

POL 434 4111 CONSTITUTIONAL LAW I

Semester: Fall 2009
Time: TUTH 2:00-3:20 P.M.
Room: CHSS 242B
Professor: Dr. John C. Domino
Office: CHSS 475
Office Hours: TUTH: 9:00-12:00 or by appointment
Phone: 936/ 294-1463
E-mail pol_jcd@shsu.edu (best way to contact me)

COURSE DESCRIPTION:

Constitutional law is the interpretation and application of the Constitution by the United States Supreme Court. This body of law is concerned largely with defining the extent and limits of governmental power and the rights of individuals and groups. This course will immerse students to this body of case law pertaining to individual rights and liberties through reading, briefing cases, and class discussion.

COURSE OBJECTIVES:

- Learn the outcomes of the landmark running of the Supreme Court and, thus, develop an understanding of civil rights/liberties.
- Understand the principles and logic underlying the significant rulings the United States Supreme Court.
- Read and comprehend the reasoning of the Court as set forth in actual Court opinions and summarize in legal briefs the complex language and logic of the justices.
- Participate in a court simulation: a group activity that involves research and discussion.
- Prepare students to speak clearly and coherently on the assigned cases and materials.

REQUIRED TEXT:

Ducat, Craig, Constitutional Interpretation: Volume II Rights of the Individual, 9th edition (Wadsworth Publishers).

It is the student's responsibility to obtain course material at the beginning of the semester.

COURSE REQUIREMENTS:

Exams: Three essay exams: two “midterms” and a final. You must have a valid excuse (with documentation) to take a make-up exam. You will need bluebooks for each exam.

Court Simulation: You will receive the specifics of this group assignment in a separate handout during the third week of classes.

Case Briefing: Since our discussions and exams will be based on the opinions of the Supreme Court, you will brief a large number of opinions. Brief all opinions. However, a large portion of these 1-2 page (10 point max.) briefs will be handed in for credit and you will receive a cumulative grade for the body of your work at the end of the semester. Note that on the course outline you are informed which of these case briefs must be turned in for a grade by the word “**hand in for grade**” after the case name. The briefs will be turned in on the day that they are covered in class. The professor reserves the right to increase or decrease the number of case briefs to be turned in for a grade. At the end of the semester you will receive a grade based on the percentage of points available. for example if you are assigned 50 briefs (500 points) and you receive 9 points per brief (450 points) your semester brief grade would be a 90%.

Final grade: Based on an average of five grades: the three exams, the court simulation, and the case briefing grade.

90-100=A 80-89=B 70-79=C 60-69=D 0-59=F

All grades will be posted on BlackBoard

ADMINISTRATIVE MATTERS:

Approach:

Happily, I do not take a lecture approach in this class, but rather a modified case-method approach used in legal education. In other words, heavy class participation is the norm. Students are all expected to have read and briefed the cases before class and to be prepared to answer the professor’s questions as well as raise questions on their own. If there is silence, then there will be more writing. Exams will be drawn from class discussions and independent reading. *In many ways, every class is a study session for the exams.*

Note on workload: This is a very rigorous and challenging course, probably requiring more hours and effort than most other courses you have taken. The nature of the material and pedagogy (teaching method) makes it so. Read the syllabus carefully so that you fully understand my expectations.

Attendance:

We need you! Regular attendance is required. A student will be allowed four unexcused absences in this course. Beyond that, five points will be taken off the student's final grade for each additional *unexcused* absence.

Academic Dishonesty:

According to University Academic Policy Statement 810213 and the Faculty Handbook:

All students are expected to engage in all academic pursuits in a manner that is above reproach. Students are expected to maintain complete honesty and integrity in the academic experiences both in and out of the classroom. Any student found guilty of dishonesty in any phase of academic work will be subject to disciplinary action. The University and its official representatives may initiate disciplinary proceedings against a student accused of any form of academic dishonesty including, but not limited to, cheating on an examination or other academic work which is to be submitted, plagiarism, collusion and the abuse of resource materials.

