

CIVIL LIBERTIES
Political Science 321, Section 1
Maybank Hall, Room 115
T/TH: 12:15-1:30
Spring 2022

Instructor: Claire Wofford, J.D., Ph.D.

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I. CONTENT & STUDENT LEARNING OUTCOMES

This course is an introduction to the to the fundamental rights and liberties guaranteed by the United States Constitution, as interpreted by the United States Supreme Court. It focuses upon a selection of the major freedoms contained in the Bill of Rights and other amendments, including freedom of religion, freedom of speech, and civil rights. In addition, we will consider various theories of Constitutional interpretation, the influence of “extralegal” factors on judicial decision-making, and the role of the Supreme Court in the democratic process. The course examines the meaning and import of these topics primarily through Supreme Court opinions, though the textbook does provide some supplemental material which we will utilize.

This class will be taught primarily using the “case method,” which uses specific cases to extract legal rules and larger legal principles. In this way, it will be similar to what one might experience in law school, but with the workload and intimidation factor greatly reduced. As this is an undergraduate political science course, we also will explore the political context surrounding Court decisions as well as the role that ideological positions of the justices might (or might not) play in shaping their votes and opinions.

At the conclusion of this course, students will:

- 1) Demonstrate knowledge of several basic doctrines of American Constitutional law.
- 2) Understand the rights and liberties provided to U.S. citizens, as articulated in the Constitution and defined by the Supreme Court.
- 3) Gain proficiency in legal reasoning and be able to apply extant legal doctrines to hypothetical cases.
- 4) Critically evaluate the operation of the U.S. Supreme Court and its role in the balance of power between the individual and the government.

II. REQUIRED TEXT

Each student must purchase/borrow:

Epstein, Lee, and Thomas G. Walker. 2019. *Constitutional Law for a Changing America: Rights, Liberties, and Justice*, 10th ed. CQ Press: Washington, D.C.

The R.E.A.C.H Act requires that students read the following documents in their entirety: the U.S. Constitution, Declaration of Independence, 5 of the Federalist Papers, the Emancipation Proclamation, and one additional document foundational to the African-American freedom struggle.

Any additional readings will be posted on OAKS. It is the **student's** responsibility to check email and OAKS regularly for information about any changes in course material or exams.

III. EVALUATION

Grades will be based upon six elements: three in-class examinations, a final project, an in-class case brief, and class participation. The contribution of each to your final grade is as follows:

- Exam #1: 10%**
- Exam #2: 15%**
- Exam #3: 20%**
- Final Project: 30%**
- Class Participation: 10%**
- Reading Quizzes: 10%**
- Case Brief Presentations: 5%**

Examinations

Examinations will be closed book and taken in class. (If needed, one of these exams will be converted to a take-home exam.) With the exception of any take-home exam, they will be comprised of a mix of question types, including objective, short answer, and short essay. The short essay question(s) will be hypothetical cases to which students must apply the substantive law they have learned in class.

Exams must be taken at the scheduled time unless arrangements have been made with me at least 48 hours prior to the exam. Make-up exams will only be offered once and will be more difficult than the regular test.

Final Project

In lieu of a final exam, you will be required to complete a final project in which you will act as either a Supreme Court justice or an attorney. The project will include participation in a simulated oral argument and completion of a final paper (either a legal brief or judicial opinion). Further details about the project will be forthcoming.

Class Participation

The class participation element may be satisfied by in or out of class questions, or through other arrangements with the instructor. As discussion is central to the course, however, I expect all students to come to *every* class having *read and studied* the material, ready to participate.

To ensure that all students have an equal opportunity for participation, I will be employing a modified version of the “Socratic method,” in which the student and I will engage in an in-class, ongoing dialogue about a particular case or set of cases. I use the term “modified” because students will know, in advance, when they are likely to be called upon. More specifically, beginning the second full week of class, I will be calling upon students in alphabetical order, by last name. When asked, the student will be expected to answer my questions about the case facts and opinions as well as the implications of the case for legal doctrine and the political system more broadly. Good preparation will be essential for this element of the grade, and students will be assessed on effort as well as the quality of the response. Students who have an unexcused absence the day they are called upon will be assigned a zero.

