Fri., Jan. 9	I. Introduction to Law and Judicial Power <u>Reading:</u> Understanding the Supreme Court [on BB]
Mon., Jan. 12	A. Supreme Court jurisdiction & judicial review <u>Reading:</u> “Judicial Power” [on BB] ; How to brief a court case [on BB] <u>Brief case:</u> <i>Marbury v. Madison</i> (case is included in reading on Judicial Power)
Wed., Jan. 14	B. Interpreting Legal Texts <u>Reading:</u> pp. 1343-57 (“Modes of Constitutional Interpretation”)
Fri., Jan. 16	<u>In class:</u> Practice case briefing exercise. Bring your Ducat book.
Mon., Jan. 19	** No class: MLK Day of Service **
Wed., Jan. 21	II. Due Process and the “Incorporation” of the Bill of Rights <u>Reading:</u> pp. 488-495 <u>Brief cases:</u> <i>Barron v. Baltimore; Slaughterhouse cases</i>
Fri., Jan. 23	Due Process and Incorporation (continued) <u>Reading:</u> pp. 495-510 (pay close attention to Exhibits 8.1-8.3) <u>Brief cases:</u> <i>Hurtado v. California; Adamson v. California; Rochin v. California</i>

Mon., Jan. 26	<p>Incorporation and the Second Amendment</p> <p><u>Reading:</u> pp. 516-525</p> <p><u>Brief cases:</u> <i>McDonald v. Chicago</i></p>
Wed., Jan. 28	<p>QUIZ 1: INCORPORATION (Open notes, but not open book)</p>
Fri., Jan. 30	<p>III. The Lochner era of “Liberty of Contract”</p> <p><u>Reading:</u> “Victims speak out against NC sterilization program” [BB]</p> <p><u>Brief cases:</u> <i>Lochner v. New York</i> [BB]; <i>Buck v. Bell</i> [BB]</p>
Mon., Feb. 2	<p>IV. Right of Privacy</p> <p>A. Reproductive Rights & Abortion</p> <p><u>Reading:</u> pp. 739-753</p> <p><u>Brief cases:</u> <i>Griswold v. Connecticut</i>; <i>Roe v. Wade</i></p>
Wed., Feb. 4	<p>Right of Privacy (continued)</p> <p><u>Reading</u> pp. 755-767</p> <p><u>Brief cases</u> O’Connor’s dissent in <i>City of Akron v. Akron Ctr for Reproductive Health</i>; <i>Planned Parenthood of SE Pennsylvania v. Casey</i></p>
Fri., Feb. 6	<p>Right of Privacy (continued)</p> <p>B. Anti-sodomy laws [END OF MATERIAL FOR EXAM 1]</p> <p><u>Reading:</u> pp. 779-785</p> <p><u>Brief cases:</u> <i>Bowers v. Hardwick</i> [on BB]; <i>Lawrence v. Texas</i></p>
Mon., Feb. 9	Catch up day/review for Exam 1
Wed., Feb. 11	**EXAM 1**
Fri., Feb. 13	<p>[BEGINNING OF MATERIAL FOR EXAM 2]</p> <p>V. First Amendment: Free Speech</p> <p>A. What is speech?</p> <p><u>Reading:</u> pp. 802-809</p>

Mon., Feb. 16	<p>B. “Clear and Present Danger”</p> <p><u>Reading:</u> pp. 809-818</p> <p><u>Brief cases:</u> <i>Schenck v. United States; Gitlow v. New York</i></p>
Wed., Feb. 18	<p>“Clear and Present Danger” (con’t)</p> <p><u>Reading:</u> pp. 818-831</p> <p><u>Brief cases:</u> <i>Thomas v. Collins; Terminiello v. Chicago; Brandenburg v. Ohio</i></p>
Fri., Feb. 20	<p>C. Free Speech: Time, Place, and Manner Limitations</p> <p><u>Reading:</u> pp.835-839, 848-858</p> <p><u>Brief cases:</u> <i>Adderley v. Florida; Madsen v. Women’s Health Center; Rosenberger v. University of Virginia</i></p>
Mon., Feb. 23	<p>D. Symbolic Speech</p> <p><u>Reading:</u> pp. 880-890</p> <p><u>Brief cases:</u> <i>West Virginia State Board of Education v. Barnette; Tinker v. Des Moines School District</i></p>
Wed., Feb. 25	<p>Symbolic Speech (con’t)</p> <p><u>Reading:</u> pp. 892-908</p> <p><u>Brief cases:</u> <i>United States v. O’Brien; Texas v. Johnson; RAV v. City of St. Paul</i></p>
Fri., Feb. 27	<p>VI. First Amendment: Religion</p> <p>A. Establishment Clause</p> <p><u>Reading:</u> pp. 1068-1078, 1085-1092, 1100-1106</p> <p><u>Brief cases:</u> <i>Lee v. Weisman; Lemon v. Kurtzman; Zelman v. Simmons-Harris</i></p>

