POLI 4021: The American Constitution and Civil Liberties

Professor Laura Moyer
Classroom: 116 Stubbs Hall
Class: 9:40-10:30 MWF

Office: 208B Stubbs Hall
Office hours: M. 2-3:30, Th. 10:30-12
Email: LMOYER@LSU.EDU

Course Description and Objectives
Pre-requisite: POLI 2051 or equivalent

This course uses the traditional case method as well as a court simulation (moot court) to introduce students to the study of American constitutional law. Because the case law on civil liberties and civil rights is vast, we will primarily focus on due process, privacy doctrine, and the First Amendment protections for speech, press, and religion. In addition, we will examine the development of Equal Protection doctrine as it has been applied to classifications based on race, gender, and sexual orientation.

Students will learn how to (1) distill cases to their most important components, (2) analyze and apply legal arguments about civil liberties and civil rights, (3) distinguish between and analyze different modes of Constitutional interpretation, and (4) think critically about the role of courts in making legal and social policy.

Requirements for the Course
Participation

Attendance is a necessary, but not sufficient, condition for a good participation grade. Students are expected to attend class on time and for the duration of the class period, read all assigned materials before class, complete all written assignments on time, and treat other students and the instructor with respect (including on Moodle). Please turn off phones and put away iPods, newspapers and other unrelated materials before class begins. NO LAPTOPS are allowed.

*Because the study of law requires both heavy reading and cumulative comprehension, it is essential that students brief all assigned cases before coming to class. The process of briefing will prepare you for class discussions and save you many hours of time in test preparation. Your participation grades will be determined by your ability to convey the information in your briefs, as well as your ability to analyze the implications, strengths, and weaknesses of legal arguments.

Earning an “A” involves regularly examining the implications of assigned readings, going beyond assigned readings, or analyzing alternative interpretations. Earning a “B” entails showing understanding of legal arguments and their implications. Merely repeating or describing reading is “C” work, though the inability to do at least that when asked will result in lower grades.

Exams

In-class discussions and the readings listed on the class schedule will serve as the basis for your exams. There will be one mid-term and one final exam to test your understanding of concepts as well as your ability to apply and analyze them. The final exam will test material covered after the midterm exam.

Students are expected to be present on all testing days. Makeup examinations will be totally at the discretion of the instructor and only for those absences necessitated by a legitimate emergency. Students must contact the instructor prior to the examination for an excused absence. If you have 3 final exams scheduled within 24 hours, you must contact your instructors before November 7 to reschedule one of those exams.

Special Accommodation
Graduate students, honors students wishing to receive honors credit, and students with documented disabilities who require special testing accommodations: please notify me privately at the beginning of the semester, so that we can make appropriate arrangements.

**Random brief checks, "hypotheticals" and section quiz**
Each day I will randomly select five (5) students to submit a briefed case or cases to me for a grade. There will be no make-ups. However, at the end of the semester, I will drop your lowest brief grade.

There will also be two (2) hypothetical exercises and one (1) section quiz during the semester. To encourage you to stay on top of briefing cases, these will be open notes (but not open book). The purpose of these assignments is to alert you to gaps in your notes and understanding BEFORE each major exam: they are active study tools. The first "hypo" will be completed as a group, but the subsequent quiz and second "hypo" will be completed individually.

**Supreme Court Simulation**
Every student in class will participate in one of two separate simulations which will run concurrently. Each simulation will involve the consideration of a hypothetical case that requires the resolution of a legal issue relevant to our course. Students will play one of the following roles: (1) a specific justice of an appellate court, (2) an attorney who represents an organized interest filing an amicus brief, or (3) an attorney representing a direct party in the case. More information about this exercise will follow in class.

**Academic Honesty**
Every student is expected to be familiar with the University’s policy and procedures on academic honesty before performing any academic work. You can find these at the Dean of Students website under “Code of Student Conduct” in section 5.1, “Academic Misconduct.” Examples of academic dishonesty described in the Code include, but are not limited to cheating on tests, plagiarizing written work from any source (including Wikipedia and your friends), selling or buying academic assignments, writing a single paper for multiple classes, collaborating on an assignment without the instructor’s permission, and helping another student do any of these things. Students who commit violations of the academic code of conduct will be reported to the Dean of Students and sanctioned.

