

American Constitution: Civil Liberties, POLI 4021

Fall 2014

McKinzie Craig
Office Hours: TR) 10:30am-11:30am
and by appointment

Office: Stubbs 217
email: mcraig@lsu.edu

Course Description

In this course, we examine the development and application of constitutional law in the US. Specifically, this course covers civil rights and civil liberties issues, using the US Constitution and cases decided by the US Supreme Court. We cover a vast array of topics including those stemming from the founding of the nation to present day policy issues. Our focus is on the jurisprudential dictates which have followed from the US Constitution to develop a body of law and scholarship on citizens' rights and liberties.

Course Objectives

Upon the completion of this course, the student should be able to:

- Understand basic principles outlined in the US Constitution and how those principles are applied to the federal, state and local governments by the Supreme Court;
- Read and summarize rulings issued by the Supreme Court in civil rights and civil liberties cases;
- Describe the legal reasons used by the Supreme Court in civil rights and civil liberties cases;
- Evaluate the legal reasons used by the Court in significant cases and determine if other legal reasons may be better supported by the US Constitution.

Readings

Recommended: David M. O'Brien, *Constitutional Law & Politics: Civil Rights and Civil Liberties*, (vol. 2) (7th ed.) [NY: W.W. Norton] (2008)

Other court opinions will be assigned (and pdfs of those opinions made available) throughout the semester.

NOTE: The O'Brien book is not required, however it is **STRONGLY** recommended. The text book contains selected passages from the opinions read for class. If you prefer to download the original opinions and read the full text for class, you may. This will result in a significant increase in the amount of reading (between 10 and 50 pages per case). All opinions can be found by searching on scholar.google.com (make sure you click the "legal opinions and journals" toggle under the search box).

Course Policies and Requirements

Participation

Given that this course focuses on the US constitution and cases decided by the US Supreme Court, the majority of the class will be spent discussing these original texts. It is important to know that the student will be required to know more than just the mere outcome in the case. The student is responsible for acquiring an understanding of the argument crafted by the Court, relying on precedent and constitutional interpretation. To aid in developing the skills necessary for the student to gain this understanding, and for the student to become familiar with the readings and the language of the Court, much of the course will proceed using the Socratic method.

For each class session, one or more students will be called upon to discuss the assigned cases. Students will be asked to summarize key elements of the case, including the facts, the constitutional question, the Court's reasoning and the Court's holding. Each student should expect to be called on about 4 times a semester. The student's responses to this question and answer period will account for that student's participation grade. Wrong answers are not penalized; unprepared answers, however, will be. If a student is not present when his or her name is called, the student will be penalized, unless the student can present documentation for a university excused absence. Participation grades will be determined as follows: All students begin the semester with 60 points toward the final grade for participation. If a student is not present when called, 15 points will be deducted from the participation grade. If a student is present but unprepared when called, 5 points will be deducted from the participation grade. If the student is late and comes to class after his or her name is called, this is also deemed an unprepared answer. The instructor reserves the right to add extra points to the final grade beyond the 60 points allotted for participation, if a student shows unique insight or thoughtfulness when answering questions. The participation grade will not be lowered below 0.

Examinations

There will be three exams given during class time. The third exam is not comprehensive. Exams will consist of short answers and essay questions. The essay prompt will be handed out a week before the exam date. A double spaced, type written, hard copy of the essay is due in class at the start of the exam. Essays submitted after the start of the exam are considered late. Late essays will lose 20 percent for every day late. See Paper section for a full explanation of how points are deducted. Short answers will be answered during class time. The first two exams will be given during class time. The third exam is not cumulative but will be given during the final exam time scheduled for this class. Unless a student makes arrangement to take an exam early, all make up exams will be given during the final exam time for this class after the completion of the third exam.