Mon., March 2	Establishment of Religion (con't) <u>Brief cases:</u> <i>Town of Greece</i> [BB]
Wed., March 4	First Amendment: Religion B. Free Exercise of Religion <u>Reading:</u> pp. 1123-1139 <u>Brief cases:</u> <i>Thomas v. Indiana Employment Security Review Board;</i> <i>Wisconsin v. Yoder; Employment Division of Oregon v. Smith;</i>
Fri., March 6	Catch up/Review for Exam Overview of simulation and simulation assignments
Mon., March 9	**EXAM 2**
Wed., March 11	VII. Equal Protection of the Laws [BEGINNING OF MATERIAL FOR FINAL EXAM] A. Race <u>Reading:</u> pp. 1142-1157 <u>Brief cases:</u> <i>Plessy v. Ferguson; Sweatt v. Painter; Brown v. Board of Education I, II</i>
Fri., March 13	Race (con't) <u>Reading:</u> pp. 1160-1180 <u>Brief cases:</u> <i>Swann v. Charlotte-Mecklenburg Bd of Education; Milliken v. Bradley; Parents Involved in Community Schools v. Seattle Sch.</i>
March 16-20	*NO CLASS: SPRING BREAK*
Mon., March 23	Equal Protection: Race (con't) <u>Brief cases:</u> <i>Grutter v. Bollinger</i> [BB] <i>Schuetz v. BAMN</i> [BB]
Wed., March 25	B. Equal Protection: Gender <u>Reading:</u> pp. 1293-1299 <u>Brief cases:</u> <i>Frontiero v. Richardson; Craig v. Boren</i>

Fri., March 27	<p>Equal Protection: Gender (con't)</p> <p><u>Reading:</u> pp. 1301-1307</p> <p><u>Brief case:</u> <i>United States v. Virginia</i></p>
Mon., March 30	<p>C. Equal Protection: Sexual orientation</p> <p><u>Reading</u> pp. 1319-1330</p> <p><u>Brief cases</u> <i>Romer v. Evans; U.S. v. Windsor</i> [BB]</p>
Wed., April 1	<p>Simulation Preparation</p> <p>Field trip to law school library – legal research *Bring names of two on-point cases you have identified</p>
Fri., April 3	<p>Simulation Preparation</p> <p><u>Reading:</u> The Brethren, “1970 term” (pp. 111-180)</p>
Mon., April 6	<p>Simulation Preparation</p> <p><u>Reading:</u> The Brethren, “1972 term” (pp. 275-330)</p>
Wed., April 8	<p>Simulation Preparation</p> <p>In-class working session for simulation (Mandatory attendance)</p>
Fri. April 10	<p>**JUSTICE PAPERS AND ATTORNEY BRIEFS DUE**</p> <p>In class: prep for oral arguments</p>
Mon., April 13	<p>SIMULATION: ORAL ARGUMENTS</p>
Wed., April 15	<p>SIMULATION: CONFERENCE DELIBERATIONS</p>
Fri., April 17	<p>Make-up Exam Day (No class for students not taking a makeup)</p>
Mon., April 20	<p>SIMULATION: OPINION ANNOUNCEMENT AND PRESS CONFERENCE</p>
Wed., April 22	<p>Review for final exam</p>
Friday, April 25	<p>**FINAL EXAM** 8:00 – 10:30 a.m. (407 Ford)</p>