**Grade Breakdown**

<table>
<thead>
<tr>
<th>Component</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class participation</td>
<td>10%</td>
</tr>
<tr>
<td>Briefs grade</td>
<td>10%</td>
</tr>
<tr>
<td>Midterm exam</td>
<td>20%</td>
</tr>
<tr>
<td>Section quiz</td>
<td>10%</td>
</tr>
<tr>
<td>Final exam</td>
<td>25%</td>
</tr>
<tr>
<td>Hypotheticals</td>
<td>5%</td>
</tr>
<tr>
<td>Simulation</td>
<td>20%</td>
</tr>
</tbody>
</table>

**Grading**
All grading is on a 0-100 point scale. Borderline grades at the end of the course will be decided based on the quality of participation.

- A (90 & above)
- B (80-89.9)
- C (70-79.9)
- D (60-69.9)
- F (59.9 & below)

**Required texts**
- Additional readings posted on Moodle [Denoted as M on reading schedule]

**Fall 2008: Important dates**
• Drop period ends: Tuesday, September 2/ Last day to add: Thursday, September 4
• Last day to withdraw: Friday, November 7
• Last Day of Class: Friday, December 5
• Final exam: *Thursday, December 11. 7:30-9:30 a.m. [116 Stubbs]

Notes: This course syllabus is a general plan for the course. Deviations announced to the class by the instructor may be necessary.

Schedule of Readings and Assignments (to be read PRIOR to coming to class)
Mon., Aug. 25 Introduction to course

Wed., Aug. 27
I. Introduction to Law and Judicial Power
A. Supreme Court jurisdiction & judicial review
Reading:
Ducat, pp. 3-40; How to brief a court case [on M]

Brief case:
Marbury v. Madison

Fri., Aug. 29
Mon., Sept. 1
NO CLASS
NO CLASS: Labor Day Holiday

Wed., Sept. 3
Supreme Court jurisdiction & judicial review (continued)
Reading:

Brief cases from last Wednesday’s reading (pp. 3-40):
Eakin v. Raub; Martin v. Hunter’s Lessee; Ex parte McCordale

Fri., Sept. 5
B. Interpreting Legal Texts
Reading:
pp. 76-102

In class: Levinson, “On Interpretation: The Adultery Clause of the Ten Commandments”

Mon., Sept. 8
Interpreting Legal Texts continued
Brief case:
District of Columbia v. Heller [on M]

Wed., Sept. 10
II. Due Process and the “Incorporation” of the Bill of Rights
Reading:
pp. 470-483 (pay close attention to Exhibits 8.1-8.3)

Brief cases:
Barron v. Baltimore; Slaughterhouse cases

Fri., Sept. 12
Due Process and Incorporation (continued)
Reading:
pp. 483-501

Brief cases:
Hurtado v. California; Palko v. Connecticut; Adamson v. California; Rochin v. California

Mon., Sept. 15

III. Economic Liberties
A. “Liberty of Contract” in the Dual Federalist Era
Reading:
pp. 423-438

Brief cases:
Slaughterhouse Cases; Munn v. Illinois; Lochner v. New York

Wed., Sept. 17

Liberty of Contract (continued)
Reading:
pp. 438-443

Brief cases:
Muller v. Oregon; Buck v. Bell [on M]; West Coast Hotel v. Parrish

Fri., Sept. 19

B. Regulation and “Taking” of Property
Reading:
pp. 446-464

Brief cases:
Penn Central Transportation v. City of New York; Dolan v. City of Tigard

Mon., Sept. 22

Takings clause (continued)
Reading:
Petitioners’ and respondent’s briefs in Kelo v. New London [focus only on “Question presented” and “Summary of argument” sections.]

Brief case:
Kelo v. New London

Wed., Sept. 24

IV. Right of Privacy
A. Reproductive Rights & Abortion
Reading:
pp. 712-728

Brief cases:

Fri., Sept. 26

Right of Privacy (continued)
Reading
pp. 728-743

Brief cases
City of Akron v. Akron Center for Reproductive Health; Planned Parenthood of SE Pennsylvania v. Casey; Stenberg v. Carhart [on M]; Gonzales v. Carhart [on M]
Mon., Sept. 29

**Right of Privacy [END OF MATERIAL FOR MIDTERM]**

**B. Anti-sodomy laws**

Reading:
Amicus brief filed in support of petitioners and respondent in *Lawrence* [on M] (Focus on summary of argument and arguments)

**Brief cases:**
*Bowers v. Hardwick* [on M]; *Lawrence v. Texas*

Wed., Oct. 1

**In-class hypothetical exercises (group)**

Fri., Oct. 3

**QUIZ**

Mon., Oct. 6

**V. First Amendment: Free Speech**

**A. What is speech?**

Reading:
pp. 777-783

**B. “Clear and Present Danger”**

Reading:
pp. 783-792

**Brief cases:**
*Schenck v. United States; Gitlow v. New York*

Wed., Oct. 8

“Clear and Present Danger”

