Course Description

This course will focus on the role of the Supreme Court in deciding issues related to the civil liberties and civil rights of Americans. This class will not engage in a unilateral analysis of a case, the Court’s legal reasoning and the holding of the court. Rather, we will examine the legal and political reasons why a case was decided a particular way. The goals of this course are: to sharpen our understanding of how the Supreme Court of the United States “decides to decide cases,” how the Court’s decisions impact values that are important in the lives of all Americans, external forces and factors that help to shape the Court’s policy decisions, and the impact of the Court’s decisions on our political and social institutions.

This class will not operate pursuant to the traditional lecture format. Those students who feel they perform better in that format may wish to reconsider taking this course. Rather, discussion and assignments will focus on the real life situations that create a controversy, how the controversy evolves into a United States Supreme Court case, and how the Court resolves the dispute. We will use the case-study method for this class. This means that after an initial chapter introduction, students will brief cases and the class will engage in a discussion of those cases. We will discuss the important facts, the critical question the Court is asked to answer, the Court’s resolution of the question, and why the Court resolved the dispute the way that it did. The briefs are your individual study guides. At the beginning of the semester I will go over with you how to brief a case and I will provide an example of a brief to you. I do not grade your briefs, I do not stand over your shoulder to assist you in preparing your briefs; the development of your competency in this area is solely your responsibility. I am; however, free to meet with any student who would like me to review their briefs. You are encouraged to brief every case and to use your study groups as a laboratory to perfect your briefing skills and your understanding of the subject area.

The text for this course is Constitutional Law for a Changing America: Rights, Liberties, and Justice, 7th edition, Lee Epstein and Thomas Walker and other readings as assigned.

Readings

I have prepared a weekly reading schedule. The course is designed to move efficiently through the text and will be supplemented with other written and visual aids when needed. All cases, even those that are not briefed, must be read and you will be tested on this material. The reading schedule also indicates those cases that are to be briefed. Read the text in the order it is presented on the syllabus as this is how we will proceed unless instructed otherwise.
Meetings, Examinations, Papers, Grading

Class meets Tuesdays and Thursdays from 11:30 to 12:45 in Johns Hall 109. You are expected to attend class and be prepared for discussion at that time. Classes will start in a timely manner and students are not to interrupt class by entering the classroom late.

Electronic Devices in Class

Cell phones or other PDA’s should be turned off as soon as students walk in the classroom. If the professor hears a phone in class, or sees a student using it for any reason after class begins, she will deduct 10 points from the student’s final participation grade. If it happens a second time, the student will receive an F for participation. During exams, students should put their cell phones or PDA’s in their book bag or purse or leave them at the front of the room with the professor. If the professor sees a cell phone or PDA in the student’s hand once the exam begins (regardless of the reason), the student will fail the exam. Laptops may be used for taking notes, but all other applications (e-mail, internet, etc.) should be closed (not merely minimized). If the professor finds a student using the laptop for any reason other than taking notes, the student will lose 10 points from their final participation grade and will no longer be allowed to use the laptop in class.

Examinations

There will be a minimum of three tests in this class, along with, a final exam. A fifth grade will consist of briefs/opinions, arguments and questions pursuant to the Supreme Court Simulation exercise (described below). The exercise will be conducted over a 150 (or until completed) minute period on April 9, 2014 beginning at 5:30 p.m. in Johns Hall 101. Students are to dress appropriately i.e., business dress.

Exams will be administered only on the day scheduled; unless, sufficient reason is presented to deviate from this standard. Tests will consist of multiple choice, short answer and essay questions. This class operates pursuant to the Academic Integrity Policy of the University.

Supreme Court Simulation

As referenced above, this class will engage in a Supreme Court simulation exercise derived from legal developments presented and/or pending in federal courts. The exercise will consist of attorneys representing the litigants, attorneys who are Amici (“Friends of the Court”) and the Justices who hear the case. This will require the preparation of briefs, mock argument sessions, strategy sessions, writing opinions and delivering the opinion of the Court. The briefs must be compiled in a manner sufficient to meet the rules of the Supreme Court of the United States of America.

The “Court” will receive two simulation problems which shall serve the same purpose as Petitions for Writs of Certiorari. The entire class will function as the Court to decide to which case to grant Cert.
The role each class member assumes (Justice, Attorney, and Amicus) will be determined by test performance, class participation and the drawing of lots. Whether an attorney represents the Petitioner or Respondent in the case will also be determined by the drawing of lots. Each attorney must write an independent brief. Also, some attorneys may serve as Amicus “Friends of the Court” and will also present arguments to the Court on both sides of the case. All members of the class will participate in the simulation project.