Please note that you may still be called upon in class even if it is not your “assigned” day, so you must come prepared for every session. I also reserve the right to give random pop quizzes if it appears that students are not reading the material and coming to class well-prepared. If instituted, these quizzes will be factored into your class participation grade.

Reading Quizzes

To ensure students are reading the text prior to class, there will be **open book** reading quizzes that must be completed. The quizzes are posted on OAKS with the assigned due dates listed in the syllabus below.

Case Brief Presentations

You will also be required, with one other student, to present one case to the class throughout the semester. This presentation, which should last no longer than **10-15 minutes**, will be an oral form of a “case brief” in which you explain various elements of a case. Specific instructions for this assignment will be posted on OAKS. Group assignments will be posted as soon as the class list is finalized.

Grading Scale

The grading system is based upon the following scale: 93-100% A; 90-92 A-; 87-89% B+; 83-85% B; 80-82% B-; 77-79%: C+; 73-76% C; 70-72% C-; 67-69% D+; 63-67% D; 60-62% D-; 0-59%: F. Extra credit is not permitted.

IV. ATTENDANCE AND CLASS BEHAVIOR

Attendance is **required** for all classes. Attendance will be taken during every in-person class. Only documented illness (subject to exception for Covid-related absences), family emergency, or

institutional permission constitute excused absences. Please let me know of any such absences in advance whenever possible; if you will be missing class for a school-related reason (activity, athletics etc.), you must let me know twenty-four hours before your absence.

Any student with a **Covid-related absence should inform me as soon as possible**. The student and I will make reasonable accommodations/arrangements as needed. My classes are built on mutual respect and trust, and I expect that you will be honest and truthful about the cause of your absence(s). Masks are required for class; any student refusing to wear a mask will not be permitted in the classroom.

As tardiness disrupts the classroom environment, any student who is **late more than two times will have their participation grade dropped by 10%**.

The rules of the student code of conduct apply in this class. Appropriate behavior is required at all times. Students may not speak while other students or the instructor is speaking. Classroom debate is highly encouraged, but students are expected to conduct themselves with decorum and respect.

Laptops are not allowed during in-person class sessions. Use of cell phones during class is strictly prohibited. Turn phones off before entering the classroom/Zoom session.

V. ACADEMIC INTEGRITY

Lying, cheating, attempted cheating, and plagiarism are violations of our Honor Code that, when identified, are investigated. Each incident will be examined to determine the degree of deception involved.

Incidents where the instructor determines the student's actions are related more to a misunderstanding will be handled by the instructor. A written intervention designed to help prevent the student from repeating the error will be given to the student. The intervention, submitted by form and signed both by the instructor and the student, will be forwarded to the Dean of Students and placed in the student's file.

Cases of suspected academic dishonesty will be reported directly by the instructor and/or others having knowledge of the incident to the Dean of Students. A student found responsible by the Honor Board for academic dishonesty will receive an XXF in the course, indicating failure of the course due to academic dishonesty. This grade will appear on the student's transcript for two years after which the student may petition for the XX to be expunged. The F is permanent. The student may also be placed on disciplinary probation, suspended (temporary removal) or expelled (permanent removal) from the College by the Honor Board.

Students should be aware that unauthorized collaboration--working together without permission-- is a form of cheating. Unless the instructor specifies that students can work together on an assignment, quiz and/or test, no collaboration during the completion of the assignment is permitted. Other forms of cheating include possessing or using an unauthorized study aid (which could include accessing information via a cell phone or computer), copying from others' exams, fabricating data, and giving unauthorized assistance. Research conducted and/or papers

written for other classes cannot be used in whole or in part for any assignment in this class without obtaining prior permission from the instructor.