Reading:
pp. 792-810

**Cases:**
*Thomas v. Collins; Terminiello v. Chicago; Brandenburg v. Ohio*

Fri., Oct. 10

**NO CLASS—FALL BREAK**

Mon., Oct. 13

Catch up day/review for mid-term exam

Wed., Oct. 15

**MID-TERM EXAM**

Fri., Oct. 17

Law school and graduate school discussion
Midterm evals

Mon., Oct. 20

**C. Free Speech: Time, Place, and Manner Limitations**

Reading:
pp.813-839

**Brief cases:**
*Adderley v. Florida; Ward v. Rock Against Racism; Madsen v. Women’s Health Center; Rosenberger v. Rector and ... University of Virginia*

Wed., Oct. 22

**D. Symbolic Speech**

Reading:
pp. 859-870

Brief cases:
West Virginia State Board of Education v. Barnette;
Tinker v. Des Moines School District

Fri., Oct. 24
Reading:
pp. 870-888

Brief cases:
United States v. O’Brien; Texas v. Johnson; RAV v. City of St. Paul

Mon. Oct. 27
VI. First Amendment: Freedom of the Press
Obscenity
Reading:
pp. 982-1000

Brief cases:
Roth v. United States; Alberts v. California; Stanley v. Georgia
Miller v. California; Paris Adult Theatre v. Slaton

Wed., Oct. 29
VII. Establishment of Religion
Reading:
pp.1049-1064, 1068-1072

Brief cases:
Lee v. Weisman; Santa Fe Independent School District v. Doe [M]
Lemon v. Kurtzman; Zelman v. Simmons-Harris

Fri., Oct. 31
Establishment of Religion (con’t)
Reading:
pp. 1084-1096, 1098-1099, 1101-1106

Brief cases:
Edwards v. Aguillard
Alleghany v. ACLU
Van Orden v. Perry

Mon., Nov. 3
Free Exercise of Religion
Reading:
pp.1106-1126

Cases:
Thomas v. Indiana Employment Security Review Board
Wisconsin v. Yoder; Employment Division of Oregon v. Smith
Church of Lukumi Babalu Aye v. City of Hialeah

Wed., Nov. 5
**In-class hypotheticals exercise on First Amendment (individual)

Fri., Nov. 7
VIII. Equal Protection of the Laws
A. Race
Reading:
pp. 1127-1142

Brief cases:
Plessy v. Ferguson; Sweatt v. Painter; Brown v. Board of Education I, II

Mon., Nov. 10

Race (con’t)
Reading:
pp. 1145-1165

Brief cases:
Swann v. Charlotte-Mecklenburg Board of Education
Milliken v. Bradley
Parents Involved in Community Schools v. Seattle School District

Wed., Nov. 12

**JUSTICE PAPERS AND ATTORNEY BRIEFS DUE**

Equal Protection: Race (con’t)
Reading:
pp. 1171-1176

Brief cases:
Regents of California v. Bakke (esp. Powell’s plurality opinion)

Fri., Nov. 14

B. Equal Protection: Gender
Reading:
pp. 1283-1305
Sir William Blackstone [M]

Cases:
Bradwell v. Illinois
Frontiero v. Richardson
Craig v. Boren
United States v. Virginia

Mon., Nov. 17

C. Equal Protection: Sexual orientation
Reading
pp. 1311-1328
California same-sex marriage decision [M]

Cases
Romer v. Evans
Lawrence v. Texas [review, pp. 753-761]
Goodridge v. Department of Public Health

Wed. Nov. 19

In-class preparation for oral argument
(Attorney groups practice argument; justices read attorney briefs and develop questions)

Fri. Nov. 21

ORAL ARGUMENTS (GROUP 1)
Mon., Nov. 24  ORAL ARGUMENTS (GROUP 2)
Wed., Nov. 26  NO CLASS
Fri., Nov. 28  NO CLASS—THANKSGIVING BREAK
Mon., Dec. 1  CONFERENCE DELIBERATIONS (GROUP 1)
Wed., Dec. 3  CONFERENCE DELIBERATIONS (GROUP 2)
Fri., Dec. 5  Course wrap-up and review for final exam
Thurs., Dec. 11  **FINAL EXAM**

7:30-9:30 a.m. [116 Stubbs]