Nine members of the class will serve as United States Supreme Court Justices. A component of the grading for persons who will serve as Justices is the quality of the questions asked of the litigants during oral arguments. Each Justice must prepare seven (7) questions which must be submitted to me by April 3, 2014. Each Justice will write an independent opinion. Additionally, the classroom justices will assume the identity of a past or present United States Supreme Court Justice and must render his/her opinion using the mode of constitutional interpretation that particular Justice would use. The Opinion must be rendered using the process the Supreme Court would use (Chapter 1, Epstein and Walker). Lots will also be drawn to determine which Justice’s persona will be assumed. The text has supporting material to draft a brief and/or opinion; however, this material must be supplemented with independent research. Briefs are due on April 9, 2014 the day of the simulation immediately following the conclusion of the class exercise. Opinions must be submitted by April 10, 2014 at 5:30p.m. All work must be submitted on or before the published due date. Make sure that you keep a copy of your work for your files. A 10% penalty is assessed for each day that a paper is late. If a paper is not turned in by the due date for submitting final grades for the semester the paper will receive a grade of 0. Papers may be submitted electronically (in one file). Papers shall be a minimum of seven (7) pages and a maximum of twelve (12) pages in length.

The simulation grade will consist of the following components:

| Written work –                          |   |
| Briefs/ Opinions                       | 65% |
| Argument                               | 35% |
| Quality & Quantity of                  |   |
| Questions from the Justices            | 35% |
| **Total**                              | 100% |
Grading
The weight of each graded work for the total cumulative class grade is as follows:

<table>
<thead>
<tr>
<th>Component</th>
<th>Percentage</th>
</tr>
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<tbody>
<tr>
<td>Tests *</td>
<td>25%</td>
</tr>
<tr>
<td>Final Exam</td>
<td>35%</td>
</tr>
<tr>
<td>Simulation Exercise</td>
<td>25%</td>
</tr>
<tr>
<td>Participation**</td>
<td>15%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100%</td>
</tr>
</tbody>
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Test Dates

Test 1  January 30, 2014  
Test 2  March 6, 2014  
Test 3  April 17, 2014  
Final Exam:  Friday, May 2nd @ 12:00pm

Grading Scale

<table>
<thead>
<tr>
<th>Grade</th>
<th>Score Range</th>
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<tbody>
<tr>
<td>A</td>
<td>93-100</td>
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<tr>
<td>A-</td>
<td>90-92</td>
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<tr>
<td>B+</td>
<td>87-89</td>
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<td>B</td>
<td>83-86</td>
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<td>B-</td>
<td>80-82</td>
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<td>D+</td>
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<td>D</td>
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<tr>
<td>D-</td>
<td>64-65</td>
</tr>
<tr>
<td>F</td>
<td>0-63</td>
</tr>
</tbody>
</table>

*Three tests will be administered and students may drop their lowest grade  
**Includes study group grade

Moodle

On occasion I will post additional reading assignments or articles of interest on Moodle. I may also post messages to the class on Moodle. You should consult Moodle on a daily basis to remain current with your classroom responsibilities.

Class Participation

Class participation is essential for this class. Therefore, you may earn up 15% of your grade depending on your level of participation which includes attendance in class, volunteering to brief cases, working with your study group and attendance. Members of the class will be called upon to cite the facts of a case, to present the issues, the Court’s analysis and how the Court reached its decision. The class will also discuss any other relevant information pertaining to the issues discussed on that day of class.

This class qualifies for four credits but only meets for 2.5 hours each week. The additional 1.5 hour is designated “class time” and is to be used for additional reading assignments, reflection, study group discussion and projects. Class participation points will be determined by the percentage of days credited with a participation rank versus the actual level of participation. You are responsible for all assigned readings whether or not they are discussed
in class. I will divide members of the class into study groups. You are required to meet with and assist your study groups. At the conclusion of the class, study group members will evaluate each others performance. This component counts as 50% of the class participation grade. I will also note in my class notebook participation in the classroom in determining the total class participation grade.