Students can find the complete Honor Code and all related processes in the Student Handbook at <http://studentaffairs.cofc.edu/honor-system/studenthandbook/index>.

VI. DISABLED STUDENTS

The College will make reasonable accommodations for persons with documented disabilities. Students should apply for services at the Center for Disability Services/SNAP located on the first floor of the Lightsey Center, Suite 104. Students approved for accommodations are responsible for notifying me as soon as possible and for contacting me one week before accommodation is needed.

VII. INCLEMENT WEATHER, PANDEMIC OR SUBSTANTIAL INTERRUPTION OF INSTRUCTION

If in-person classes are suspended, I will announce to students a detailed plan for a change in modality to ensure the continuity of learning. All students must have access to a computer equipped with a web camera, microphone, and Internet access. Resources are available to provide students with these essential tools.

VIII. ASSIGNMENTS AND LECTURE TOPICS

Please note that I reserve the right to alter these assignments as necessary. Notice of such changes will be provided in advance (in class and/or via OAKS) and students are expected to alter their reading as necessary.

Also, please be aware the both the final and mid-term exams will be based upon information contained in **both the text and the lectures**. Focusing upon solely the text or the lecture material will be insufficient to perform well in this class.

I. INTRODUCTION TO THE U.S. SUPREME COURT AND JUDICIAL DECISION-MAKING

A. Session 1: Tuesday, January 11th

Topic: Introduction to Class & Each Other

Reading: None

B. Session 2: Thursday, January 13th

Topic: Introduction to Judicial Decision-Making: The Role of “Law,” Part 1

Reading: pp. 20-21; pp. 728-732 (Amendments 1-10, 14)

Reading Quiz: Complete Reading Quiz #1 (OAKS)

NOTE: If you are interested in/unfamiliar with the general function and operations of the U.S. Supreme Court, please also read pages 9-20.

C. Session 3: Tuesday, January 18th

Topic: Introduction to Judicial Decision-Making: The Role of “Law,” Part 2

Reading: pp. 21-29 (focus especially on the section on stare decisis); Concurrences of Justice Roberts, *Citizens United v. FEC* & *June Medical Services v. Russo* (selections); Concurrence of Justice Thomas, *Gamble v. United States* (selections); Opinion of Justice Kagan, *Kimble v. Marvel* (OAKS)

Reading Quiz: Complete Reading Quiz #2 (OAKS)

D. Session 4: Thursday, January 20th

Topic: Introduction to Judicial Decision-Making: The Role of “Law,” Part 3

Reading: NONE (review reading from prior session, particularly pages 21-26 and the justices’ opinions on OAKS)

Reading Quiz: None

E. Session 5: Tuesday, January 25th

Topic: Introduction to Judicial Decision-Making: The Role of “Politics”

Reading: pp. 30-34; Lawrence Friedman, “Supreme Court Justices Should Not Be Called Liberal or Conservative” (OAKS)

Reading Quiz: Complete Reading Quiz #3 (OAKS)

F. Session 6: Thursday, January 27th

Topic: Introduction to Judicial Decision-Making: The Role of Politics (cont.) and Just Play the Game

Reading: pp. 30-34 (review); pp. 34-39; Ilya Somin, “Is John Roberts a Judicial Minimalist, a Coward, or a Strategic Maximizer?” (OAKS)

Reading Quiz: Complete Reading Quiz #4 (OAKS)

G. Session 7: Tuesday, February 1st

Topic: Introduction to Judicial Decision-Making: Review

H. Session 8: Thursday, February 3rd

**** EXAM #1 ****

II. THE CONTENT OF THE LAW: FREEDOM OF RELIGION

I. Session 9: Tuesday, February 8th

Topic: Freedom of Religion: I Believe In.... Pasta?