Plagiarizing, purchasing research papers, copying answers from another student's exam, using case briefs from a previous class, collaborating on briefs, cutting and pasting from the web, or using unauthorized notes or "cheat sheets" during an exam constitutes academic dishonesty and will result in swift disciplinary action by the professor/university. This action will take the form of failing that exam or the entire course and a letter to the appropriate university officials. If you know of someone cheating, quietly and confidentially inform the professor, since the cheater's success is unfair to you and gives that person a grade-point edge in the competitive job market/admissions process that you will face upon graduation. By registering for this class you agree to abide by an honor code.

Disruptive Conduct:

The First Amendment prevails in this class. However, a student who engages on any behavior or language in the classroom that intentionally or unintentionally disrupts the learning process and, thus, "impedes the mission of the university," will be asked to leave the class and may be reported to the Dean of Students for disciplinary action in accordance with written university policy. Silence and pack away all cell phones. *Ringling cell phones and texting during class is disruptive behavior; as is inappropriate (non academic use) use of notebook computers.*

see <https://www.shsu.edu/students/guide/dean/codeofconduct.html>.

Americans with Disabilities Act

Student requests for accommodations must be initiated by the student. A student seeking accommodations should go to the Counseling Center and Services for Students with Disabilities (SSD) in a timely manner.

Religious Holidays

University policy states that a student who is absent from class for the observance of a religious holy day shall be permitted to take an examination or complete an assignment scheduled for that day within a reasonable time after the absence. Not later than the 15th calendar day after the first day of the semester, or the 7th calendar day after the first day of a summer session, the student must notify the instructor of each scheduled class that he/she would be absent for a religious holy day.

Visitors in the Classroom

Unannounced visitors to class must present a current, official SHSU identification card to be permitted into the classroom. They must not present a disruption to the class by their attendance. If the visitor is not a registered student, it is at the instructor's discretion whether or not the visitor will be allowed to remain in the classroom.

Instructor Evaluations

Inform students that they will be asked to complete a course/instructor evaluation form toward the end of the semester.

OUTLINE OF COURSE:

Note: Most listed cases are in abridged form in the Ducat text unless followed by the word "online," which means <http://www.laws.findlaw.com>; or a citation. Other cases you will have to find with findlaw or other databases. Although I have not included page numbers, these cases have accompanying commentary and interpretation that are included in each chapter of the Ducat book to help you better understand the opinions. Please read the cases in the order they appear in the book or are dated accordingly.

I. Introduction:

- A. Case Briefing and Constitutional Interpretation
- B. Online Research Methods
- C. The United States Supreme Court: A Quick Course:

CIVIL RIGHTS AND LIBERTIES (selected cases). Brief and be prepared to discuss ALL cases; but note which are to be turned in.

II. Freedom of Speech: This section focuses on the scope of the First Amendment and the extent to which the State can restrict speech. Read Ducat commentary and cases in chap. 11:

Schenck v. US [hand in for grade]
 Terminello v. Chicago [hand in for grade]
 Brandenburg v. OH [hand in for grade]
 Adderly v. FL; and the ISKON cases, Ducat pp. 815-818
 Madsen v. Women's Health Center, Inc. [hand in for grade]
Hill v. Colorado, 530 U.S. 703 (2000). [hand in for grade]
 City of Ladue v. Gilleo
 Cohen v. CA [hand in for grade]
 West Virginia Board of Education v. Barnette [hand in for grade]
 Tinker v. Des Moines School District [hand in for grade]
 Barnes v. Glen Theatre [hand in for grade]
 U.S. v. O'Brien [hand in for grade]
 Texas v. Johnson [hand in for grade]
 RAV v. St. Paul
 Wisconsin v. Mitchell, 508 U.S.476 (1993)
Virginia v. Black, 538 U.S. 343 (2003). [hand in for grade]

III. Freedom of the Press: This section focuses on the scope of protection afforded to freedom of the press. Ducat, chap. 12:

Near v. MN [hand in for grade]
 2 Live Crew case, Ducat, Note, 943.
 NY Times v. US [hand in for grade]
 Branzburg v. Hayes [hand in for grade]
 Houchins v. KQED

Stanley v. GA [hand in for grade]
 Miller v. CA [hand in for grade]
 National Endowment for the Arts v. Finley
 NY Times v. Sullivan [hand in for grade]

IV. Freedom of Religion/ Freedom From Religion. This section deals with the controversies arising under the two religion clauses. Ducat, chap. 13:

