

FLORIDA STATE UNIVERSITY—DEPARTMENT OF POLITICAL SCIENCE

POS 4624—The Supreme Court, Civil Rights, and Civil Liberties—Spring 2015 Mondays, Wednesdays, and Fridays 1:25 – 2:15

M. Scott Meachum • 227 Bellamy • mmeachum@fsu.edu • Office Hours: Tuesdays
12:00 pm – 3:00 pm (or by appointment made via email)

COURSE DESCRIPTION

Civil rights and civil liberties are among the most revered and, yet, divisive topics in American politics and American society today. Who can get married? How much force can the police use against protestors? How far can protestors go before police respond with any type of action? Are voter identification laws legal? The number of important questions being debated today is nearly limitless, and this course is designed to introduce students to the law that underlies some of these debates.

Generally, American Constitutional Law can be divided into two parts. The first examines the institutions created by the Constitution and the powers granted them. The second focuses on individual rights and liberties of citizens. This course focuses on the latter. As we seek answers to the questions posed above, and a few of the many that are not listed, we will examine the freedom of expression, the freedom of religion, the rights of the those accused of crimes, the right to privacy, the protections against discrimination, and more. We will begin to become constitutional scholars, and we will learn new ways to think about and analyze some of the most pressing questions of the day by examining how the United States Supreme Court has addressed similar questions in the past.

COURSE READINGS

The vast majority of readings for the class will come from the following book, which is available at the campus bookstore:

Epstein, Lee and Thomas G. Walker. 2013. *Constitutional Law for a Changing America: Rights, Liberties, and Justice*, 8th Edition. CQ Press. (referred to hereafter as “E & W”)

Additional readings will be made available to the class via the class Blackboard site or can be found on the Internet. The following online resources may be useful as well:

- www.supremecourt.gov (U.S. Supreme Court official website)
- www.scotusblog.com (SCOTUS blog – blog for fans of the Supreme Court)
- www.oyez.com (audio files of arguments and information on hundreds of Court cases)

BLACKBOARD

This course is supported by a Blackboard website to which you should all have access. Along with the syllabus and additional readings that I post there, I will also use the site to send out

announcements, e-mails, and/or other communications. As such, you are expected to regularly check the course site as well your own FSU e-mail account that is associated with it. Additionally, I can be contacted through the site as well as at the e-mail address listed above.

COURSE EVALUATION AND ASSIGNMENTS

Final grades will be based on the following scale:

Percent	Letter Grade	Percent	Letter Grade	Percent	Letter Grade
93 - 100	A	80 - 82	B-	67 - 69	D+
90 - 92	A-	77 - 80	C+	63 - 66	D
87 - 89	B+	73 - 76	C	60 - 62	D-
83 - 86	B	70 - 72	C-	0 - 59	F

Your individual grade will be based on two papers, three exams, occasional quizzes and homework assignments, a case presentation, and class participation.

Papers (15% each; 30% total)

Almost a third of your total grade will be determined by out-of-class writing assignments. I will post a list of topics from which you can choose, and each topic will have a specific due date that is noted on that list and on the course schedule below. None of the topics require any additional reading than what has been assigned in class, and you are discouraged from doing any outside reading or research. The purpose of the papers is for you to demonstrate that you have read the material thoroughly, engaged with it, and can communicate your ideas about it in a concise and well thought out manner. This will necessarily require a close and detailed reading of the materials, and you should be sure to provide references to the readings as well as page citations.

Each paper needs to be double-spaced, typed in a standard 12-point font (Times New Roman is preferred), and should be approximately 4 pages in length. Margins on the paper should be set at 1-inch for top, bottom, and both sides. Please note that typing a few sentences on a fourth page does not constitute four pages. Each of the topics poses some rather broad questions, and you will not be penalized if your discussion carries over to a fifth page. However, you should work to be both concise and thorough and present a clear argument with carefully selected support for it.

A hard copy of each paper is due by the beginning of the class on the date indicated in the schedule. Additionally, you will submit an electronic copy of your paper to turnitin.com through a link that will be available in the Blackboard site by 6:00 p.m. on the day that you turn in a paper. Late papers will only be accepted under unusual circumstances and, then, only with my express permission. Everyone must turn in at least one paper by **February 20**, and at least two by **April 24**. If you wish, you may turn in a third paper (by the last day of class) and I will drop the lowest of your other paper grades. Any paper that you submit as a replacement paper is due on the day that is noted in the list of paper topics.