Reading: pp. 91-94

Reading Quiz: Complete Reading Quiz #5 (OAKS)

J. Session 10: Thursday, February 10th

Topic: Freedom of Religion: It's What I Do, Not What I Believe (part 1)

Reading: pp. 94-101

Case Brief: *Cantwell v. Connecticut* (Group 1)

Reading Quiz: Complete Reading Quiz #6 (OAKS)

K. Session 11: Tuesday, February 15th

Topic: Freedom of Religion: It's What I Do, Not What I Believe (part 2)

Reading: pp. 101-111

Case Brief: *Sherbert v. Verner* (Group 2); *Wisconsin v. Yoder* (Group 3)

Reading Quiz: Complete Reading Quiz #7 (OAKS)

L. Session 12: Thursday, February 17th

Topic: Freedom of Religion: The Supreme Court Smokes....Something

Reading: pp. 106-118

Case Brief: *Employment Division v. Smith* (Group 4)

Reading Quiz: Complete Reading Quiz #8 (OAKS)

M. Session 13: Tuesday, February 22nd

Topic: Review/Makeup

N. Session 14: Thursday, February 24th

****EXAM #2****

III. THE CONTENT OF THE LAW: FREEDOM OF SPEECH

O. Session 15: Tuesday, March 1st

Topic: Freedom of Speech: Lurching Towards a Standard

Reading: pp. 183-187; 195-197

Case Brief: *Schenck v. U.S* (Group 5)

Reading Quiz: Complete Reading Quiz #9 (OAKS)

P. Session 16: Thursday, March 3rd

Topic: Freedom of Speech: Spray it Don't Say It

Reading: pp. 202-211

Case Brief: *United States v. O'Brien* (Group 6); *Texas v. Johnson* (Group 7)

Reading Quiz: Complete Reading Quiz #10 (OAKS)

SPRING BREAK

Q. Session 17: Tuesday, March 15th

Topic: Freedom of Speech: Protest v. Public Safety

Reading: pp. 211-216

Case Brief: *Chaplinsky v. New Hampshire* (Group 8); *Cohen v. California* (Group 9)

Reading Quiz: Complete Reading Quiz #11 (OAKS)

R. Session 18: Thursday, March 17th

Topic: Freedom of Speech: Hate Speech (What Can I Say?)

Reading: pp. 224-230

Case Brief: *Snyder v. Phelps* (Group 10)

Reading Quiz: Complete Reading Quiz #12 (OAKS)

S. Session 19: Tuesday, March 22nd

Topic: Review/Makeup

T. Session 20: Thursday, March 24th

****EXAM #3****

U. Session 21: Tuesday, March 29th

Topic: The Right to Privacy: Who Needs Any Text?

Reading: pp. 365-374

Case Brief: *Griswold v. Connecticut* (Group 11)

Reading Quiz: Complete Reading Quiz #13 (OAKS)

V. Session 22: Thursday, March 31st

Topic: The Right to Privacy: The “Start” of Abortion Rights

Reading: pp. 374-383

Case Brief: *Roe v. Wade* (Group 12)

Reading Quiz: Complete Reading Quiz #14 (OAKS)

W. Session 23: Tuesday, April 5th

Topic: The Right to Privacy: Who Bears the (Undue) Burden

Reading: pp. 388-395

Case Brief: *Planned Parenthood v. Casey* (Group 13)

Reading Quiz: Complete Reading Quiz #15 (OAKS)

X. Session 24: Thursday, April 7th

THIS CLASS SESSION WILL BE HELD VIA ZOOM

Topic: Final Project Preparation

Reading: None

Y. Session 25: Tuesday, April 12th

Topic: The Supreme Court Convenes: Case #1

Z. Session 26: Thursday, April 14th h

Topic: The Supreme Court Convenes: Case #2

AA. Session 27: Tuesday, April 19th

Topic: The Supreme Court Convenes: Case #3

(NOTE: Please reserve the final exam time for this course (Thursday, April 28th from 1-3 pm for an additional class content and/or final projects)