Rules of the Game

(1) Incompletes will be given only in extenuating circumstances and with the advance permission of the instructors.
(2) No make-up exams will be given.
(3) Failure to take exams on scheduled dates will result in a zero (0) for that exam.
(4) Students must complete all work to receive course credit.
(5) You are responsible for knowing the University’s policy on academic integrity.
(6) Any student wishing to receive an accommodation under the Americans with Disabilities Act (ADA) needs to provide documentation from the University’s ADA officer.
(7) No more than two unexcused absences are allowed; excused absences are those that are granted by Dean Gabbert’s office or are for documented, extenuating circumstances that prevent you from attending class.

This syllabus is subject to change upon sufficient notice. It may be augmented with additional assignments at any time.
Reading Schedule by Week

I. The Supreme Court and the Constitution—The Living Constitution pp. 3-9

1. Understanding the Supreme Court

January 14-16, 2014                Constitutional Law                 pp. 10-44

Lawrence Baum, “An Introduction to the Supreme Court”
Federalist Paper 78

Moodle

2. The Judiciary: Institutional Powers and Constraints

January 21                Constitutional Law                 pp. 45-65

Brief
Marbury v. Madison
Ex Parte McCardle

3. Incorporation of the Bill of Rights

January 23-28                Constitutional Law                 pp. 66-86

Briefs
Barron v. Baltimore
Hurtado v. California
Palko v. Connecticut
Duncan v. Louisiana
McDonald c. City of Chicago, Illinois (Moodle)

Test 1- January 30, 2014

II. Civil Liberties – pp. 87-92

5. Freedom of Speech, Assembly, and Association

February 4-February 13                Constitutional Law                 pp. 197-298

Briefs
Schenk v. U.S.
Abrams V. U.S.
Gitlow v. New York
Dennis v. United States
Brandenburg v. Ohio
United State v. O’Brien
Texas v. Johnson
Chaplinsky v. New Hampshire
Cohen v. California
Hill v. Colorado
R.A.V. v. City of St. Paul Minnesota

February 18-27

**Brief**
Snyder v. Phelps
Tinker v. Des Moines
Morse v. Frederick
West Virginia State Board of Education v. Barnette
Rumsfeld v. Forum for Academic and Institutional Rights, Inc.
Bates v. State Bar of Arizona
Boy Scouts of America v. Dale

**Simulation Roles Assigned**

10. The Right to Privacy
March 4  Constitutional Law  pp. 397-455

**Certiorari Decision**

**Briefs**
Griswold v. Connecticut
Roe v. Wade
Planned Parenthood of Southeastern Pennsylvania v. Casey
Lawrence v. Texas
Cruzan v. Director, Missouri Department of Health

Test 2 – March 6, 2014

**March 8-16 Spring Break**

**III. Rights of the Criminally Accused**  Constitutional Law  pp. 457-463

11. Investigations and Evidence
March 18-27  Constitutional Law  pp. 464-539

**Brief**
Katz v. United States
United States v. Jones
Illinois v. Gates
Arizona v. Gant
Stafford Unified School District#1 v. Redding
Terry v. Ohio
Mapp v. Ohio
United States v. Leon
Hudson v. Michigan
Herring v. United States
Escobedo v. Illinois
Miranda v. Arizona
Missouri v. Seibert

12. Attorneys, Trials and Punishment
April 1
Constitutional Law pp. 540-600

Brief
Powell v. Alabama
Gideon v. Wainwright
Gregg, Georgia
Atkins v. Virginia

IV. Civil Rights
April 3-29
Constitutional Law pp. 603-610

12. Discrimination
Constitutional Law pp. 611-720

Brief
Plessy v. Ferguson
Sweat v. Painter
Brown I and II
Swann v. Charlotte-Mecklenburg
Parents Involved in Community Schools v. Seattle School District No. 1; Meredith v. Jefferson County Board of Education
Loving v. Virginia
Shelley v. Kramer
Burton v. Wilmington Parking Authority
Moose Lodge No. 107 v. Irvis
Reed v. Reed
Craig v. Boren
U.S. v. Virginia
Romer v. Evans
San Antonio Independent School District v. Rodriguez
Plyer v. Doe
Regents of the University of California v. Bakke
Adarand Constructors, Inc. v. Pena
Grutter v. Bollinger

April 9, 2014-Simulation Exercise
April 10, 2014- Furman Engaged! No class
Test 3– April 17, 2014

Final Exam: Friday, May 2nd at NOON