Unit Examinations (15% each; 45% total)

The course is divided into three 5-week units, and there is an examination at the end of each. All of the examinations in this class will be in-class, closed-book examinations. Each exam will only include the material that we cover in a particular unit. I will provide more detail as to the structure of each exam prior to the dates that are listed for each in the course schedule below.

Participation (15%)

You will not do well in this class if you do not regularly attend class and do not complete the readings ahead of time. However, I expect more of you than to skim the day's reading and passively attend class. This portion of your grade will reflect your daily preparation for class, your in-class contributions, and your active engagement with both the course materials and with your classmates. Constitutional Law is a subject that invites discussions and questions, and to actively engage the subject you must have read the material beforehand and spent some time thinking about it as well.

The class will mostly be taught using a mild version of the Socratic method, meaning that dialogue and discussion between teacher and students (and between students) is essential. To ease the burden over the course of semester, the class will be divided into three "Circuits," with a particular Circuit on call as listed below in the Course Schedule. When your Circuit is on call you must be well prepared to answer questions about the facts and findings of the day's cases as well as questions posed by the instructor. Additionally, when on call you are responsible for briefing one of the cases that we read for that day. We will go over how to brief a case, and I will randomly collect case briefs throughout the semester. Failure to be present or prepared on a day when your Circuit is on call will result in a deduction of your participation grade. With that said, you have one free pass this semester. Before class (you can e-mail me or let me know in person before class starts) simply tell me not to call on you that day and I will not.

Your participation grade will be based on your semester's contributions and the following guidelines provide a rough estimation of my expectations:

A – The student was present (unless excused) for all or most "on call" days and contributed positively to the class discussion in a manner that showed thought and/or preparation of the assigned materials. The student showed a willingness to engage in discussion with the instructor and with his/her classmates. Additionally, the student submitted all of the briefs on the days that were the collected.

B – The student was present (unless excused) for all or most "on call" days and showed an understanding of the material that indicated preparation for class. While perhaps not always engaging in discussion, the student was engaged in the class and when called upon contributed positively to the class. The student submitted most of the briefs that were collected.

C – The student was present (unless excused) for "on call" days but did not show any engagement with the course material, the instructor's lecture, or discussion with class. If called upon the student was able to address the assigned material but not in a manner

that showed sufficient preparation. The student submitted only some of the briefs that were collected.

D – The student either missed multiple “on call” class days without a valid excuse or when present detracted from class discussion by either not being prepared for class or distracting other students. The student did not submit a sufficient number of case briefs.

F – The student was absent for all or most “on call” class days, was a consistent distraction while attending class, or was so unprepared for class that he/she did not contribute in a meaningful way. The student submitted too few or none of the case briefs.

* Your final participation grade will be converted to a numerical score consistent with the grading scale listed above. Plus and minus grades will be used.

Case Presentation (10%)

There will be five days this semester when groups of students will be responsible for presenting a case to the class that is currently pending before the United States Supreme Court. The case presentation will involve a written assignment as well as an in-class presentation. Every student will represent either a party to the case or a Supreme Court Justice, and you will be required to analyze the case as appropriate based on who you represent. Everyone else in class is responsible for knowing the basic background of the case being presented. I will distribute more details later in the semester.

Additional Notes About Grades

If you have a specific question regarding the grade you receive on an assignment, I am happy to discuss that with you. However, you should e-mail me to set up an appointment and include in the e-mail the basis for your question and an explanation for why the grade should be changed.

Grades that end in .5 or higher are rounded up to the nearest whole percentage point.

CLASSROOM POLICIES AND EXPECTATIONS

1. Make up examinations are given only with prior instructor approval and/or appropriate documentation of a medical or family emergency. Please notify me as soon as you know that you cannot attend either of the scheduled exams so alternate arrangements can be made. Also note that no student will be permitted to begin an exam after the first student has finished.
2. As a courtesy to the class, cell phones and other electronic devices should be turned off or set to silent/vibrate before class begins and put away. Failure to do so will result in a deduction in your Participation grade. Additionally, while you are free to use a laptop to take notes in class, I expect that that their use will be limited to that purpose. If I become aware that you are using your computer for reasons other than to enhance classroom learning, your Participation grade will suffer.

3. The classroom is a place for mutual respect. You are all adults, and I will treat you as such. However, that also means that I expect certain things from you. While I anticipate healthy debate and discussion over the course of the semester, comments and questions must be respectful of diverse viewpoints and should be designed to advance the discussion as it relates to the class and course material. Personal attacks (i.e. those aimed at another person's appearance, demeanor, political beliefs, etc.) will not be tolerated. Likewise, repeated classroom disruptions such as interrupting each other while speaking or coming into class late and leaving early are disrespectful to the entire class. If such behavior becomes an issue, your Participation grade will be lowered.

