Political Science 4021
The American Constitution and Civil Liberties
Spring 2009

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Course description:

The catalog describes the course as follows:

“4021 The American Constitution and Civil Liberties (3) - Prereq. Poli 2051 or equivalent. Political relevance of major federal constitution limitations; property rights; 1st Amendment freedoms; rights of criminal defendants and ethnic minorities.”

In this course we will explore the historical development and current status of jurisprudence from the Supreme Court of the United States interpreting certain civil liberties and civil rights found in various amendments to the Constitution of the United States. Given our time constraints and the sheer volume of material this is necessarily a survey course. At the conclusion of this semester you should know the key concepts and cases and understand their application to current and future disputes.

Course requirements:

Two page brief on one case (5%)
Class presentation of brief (5%)
Mid-Term Exam (35%)
2nd Presentation (No briefing obligation) (5%)
Final Exam (Non-cumulative) (45%)
Participation and Preparation (5%)

In general, you will be responsible for all material contained in your textbook and the online ancillaries. Particularly, we will focus on and you will be expected to know each of the amendment components that are addressed, as well as the facts (where pertinent), holding, and significance of all major excerpted cases contained in your text and the online ancillaries. You will also be responsible to know those cases noted in bold in your text, but you will not be required to know, but should be also interested in, the italicized cases from the text.
Your exams will be comprehensive but non-cumulative. They will be open book, which you may annotate as you feel necessary. You will not be allowed to use any notes, outside materials, computers or other resources during the exams. The exams will be 90% objective (multiple choice, fill in the blank, true/false) and 10% subjective (essay questions or similar).

You will be required to brief one case and present it to the class and then to present a second case later in the semester. You will not get credit for the brief if you do not make the presentation. For those students who do not have experience with briefing a case, further explanation will be provided in the first class, and an example given. The presentations generally will be 5-10 minutes (some shorter some longer depending on the case). This is not a speech class - - your grade will be based on content of the presentation as opposed to your skill. Some students choose to use Power Point or other presentation tools while others simply prefer to discuss or argue the case. No particular method is preferred. For those students who have significant qualms about these presentations and may consider dropping the course to avoid them, you are urged to consult with your instructor or former students before doing so - - rest assured that your mind can be put at ease. The cases that will be briefed/presented are, generally, those listed below. But please do not simply rely on the cases excerpts from your text or the online ancillary - - there is no substitution for reading the actual text of the case and, if you feel appropriate and it is available, listening to the oral arguments.

In order to facilitate lively and considered class discussion and participation on the relevant topics, 5% of the grade will be derived from your preparation for class. At the beginning of five randomly selected classes, students will be asked a simple question regarding the identity, holding, pertinent fact, or something else related to one of the major cases listed for discussion that week. The response will be no more than a sentence or two, but the student will not be able to answer it if they have not read the materials. These will be valued at 1 point each, and cumulatively will constitute 5% of your final grade.

Materials:

2. Online ancillaries to the text.
3. Other materials or resources of your choice.

Because of the evolving nature of constitutional interpretation, and particularly the plethora of cases that emanate from the Supreme Court of the United States, texts such as the one we will be using are necessarily out of date almost as soon as they are printed. The authors of this text do an excellent job of highlighting the most recent developments with their online archive. For those of you who have purchased a new text you should have access to this as part of the purchase price. For those of you who do not, you should contact CQ Press to make arrangements for access to the archive. Regardless, the archive index is available without a password and identifies all of the updated cases excerpted by the authors.

Additionally, you may use whatever outside resources you deem most appropriate for your
needs (suggestions will be made in class) to keep up with current grants of certiorari or decisions that may be handed down by the Court during the semester. The cases that your instructor deems pertinent for the course will, of course, be identified and discussed during the appropriate classes.