Everson v. Board of Education
 Engel v. Vitale, [hand in for grade]
 Lemon v. Kurtzman [hand in for grade]
 Edwards v. Aguillard [hand in for grade]
 Kitzmiller v. Dover Area School District, 400 F. Supp.2d 707 (M.D. Pa. 2005).
 Van Orden v. Perry, 125 S.Ct. 2854 (2005) and McCreary County v. ACLU of Kentucky, 125 S.Ct. 2722 (2005) [hand in for grade].
 Sherbert v. Verner [hand in for grade]
 Thomas v. Indiana
 Wisconsin v. Yoder
 Employment Division v. Smith [hand in for grade]
 Church of the Lukumi Babalu v. Hialeah see findlaw
 O Centro Espirita Beneficente Uniao Do Vegetal (UDV) [hand in for grade] see findlaw.

FIRST EXAM – date to be announced

V. Equal Protection of the Laws. These cases examine the application of the 14th Amendment to discriminatory treatment of different groups or classes of people. Ducat chap. 14:

Plessy v. Ferguson [hand in for grade]
 Sweatt v. Painter [hand in for grade]
 Brown v. Board of Education I [hand in for grade]
 Brown II
 Cooper v. Aaron
 Swann v. Charlotte-Mecklenburg [hand in for grade]
 Regents, Univ. of CA v. Bakke
 Gratz v. Bollinger, 539 U.S. 244 (2003) [hand in for grade] see findlaw
 Parents Involved in Community Schools v. Seattle School District and Meredith v. Jefferson County Board of Education [hand in for grade] see findlaw.
 Reed v. Reed [hand in for grade]
 Frontiero v. Richardson
 U.S. v. Virginia [hand in for grade]
 Meritor Saving v. Vinson [hand in for grade]
 Farragher v. City of Boca Raton,
 Boy Scouts of America v. Dale [hand in for grade]

VI. Right to Privacy. What is the definition and scope of the right to privacy? Ducat, chap. 10:

Griswold v. CT [hand in for grade]

Roe v. Wade [hand in for grade]

Planned Parenthood v. Casey [hand in for grade]

Stenberg v. Carhart and Gonzales v. Carhart, see findlaw and Ducat page 742 (“partial birth” abortions)

Lawrence v. TX [hand in for grade]

Washington v. Glucksberg and Vacco v. Quill

Raich v. Gonzales (medical marijuana) [hand in for grade]

SECOND EXAM – date to be announced

VII. Due Process. The section examines cases expounding the rights and privileges of people accused of criminal activity. , **Ducat, chaps. 8 and 9:**

A. Selective Incorporation of the Bill of Rights Into the 14th Amendment:

Barron v. The Mayor and City Council of Baltimore

[see the theories of incorporation: p. 470-492]

Rochin v. CA [hand in for grade]

[see non-incorporated Second Amendment, p. 500]

District of Columbia v. Heller, see findlaw, 554 U.S. ____ (2008) [hand in for grade].

B. Right to Counsel:

Gideon v. Wainwright [hand in for grade]

Miranda v. AZ [hand in for grade]

[see note: “poisonous tree” doctrine, 536]

CA v. Byers

C. Cruel and Unusual Punishment:

Robinson v. CA

Furman v. GA [hand in for grade]

Gregg v. GA

McKlesky v. Kemp [hand in for grade]

[see “other cases,” p. 582]

Baze v. Rees, 553 U.S. ____ (2008) [hand in for grade] see findlaw,

D. The Exclusionary Rule:

Mapp v. OH [hand in for grade]

Stone v. Powell

U.S. v. Leon [hand in for grade]

E. Warrantless Searches and Seizures:

U.S. v. Drayton

Carroll v. United States [hand in for grade]

Maryland v. Wilson [hand in for grade]

Chimel v. CA

Warden v. Hayden

Florida v. Bostick [hand in for grade]

F. Wiretapping and Eavesdropping:

Olmstead v. U.S.

Katz v. U.S.[hand in for grade]

CA v. Ciraolo [hand in for grade]

Kyllo v. U.S. [hand in for grade]

cell phones and e-mail: Note, page 700 {read for discussion}

G. Post-9-11 Surveillance (Notes, pp 706-711):

FINAL EXAM – see university final exam schedule