4. Cheating and/or plagiarism will not be tolerated. All students are expected to be familiar with the Florida State University Academic Honor Code, which states, in part:

The academic honor system of The Florida State University is based on the premise that each student has the responsibility: (1) To uphold the highest standard of academic integrity in the student's own work; (2) To refuse to tolerate violations of academic integrity in the University community, and (3) To foster a high sense of integrity and social responsibility on the part of the University community.

I expect students to bring possible violations of this honor code to my attention. Violations of the honor code, including cheating and plagiarism will be reported to the University and/or otherwise dealt with at my discretion, consistent with FSU guidelines.

5. Students with disabilities needing academic accommodations must: (1) register with and provide documentation to the Student Disability Resource Center (SDRC); and (2) bring a letter to the instructor from the SDRC indicating that you need academic accommodations. This must be done within the first week of class.

This syllabus and other class materials are available in alternative format upon request. For more information about services available to FSU students with disabilities, contact:

Student Disability Resource Center
874 Traditions Way
108 Student Services Building
Florida State University
Tallahassee, FL 32306-4167
(850) 644-9566 (voice)
(850) 644-8504 (TDD)
sdrc@admin.fsu.edu
<http://www.disabilitycenter.fsu.edu>

ANTICIPATED COURSE SCHEDULE AND READINGS

The syllabus may be modified as necessary to reflect the pace of class. Readings may be added or removed, but nothing affecting the grading policy will change. I will try to post any changes online, but you are ultimately responsible for keeping track of our progress. All page numbers refer to the 8th edition of the course book. Cases in bold are only found in the 8th edition and will be available via Blackboard.

UNIT 1

Understanding the Court and the Constitution

Wednesday, January 7: Course Introduction

- Review the syllabus before class, and bring a copy with you.

Friday, January 9: All the Background You Never Knew You Wanted - The Constitution and The Supreme Court

- Chapter 1, EW, pp. 10 – 44

Monday, January 12: The Long Arm of the Law - Judicial Powers and Constraints

- Chapter 2, E & W, pp. 45 – 65.
 - *Marbury v. Madison* (1803)
 - *Ex parte McCardle* (1869)

Wednesday, January 14: And The Reach of the Gavel - Judicial Powers and Constraints, cont'd

- Chapter 2, E & W, pp. 45 -65

Friday, January 16: Incorporation of the Bill of Rights

- **1st Circuit on call.**
- Chapter 3, E & W, pp. 65 – 92
 - *Barron v. Baltimore* (1833)
 - *Hurtado v. California* (1884)
 - *Palko v. Connecticut* (1937)
 - *Duncan v. Louisiana* (1968)

Monday, January 19: Martin Luther King, Jr. Day

- **NO CLASS**

Civil Liberties – The First and Second Amendments

Wednesday, January 21: And 1, and 2, and 3, and 4 - Free Exercise...of Religion

- **2nd Circuit on call.**
- **Paper Option #1 due today.**
- Chapter 4, E & W, pp. 97 – 128
 - *Cantwell v. Connecticut* (1940)
 - *Sherbert v. Verner* (1963)
 - *Wisconsin v. Yoder* (1972)
 - *Employment Division, Department of Human Resources of Oregon v. Smith* (1990)

- *City of Boerne v. Flores* (1997)

Friday, January 23: Case Presentation #1

- **No one on call.**

Monday, January 26: We Built this City (Church) - Religious Establishment

- **3rd Circuit on call.**
- **Paper Option #2 due today.**
- Chapter 4, E & W, pp. 128 – 159
 - *Everson v. Board of Education* (1947)
 - *Lemon v. Kurtzman*; *Earley v. DiCenso* (1971)
 - *Agostini v. Felton* (1997)
 - *Zelman v. Simmons-Harris* (2002)

Wednesday, January 28: We Built this City (Church) on Rock and Roll – Religious Establishment, cont'd

- **1st Circuit on call.**
- Chapter 4, E & W, pp. 159 – 196
 - *Edwards v. Aguillard* (1987)
 - *School District of Abington Township v. Schempp*; *Murray v. Curlett* (1963)
 - *Lee v. Weisman* (1992)
 - *Van Orden v. Perry* (2005)
 - ***Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission* (2012)**

Friday, January 30: The Basics – Freedom of Speech, Assembly, and Association

- **2nd Circuit on call.**
- Chapter 5, E & W, pp. 197 - 225
 - *Schenck v. United States* (1919)
 - *Abrams v. United States* (1919)
 - *Gitlow v. New York* (1925)
 - *Dennis v. United States* (1951)
 - *Brandenburg v. Ohio* (1969)