Paper

Students will read a state supreme court decision (North Carolina Supreme Court, *Heien v. North Carolina*), which was granted review by the Supreme Court. Students will then write an argument brief establishing a legal argument for one party from the case (either petitioner or respondent) as if they were submitting an appeal to the Supreme Court. This brief should be between 2000-2500

words. This brief will be expected to follow a standard brief writing format. This format will be explained during the semester. More information about the specific expectations of the paper will be provided in class. The outline for this paper will be due as a paper proposal on Thursday October 16, 2014. This outline accounts for 10 percent of the total paper grade. The final paper is due Tuesday December 2, 2014. Papers submitted after the beginning of the class period on Dec 2 (9am) are considered late. Late papers will lose 10 percent (8 points) for every day late. Papers submitted on Dec 3 but before 9am will lose 8 points. Papers submitted on Dec 3 after 9am will lose 16 points (as this constitutes the beginning of day 2). The paper grade will not be lowered below 0.

Grading

24 percent	120 points	First exam
24 percent	120 points	Second exam
24 percent	120 points	Third exam
12 percent	60 points	Participation and briefs submitted
16 percent	80 points	Paper
100 percent	500 points	Final grade

Grades will be determined based on the following: **A: 450 points or higher, B: 449 to 400 points, C: 399 to 350 points, D: 349 to 325 points, F: less than 325 points.** All points awarded through out the semester are totaled together to arrive at the final grade. This includes (but may not be limited to) each portion of each exam, the highest quiz grades, all participation points, and the highest lab grades. In accordance with the Family Educational Rights and Privacy Act (FERPA), I am unable to discuss grades via email or on the phone. Specific grades can only be discussed in person.

Tentative Due Dates

First Exam: September 25
 Paper proposal: October 16
 Second Exam: October 30
 Term paper: December 2
 Third exam: December 13 12:30pm

Tentative Schedule

Reading assignments are to be completed for class on the date on the syllabus. Students are responsible for entire reading assignment. Cases denoted "Read and brief" are those cases that students will be responsible for briefing and discussing during class. Cases denoted "Read" are cases in which the professor will lead the discussion.

T) Aug 26 - Intro, how to brief a case, and Supreme Court basics
R) Aug 28 - Judicial review and standing

