**POL 385**

**CONSTITUTIONAL LAW**

**SPRING 2024**

T/TH 8-9:15

Gordy C/CR

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**OFFICE HOURS**

Tuesday, Thursday 2-5

**And by appointment**

**COURSE OVERVIEW**

This course is an investigation of constitutional issues, with an emphasis on civil liberties and civil rights. We will analyze the Supreme Court and its rulings as political scientists do. It will be taught as a seminar, which means I will try to minimize lecturing in the class; rather we will cover the readings in a discussion format, with all of learning through collective interaction. will carry the burden of discussion each class.

While this is a course in constitutional law, I am not a constitutional lawyer, I am a political scientist, and this is not a law class, it is a political science class. This means we must not get bogged down in legal jargon or legalese or become pre-occupied with the minutiae of any particular case. Rather we should focus on the larger political and legal issues that a particular ruling or groups of rulings, addresses and, perhaps more importantly, we should focus on the larger contextual, ideological, societal and political forces at play; the Supreme Court does not operate in a vacuum, despite some pundits beliefs to the contrary. When justices rule they are being influenced by many factors BESIDES the letter of the law, and it is those forces (or context) that I, as a political scientist find most interesting, and that we, as a class, should never overlook, and that you, as critical readers, critical thinkers, and discussion participants should always keep in mind. This viewpoint is shared by the authors of the main text.

The value of a contextually sensitive approach is found in the fact that *constitutional doctrines are dynamic*, despite the presence of enduring features that will soon become apparent. In other words, the development of American constitutional doctrine is always open to evolving further and taking new and surprising turns in that development. The future shape and content of constitutional doctrine will, no doubt, reflect the past, but it may also embark on new pathways not always anticipated by those who participated in the cases we shall study. Indeed, the students of today may well become the agents of such change in the future.

**COURSE OBJECTIVES**  
1) Understand legal reasoning and theories of constitutional interpretation.   
2) Comprehend the Supreme Court’s most important rulings on the powers of government, civil rights and civil liberties.   
3) Identify how politics and normative controversies are relevant to constitutional law.  
4) Critical and Creative Thinking: students will be expected to analyze how the Supreme Court's decisions apply to contemporary cases and issues.

5) Integrating Knowledge and Viewing Ideas from Multiple Perspectives: In all of their written work and in class discussions, students are encouraged to analyze cases from social, political, philosophical, psychological, normative and legal perspectives.

**REQUIRED TEXTS**

There is one required text for the course.

***Constitutional Law for a Changing America: Rights, Liberties and Justice*** (11th edition). Lee Epstein, Thomas G. Walker and Kevin T. McGuire. Washington, D.C.: CQ Press, 2021.

**GRADED REQUIREMENTS**

**Exams**. There are three multiple choice exams throughout the semester including the final. The final IS NOT cumulative. The exams will focus on your knowledge of the cases and legal interpretations discussed in the textbook.

**Case Briefs**: At times during the semester, students will be required to write “case briefs” as Epstein and Walker call them, also known as case summaries. These are short writing assignments, about a page to a page and a half depending on the case, that provide specific information about a Supreme Court case. A guideline for the case briefings can be found on Canvas, but we will spend class time going over how to brief cases as well. This will be a major writing requirement for the course. I will drop the lowest graded case briefing.

**Class Discussion, Preparation & Attendance**:Students are expected to *prepare for*

*and actively participate in class discussion.* “Preparation,” in the context of this course,

means that the student has read the reading assigned for the day in advance of class and is ready to actively participate in class discussion on that reading when called upon in class to do so. Students who are unprepared to actively participate in class discussion when called upon shall be required to submit to the instructor a written memo of 1-3 pages in length in which they discuss their constructive response to the issues raised by the reading assignment for the day.

**BASIS FOR FINAL GRADE**

Exams 40%

Case Briefs 40%

Class Discussion, Preparation & Attendance 10%

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| **COURSE SCHEDULE** | | | |
| **DATE** | **TOPIC** | **READING** | **ASSIGNMENT DUE** |
| Tuesday January 9 | Course Introduction, how to Write a Case Brief, and brief history of the Constitution. | Introduction |  |
| Thursday January 11 | Understanding the Supreme Court | Intro to Part 1 and Chapter 1 |  |
| Tuesday January 16 | Institutional Powers and Selective Incorporation | Chapters 2 and 3 | **Case Brief 1*: Barron v. Baltimore* (1833)** |
| Thursday January 18 | Religious Exercise | Intro to Part II and Chapter 4: Section on Religious Exercise |  |
| Tuesday January 23 | Religious Establishment | Chapter 4: Section on Religious Establishment |  |
| Thursday January 25 | Foundations of Free Expression | Chapter 5 | **Case brief 2 Brandenburg v. Ohio** |
| Tuesday Jan 30 | Freedom of Speech, Assembly and Association | Chapter 6 |  |
| Thursday Feb 1 | Freedom of Speech, Assembly and Association | More on Chapter 6 |  |
| Tuesday Feb 6 | Freedom of the Press | Ch 7 | **Case Brief 3: New York Times v. US** |
| Thursday Feb 8 | **EXAM ONE REVIEW (chapters 1 through 6)** |  |  |
| Tuesday Feb 13 | Boundaries of Free Expression | Chapter 8 | **Case Brief 4: New York Times v. Sullivan** |
| Thursday Feb 15 | **EXAM ONE** |  |  |
| Tuesday Feb 20 | Libel and Obscenity | Ch 8 |  |
| Thursday Feb. 22 | Right to Bear Arms | Ch 9 |  |
| Tuesday Feb 27 | Right to Privacy: Foundations and Reproductive Freedom | Ch 10: Stop after Foundations Section | **Case brief 5: Griswold v. CT** |
| Thursday Feb 29 | Liberty Beyond Reproductive Freedom | Finish Chapter | **Case Brief 6: Obergefell v. Hodges** |
| Tuesday March 12 | Investigations & Evidence | Intro to Part III and Ch 11  Section on searches and seizures |  |
| Thursday March 14 | Fifth Amendment and self-incrimination | Rest of ch 11 |  |
| Tuesday March 19 | Attorneys, Trials, & Punishments | Ch 12: (stop at trial proceedings) |  |
| Thursday March 21 | **EXAM TWO REVIEW (chapters 7 through 11)** |  |  |
| Tuesday March 26 | Attorneys, Trials, & Punishments | Finish ch 12 |  |
| Thursday March 28 | **EXAM TWO** |  |  |
| Tuesday April 2 | Civil Rights | Ch 13 |  |
| Tuesday April 9 | Contemporary Approaches to Equal Protection | Ch 14 stop at Discrimination based on sexual orientation |  |
| Thursday April 11 | Equal Protection | Finish ch 14 | **Case Brief 7: Plyler v. Doe** |
| Tuesday April 16 | Voting Rights | Ch 15 |  |
| Thursday April 18 | Voting Rights | Finish ch 15 | **Case brief 8: Crawford v. Marion County** |
| Thursday April 23 | **EXAM THREE REVIEW (ch 12-15** |  |  |
| **EXAM THREE: Monday April 29 8 AM** | | | |