SYLLABUS

I. INTRODUCTION: Constitution, Court, and Law

Thurs. 1/15 Introduction

Thurs. 1/22 Lecture/discussion only - no class presentations

Esptein & Walker, Intro to Part I., ch. 1,2,3 (pp. 1-92)
Cases: Marbury v. Madison (1803)
Ex parte McCardle (1869)
Barron v. Baltimore (1833)
Hurtado v. California (1884)
Palko v. Connecticut (1937)
Duncan v. Louisiana (1968)

Thurs. 1/29 Briefing Day/Concentrated Reading

II. CIVIL LIBERTIES

a. Religious Liberty

Thurs. 2/5 Free Exercise and No Establishment

Epstein & Walker, Intro to Part II, ch. 4 (pp. 95-209)
Cases: Cantwell v. Connecticut (1940)
Sherbert v. Verner (1963)
Wisconsin v. Yoder (1972)
Employment Division v. Smith (1990)
City of Boerne v. Flores (1997)

Everson v. Board of Education (1947)
Lemon v. Kurtzman; Earley v. DiCenso (1971)
Agostini v. Felton (1997)
Lee v. Weisman (1992)
Van Orden v. Perry (2005)
b. Freedom of Speech and Press

Thurs. 2/12  Free Speech

Epstein & Walker, ch. 5 (pp. 210-286)
Cases: *Schenck v. United States* (1919)
*Abrams v. United States* (1919)
*Gitlow v. New York* (1925)
*Dennis v. United States* (1951)
*Brandenburg v. Ohio* (1968)
*United States v. O'Brien* (1968)
*Morse v. Frederick* (2007)
*Chaplinsky v. New Hampshire* (1942)
*Cohen v. California* (1971)
*Hill v. Colorado* (1994)

Thurs. 2/19  More Free Speech and Free Press

Epstein & Walker, ch. 5, 6 (pp. 286-357)
*Near v. Minnesota* (1931)
*Red Lion Broadcasting v. FCC* (1969)
*Branzburg v. Hayes* (1972)

Thurs. 2/26  Unprotected Expression: Obscenity and Libel

Epstein & Walker, ch. 7 (pp. 347-401)
Cases: *Roth v. United States* (1957)
*Miller v. California* (1973)
*Reno v. American Civil Liberties Union* (1997)
*Gertz v. Welch* (1974)
*Hustler Magazine v. Falwell* (1988)
c. Right to bear arms
d. Personal Autonomy

Thurs. 3/12 Right to bear arms.

Epstein & Walker ch. 8 (pp. 402-411)
Case: U.S. v. Miller (1939)

Sex and Death

Epstein & Walker, ch. 9 (pp. 412-471)
Cases: Griswold v. Connecticut (1965)
   Roe v. Wade (1973)
   Gonzales v. Carhart (2007)
   Cruzan v. Director, Missouri Department of Health (1990)

III. RIGHTS OF THE CRIMINALLY ACCUSED

Thurs. 3/19 Crimes, Searches, and Confessions

Epstein & Walker, Intro to Part III, ch. 10 (pp. 475-548)
Cases: Katz v. United States (1967)
   Terry v. Ohio (1968)
   Mapp v. Ohio (1961)
   Escobedo v. Illinois (1964)
   Miranda v. Arizona (1966)

Thurs. 3/26 Lawyers, Juries, Trials, and Punishments

Epstein & Walker, ch. 11 (pp. 549-614)
Cases: Powell v. Alabama (1932)
   Gideon v. Wainwright (1963)
   Sheppard v. Maxwell (1966)
**Baze v. Rees** (2008)

*Gregg v. Georgia* (1976)

*Kennedy v. Louisiana* (2008)


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**IV. CIVIL RIGHTS**

**Thurs. 4/2** Race Discrimination and Sex Discrimination

Epstein & Walker, intro to part IV, ch. 12 (pp. 617-686)

Cases: *Plessy v. Ferguson* (1896)

*Sweatt v. Painter* (1950)


*Swann v. Charlotte-Mecklenburg Board of Educ* (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 #107 v. Irvis* (1972)

*Reed v. Reed* (1971)

*Reed v. Richardson* (1973)

*Craig v. Boren* (1976)


**Thurs. 4/9** Spring Break

**Thurs. 4/16** Briefing Day/Concentrated Reading

**Thurs. 4/23** Other Claims to Discrimination and Affirmative Action

Epstein & Walker, ch. 12 (pp. 686-737)


*Regents of the University of California v. Bakke* (1978)


**Thurs. 4/30**

The Right to Vote and to Representation

Epstein & Walker, ch. 13 (pp. 738-788)
  *Louisiana v. United States* (1965)
  *South Carolina v. Katzenbach* (1966)
  *Crawford v. Marion County Election Board* (2008)
  *Baker v. Carr* (1962)
  *Reynolds v. Sims* (1964)

Thurs. 5/7       Final Exam - 8-10 p.m.