- Read and brief: Marbury v. Madison p. 45, Flast v. Cohen p. 139
- Read (required) : Syllabus, U.S. Constitution and Amendments, Valley Forge Christian College v. Americans United p. 137, Lujan vs Defenders of Wildlife p 150
- Read (recommended) : O'Brien, Chapter 1
- T) Sep 2 - The Bill of Rights and selective incorporation**
 - Read and brief: Barron vs. Baltimore p 347, Palko vs. Connecticut pg 354
 - Read (required): Rochin vs CA p 362
 - Read (recommended) : O'Brien, Chapter 4
- R) Sep 4 - Freedom of Speech: Criminal speech vs Advocacy**
 - Read and brief: Schenck vs. US p 463, Brandenburg vs. OH p 481
 - Read (required): Gitlow vs. People of NY p 465, Dennis vs. US p 470
 - Read (recommended) : O'Brien, Chapter 5, sect A
- T) Sep 9 - Freedom of Speech: Unprotected Speech**
 - Read and brief: Miller vs. CA p 504, Cohen vs. CA p 540, RAV vs. St Paul p 554
 - Read (required): NY vs Ferber p 509, FCC vs Pacifica p 544, Wisconsin vs. Mitchell p 563
 - Read (recommended) : O'Brien, Chapter 5, sect B
- R) Sep 11 - Freedom of Speech: Defamation, libel, freedom of the press**
 - Read and brief: NYT vs. Sullivan p 596, NYT vs US pg 642
 - Read (required): Gertz vs. Welch p 602, Near vs. Minnesota p 639
 - Read (recommended) : O'Brien, Chapter 5, sect C
- T) Sep 16 - Freedom of Speech: Commercial speech, the internet**
 - Read and brief: Red Lion Broadcasting CO vs FCC p 664, Reno vs. ACLU p 519, US vs. Williams p 659
 - Read (required): 44 Liquormart Inc vs Rhode Island p 629, Ashcroft vs. ACLU moodel
 - Read (recommended) : O'Brien, Chapter 5, sect D, E, F and G
- R) Sep 18 - Freedom of Speech: Symbolic Speech**
 - Read and brief: Tinker vs. Des Moines p 692, TX vs Johnson p 702
 - Read (recommended) : O'Brien, Chapter 5, sect H
 - **Exam 1 essay prompt handed out**
- T) Sep 23 - Catch up and review**
- R) Sep 25 - EXAM 1**
- T) Sep 30 - Freedom of Religion: Establishment clause**
 - Read and brief: Lemon vs. Kurtzman p 785, Rosenberger vs The Rector p 809, Van Orden vs Perry p 832
 - Read (required): Lee vs Weisman p 801, McCreary vs ACLU of KY p 839
 - Read (recommended) : O'Brien, Chapter 6, sect A
- R) Oct 2 - Freedom of Religion: Free exercise clause**
 - Read and brief: Wisconsin vs. Yoder p 864, Church of Lukumi Babalu p 876
 - Read (required): Employment Division vs Smith p 867, City of Boerne vs Flores p 882
 - Read (recommended) : O'Brien, Chapter 6, sect B
- T) Oct 7 - Privacy and abortion**
 - Read and brief: Roe vs. Wade p 1329, Planned Parenthood vs. Casey p 1354
 - Read (required): Griswold vs. CT p 367, Gonzales vs Carhart p 1366
 - Read (recommended) : O'Brien, Chapter 11, sect A
- R) Oct 9 - Privacy and personal autonomy**
 - Read and brief: Lawrence vs. Texas p 1384, Cruzan by Cruzan vs. Missouri p 1395
 - Read (required): Washington vs. Glucksberg p 1402
 - Read (recommended): O'Brien, Ch 11, sect B
- T) Oct 14 - Equal protection: Race**
 - Read and brief: Dred Scott vs Sandford p 1438, Plessy vs. Ferguson p 1457, Brown vs. Board (I) p 1481
 - Read (required): Brown vs Board (II) p 1493
 - Read (recommended) : O'Brien, Chapter 12, sect A and B