Monday, February 2: When Speech is and is not “Speech” – Regulation of Expression

- **3rd Circuit on call.**
- Chapter 5, E & W, pp. 225 – 252
 - *United States v. O'Brien* (1968)
 - *Texas v. Johnson* (1989)
 - *Chaplinsky v. New Hampshire* (1942)
 - *Cohen v. California* (1971)
 - *Hill v. Colorado* (2000)

Wednesday, February 4: Freedom of Speech and Regulation of Expression cont'd

- **1st Circuit on call.**
- **Paper Option #3 due today.**
- Chapter 5, E & W, pp. 252 - 272
 - *R. A. V. v. City of St. Paul, Minnesota* (1992)
 - ***Snyder v. Phelps* (2011)**
 - *Tinker v. Des Moines Independent Community School District* (1969)
 - *Morse v. Frederick* (2007)

Friday, February 6: Unit 1 Test

- **In class examination.**

UNIT 2

Monday, February 9: The Sounds of Silence – Freedom Not to Speak and to Associate

- **2nd Circuit on call.**
- Chapter 5, E & W, pp. 272 - 297
 - *West Virginia State Board of Education v. Barnette* (1943)
 - *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.* (2006)
 - *Boy Scouts of America v. Dale* (2000)

Wednesday, February 11: Case Presentation #2

- **No one on call.**

Friday, February 13: Empowering the Fourth Estate – Freedom of the Press

- **3rd Circuit on call.**
- **Paper Option #4 due today.**
- Chapter 6, E & W, pp. 299 - 326
 - *Near v. Minnesota* (1931)
 - *New York Times v. United States* (1971)
 - *Hazelwood School District v. Kuhlmeier* (1988)
 - *Branzburg v. Hayes* (1972)

Monday, February 16: False Words and Bad Words – Libel and Obscenity

- **1st Circuit on call.**
- **Paper Option #5 due today.**
- Chapter 7, E & W, pp. 327 - 349
 - *New York Times v. Sullivan* (1964)
 - *Hustler Magazine v. Falwell* (1988)
 - *Roth v. United States* (1957)

Wednesday, February 18: 7 Dirty Words – Boundaries of Speech, cont'd

- **2nd Circuit on call.**
- Chapter 7, E & W, pp. 350 – 369
 - *Miller v. California* (1973)
 - *New York v. Ferber* (1982)
 - ***Brown v. Entertainment Merchants Association* (2011)**

Friday, February 20: Regulating The Series of Tubes aka The Internet

- **3rd Circuit on call.**
- Chapters 8, E & W, pp. 371 – 386
 - *Reno v. American Civil Liberties Union* (1997)
 - *United States v. Williams* (2008)
 - **Additional case TBA.**

Monday, February 23: Case Presentation #3

Wednesday, February 25: Arguing Syntax – The Right to Bear Arms

- **1st Circuit on call.**
- Chapter 9, E & W, pp. 387 – 396
 - *District of Columbia v. Heller* (2008)
 - **Additional case TBA.**

Friday, February 27: TBA

- **2nd Circuit on call.**
- **Everyone must have turned in one paper by today.**
- **Reading TBA.**

Monday, March 2: The Need For—and an Early Application of—Civil Rights Amendments

- **3rd Circuit on call.**
- **Paper Option #6 due today.**
- Introduction and Chapter 13, E & W, pp. 603 – 627
 - *Plessy v. Ferguson* (1896)
 - *Sweatt v. Painter* (1950)
 - *Brown v. Board of Education (I)* (1954)
 - *Brown v. Board of Education (II)* (1955)

Wednesday, March 4: Separate and Certainly not Equal – Racial Discrimination

- **1st Circuit on call.**
- Chapter 13, E & W, pp. 627 – 651
 - *Swann v. Charlotte-Mecklenburg Board of Education* (1971)

- *Parents Involved in Community Schools v. Seattle School District No. 1; Meredith v. Jefferson County Board of Education* (2007)
- *Loving v. Virginia* (1967)
- *Shelley v. Kraemer* (1948)
- *Burton v. Wilmington Parking Authority* (1961)
- *Moose Lodge No. 107 v. Irvis* (1972)

Friday, March 6: Case Presentation #4

- **No one on call.**

Civil Rights

Monday, March 9: Spring Break

- **No class.**

Wednesday, March 11: Spring Break

- **No class.**

Friday, March 13: Spring Break

- **No class.**

Monday, March 16: More Protected Groups? Discrimination on the Basis of Sex and Sexual Orientation

