

# POL 434 6512 CONSTITUTIONAL LAW I

Semester: Fall 2008  
Time: 11:00-12:20  
Room: Criminal Justice Center – Room C 104  
Professor: Dr. John C. Domino  
Office: AB1, 315E  
Office Hours: TUTH: 9:00-9:30; 12:30-2:00 or by appointment  
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## **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 II: Rights of the Individual*, 8<sup>th</sup> edition.  
Gibaldi, *MLA Handbook*, 6<sup>th</sup> ed.

## **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.

**Court Simulation:** You will receive the specifics of this group assignment in a separate handout during the second 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 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.

**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

### **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.*

#### ***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. Be careful.

#### ***Academic Dishonesty:***

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 Dean of Students. 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. *Watch those electronic devices. Increasingly students have disrupted class because of obsessive behavior with said devices.*

**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.

## 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: Ducat, pp. 27-38; Appendix B

**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: Read Ducat commentary and cases in chap. 11:

- Schenck v. US [hand in for grade]
- Gitlow v. NY
- Thomas v. Collins [hand in for grade]
- Terminello v. Chicago
- 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
- Texas v. Johnson [hand in for grade]
- Virginia v. Black*, 538 U.S. 343 (2003). [hand in for grade]

### III. Freedom of the Press, Ducat, chap. 12:

- Near v. MN [hand in for grade]
- NY Times v. US
- Branzburg v. Hayes [hand in for grade]
- Houchins v. KQED
- Stanley v. GA
- 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, Ducat, chap. 13:

Everson v. Board of Education  
 Engel v. Vitale, [hand in for grade]  
 Lee v. Weisman  
 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  
 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, 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 [hand in for grade]  
 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]  
 Lawrence v. Texas [hand in for grade]

#### **VI. Right to Privacy, Ducat, chap. 10:**

Griswold v. CT [hand in for grade]  
 Roe v. Wade [hand in for grade]  
 Planned Parenthood v. Casey  
 Stenberg v. Carhart  
 Gonzales v. Carhart,  
 Lawrence v. TX [hand in for grade]  
 Washington v. Glucksberg  
 Vacco v. Quill

**SECOND EXAM – date to be announced**

**VII. Due Process, Ducat, chaps. 8 and 9:**

**A. Selective Incorporation of the Bill of Rights Into the 14<sup>th</sup> Amendment:**

Barron v. The Mayor and City Council of Baltimore

The Slaughterhouse cases

[see the theories of incorporation: p. 475-479]

Palko v. CT [hand in for grade]

Rochin v. CA [hand in for grade]

[see non-incorporated Second Amendment, p. 498]

**B. Right to Counsel:**

Powell v. AL

Gideon v. Wainwright [hand in for grade]

Miranda v. AZ

[see note: “poisonous tree” doctrine]

CA v. Byers

**C. Confrontation and Cross Examination:**

MD v. Craig [hand in for grade]

**D. Cruel and Unusual Punishment:**

Robinson v. CA

Furman v. GA [hand in for grade]

Gregg v. GA [hand in for grade]

McKlesky v. Kemp

[see “other cases,” p. 582]

Payne v. TN [hand in for grade]

Baze v. Rees [hand in for grade] see findlaw

**E. The Exclusionary Rule:**

Mapp v. OH [hand in for grade]

Stone v. Powell

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

**F. Warrantless Searches and Seizures:**

U.S. v. Drayton

Carroll v. United States [hand in for grade]

Florida v. Jimeno

Maryland v. Wilson [hand in for grade]

Chimel v. CA

Warden v. Hayden

CA v. Ciraolo [hand in for grade]

Kyllo v. U.S.

Florida v. Bostick [hand in for grade]

Wilson v. Layne

**G. Wiretapping and Eavesdropping:**

Olmstead v. U.S.

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

**H. Post-9-11 Rulings (not in book):**

Zadvydas v. Davis [hand in for grade]  
Rasul v. Bush [hand in for grade]  
Hamdi v. Rumsfeld [hand in for grade]

**FINAL EXAM – see university final exam schedule**