- R) Oct 16** - Equal protection: Affirmative action in race
- Read and brief: Regents vs. Bakke p 1539, Grutter vs Bollinger p 1552
 - Read (required): City of Richmond vs. JA Croson p 1552, Gratz vs Bollinger p 1569
 - Read (recommended): O'Brien, Ch 12, sect C
 - **Paper proposal due**
- T) Oct 21** - Equal protection: Affirmative action in gender
- Read and brief: Craig vs. Boren p 1594, US vs VA p 1581
 - Read (required): Frontiero vs Richardson 1590, Michael M. vs Superior Court of Sonoma County p 1598
 - Read (recommended): O'Brien, Ch 12, sect D
- R) Oct 23** - Equal protection: Other groups
- Read and brief: Romer vs Evans p 1616, United States v. Windsor p 1627, San Antonio vs Rodriguez p 1642
 - **Exam 2 essay prompt handed out**
- T) Oct 28** - Catch up and review
- R) Oct 30** - Test 2
- T) Nov 4** - Search and Seizure: Warrants and exceptions
- Read and brief: AZ vs Hicks p 910, Terry vs OH p 932, US vs Sokolow p 936
 - Read (required): Chimel vs CA p 908, Minnesota vs. Dickerson p 944
 - Read (recommended) : O'Brien, Chapter 7, sect A and B
- R) Nov 6** - Search and Seizure: More searches
- Read and brief: CA vs Acevedo p 965, National Treasury Employees Union vs Von Rabb p 985
 - Read (required): Board of Education vs. Earls p 994
 - Read (recommended): O'Brien, Chapter 7, sect C and D
- T) Nov 11** - Search and Seizure: Even more searches and exclusionary rule
- Read and brief: Katz vs US p 1016, Kyllo vs US p 1024, Mapp vs OH p 1050
 - Read (required): CA vs Ciraolo 1020, Nix vs Williams p 1057,
 - Read (recommended): O'Brien, Chapter 7, sect E and F
- R) Nov 13** - Procedural Guarantee: Confessions and interrogation
- Read and brief: Miranda vs AZ p 1103, Duckworth vs Eagan p 1121
 - Read (required): In re Gault p 1114, Dickerson vs US p 1129
 - Read (recommended): Chapter 7, sect F, Chapter 8
- T) Nov 18** - Procedural Guarantees: Right to counsel
- Read and brief: Powell vs Alabama p 1165, Gideon vs Wainwright p 1167, Bordenkircher vs Hayes p 1182
 - Read (required): Argersinger vs Hamlin p 1171
 - Read (recommended) : O'Brien, Chapter 9, sect A, and B
- R) Nov 20** - Procedural Guarantees: Trial by Jury and other guarantees
- Read and brief: Hurtado vs CA p 1164, Batson vs KY p 1172, Burch vs LA p 1181
 - Read (recommended) : O'Brien, Chapter 9, sect C thru I
- T) Nov 25** - Cruel and Unusual Punishment : the basics
- Read and brief: Ewing vs CA p 1239, Furman vs Georgia p 1256
 - Read (required): Lockett vs OH p 1267
 - Read (recommended) : O'Brien, Chapter 10, sect A and B
- T) Dec 2** - Cruel and Unusual Punishment: Applying the death penalty
- Read and brief: McCleskey vs Kemp p 1272, Atkins vs VA p 1287
 - Read (required): Payne vs TN p 1283, Roper vs Simmons p 1292
 - **Term Paper Due**
- R) Dec 4** - Right to bear arms, exam review
- Read and brief: McDonald vs Chicago p 381
 - **Exam 3 essay prompt handed out**

FINAL EXAM TIME: Exam 3

Course Materials and Copyright

The handouts used in this course are copyrighted. By “handouts,” I mean all materials generated for this class, which include but are not limited to syllabi, quizzes, exams, lab problems, in-class materials, review sheets, and additional problem sets. Because these are copyrighted, you do not have the right to copy the handouts, unless I expressly grant permission.

Academic Dishonesty and Plagiarism

High standards of academic integrity are crucial for the University to fulfill its educational mission. To uphold these standards, procedures have been established to address academic misconduct.

As a guiding principle, the University expects Students to model the principles outlined in the University Commitment to Community, especially as it pertains to accepting responsibility for their actions and holding themselves and others to the highest standards of performance in an academic environment. For example, LSU students are responsible for submitting work for evaluation that reflects their individual performance and should not assume any assignment given by any professor is a group effort or work unless specifically noted on the assignment. In all other cases, students must assume the work is to be done independently. If the student has a question regarding the instructors expectations for individual assignments, projects, tests, or other items submitted for a grade, it is the students responsibility to seek clarification.

Any Student found to have committed or to have attempted to commit Academic Misconduct is subject to the disciplinary sanctions set forth in Section 9.0. (*LSU Code of Student Conduct, Sect 8.1*)

Co-curricular Events Policy

Classes missed due to participation in college-sponsored co-curricular events are considered excused absences provided appropriate procedures are followed. In order for the absence to be excused, the instructor must receive notification before the student misses the class. The activity must be a performance, professional meeting, or contest to be considered an excused absence.

An excused absence allows the student to make up exams or quizzes given during the absence, to reschedule oral presentations, or to make some other equitable arrangement as determined by the faculty and the student. Students must recognize that many classroom and laboratory activities cannot be replicated and that absences may be detrimental to the students performance. It is the responsibility of the student to get notes from the class and to compensate as much as possible for the absence. It is also the students responsibility to work with the instructor in determining a time for make-up assignments.