- **2nd Circuit on call.**
- Chapter 13, E & W, pp. 651 – 677
 - *Reed v. Reed* (1971)
 - *Craig v. Boren* (1976)
 - *United States v. Virginia* (1996)
 - *Romer v. Evans* (1996)

Wednesday, March 18: Exam Review/Reading Day

- **No one on call.**

Friday, March 20: Unit 2 Test

- **In class examination.**

UNIT 3

Monday, March 23: Discriminating Against Still More Groups of People

- **3rd Circuit on call.**
- Chapter 13, E & W, pp. 678 – 701
 - *San Antonio Independent School District v. Rodriguez* (1973)
 - *Plyler v. Doe* (1982)
 - *Regents of the University of California v. Bakke* (1978)

Wednesday, March 25: Rectifying Discrimination – Affirmative Action

- **1st Circuit on call.**
- **Paper Option #7 due today.**
- Chapter 13, E & W, pp. 701 – 719
 - *Adarand Constructors, Inc. v. Peña* (1995)
 - *Grutter v. Bollinger* (2003)
 - **Additional case TBA**

Friday, March 27: Hanging Chads and Such – Election Law

- **2nd Circuit on call.**
- Chapter 14, E & W, pp. 721 – 750
 - *Bush v. Gore* (2000)
 - *South Carolina v. Katzenbach* (1966)
 - *Crawford v. Marion County Election Board* (2008)
 - *Citizens United v. Federal Election Commission* (2010)

Monday, March 30: One Person, One Vote – Equal Representation

- **3rd Circuit on call.**
- Chapter 14, E & W, pp. 751 – 769
 - *Reynolds v. Sims* (1964)
 - *Miller v. Johnson* (1995)
 - **Additional case TBA.**

The Rest of the Bill of Rights (Privacy and the Criminal Justice System)

Wednesday, April 1: Break out the Thesaurus, Penumbra and Emanations - the Secret Bill of Rights

- **1st Circuit on call.**
- **Paper Option #8 due today.**
- Chapter 10, E & W, pp. 397 – 433
 - *Griswold v. Connecticut* (1965)
 - *Roe v. Wade* (1973)
 - *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992)

Friday, April 3: Case Presentation #5

- **No one on call.**

Monday, April 6: The Right to Private Conduct?

- **2nd Circuit on call.**
- Chapter 10, E & W, pp. 433-454
 - *Lawrence v. Texas* (2003)
 - *Cruzan v. Director, Missouri Department of Health* (1990)
 - **Additional case TBA.**

Wednesday, April 8: Searches of People, Places and Things

- **3rd Circuit on call.**
- **Paper Option #9 due today.**
- Chapter 11, E & W, pp. 464 – 492
 - *Katz v. United States* (1967)
 - ***United States v. Jones* (2012)**
 - *Illinois v. Gates* (1983)
 - *Arizona v. Gant* (2009)
 - *Safford Unified School District #1 v. Redding* (2009)

Friday, April 10: Alright Stop, Collaborate, and Listen – Stops, Seizures, and Arrests

- **1st Circuit on call.**
- Chapter 11, E & W, pp. 488 – 517
 - *Terry v. Ohio* (1968)
 - *Mapp v. Ohio* (1961)
 - *United States v. Leon* (1984)
 - *Hudson v. Michigan* (2006)
 - *Herring v. United States* (2009)

Monday, April 13: The Right to Remain Silent

- **2nd Circuit on call.**
- Chapter 11, E & W, pp. 517 – 539
 - *Escobedo v. Illinois* (1964)
 - *Miranda v. Arizona* (1966)
 - *Missouri v. Seibert* (2004)

Wednesday April 15: The Right to (Good) Attorneys and Fair Trials

- **3rd Circuit on call.**
- **Paper Option #10 due today.**
- Chapter 12, E & W, pp. 540 – 569
 - *Powell v. Alabama* (1932) (The Scottsboro Boys Case)
 - *Gideon v. Wainwright* (1963)
 - *Batson v. Kentucky* (1986)
 - *Sheppard v. Maxwell* (1966)

- *Richmond Newspapers v. Virginia* (1980)

Friday, April 17: Pre and Post Trial Rights

- **1st Circuit on call.**
- Chapter 12, E & W, pp. 569 – 600
 - *Gregg v. Georgia* (1976)
 - *Atkins v. Virginia* (2002)

Monday, April 20: Case Presentation #6

- **No one on call.**

Wednesday, April 22: Reading Day

- **NO CLASS**

Friday, April 24: Final Exam Review

- **No one on call.**
- **Everyone must have turned in at least two papers by today.**