POLI 4021: The American Constitution and Civil Liberties

Dr. Laura Moyer
Classroom: 220 Stubbs Hall
Class: 9:40-10:30 MWF

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Office hours: MW 2-3:30 or by appt.
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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 only 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 6 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 quizzes
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 two (2) section quizzes 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 quizzes 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 from the past or present, (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 and abide by the University’s policy on academic honesty before performing any academic work. You can find these and the consequences for committing academic dishonesty at http://www.lsu.edu/judicialaffairs. 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. All suspected violations will be reported, and determinations of guilt or innocence will be made by the Office of Student Accountability.

Grade Breakdown
Class participation: 10%  Briefs grade: 10%
Midterm exam: 20%  Quizzes : 10%
Final exam: 20%  Hypotheticals: 10%
Simulation: 20%

Grading Policy
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. Grades will NOT be discussed over email, due to confidentiality reasons; please make an appointment with me if you have a question about your performance in the class. Note: the syllabus represents a general plan for the course and may be subject to change, based on the discretion of the instructor.

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

Required texts
• Craig R. Ducat. Constitutional Interpretation, 9th ed. (ISBN: 0-495-50284-7). Earlier, used editions are also acceptable, but be sure to check for changes in page numbers.
• Additional readings posted on Moodle [Denoted as M on reading schedule]
**Fall 2009: Important dates**
- Drop period ends: Mon., Aug. 31/ Last day to add: Wed., September 2
- Last day to withdraw: Friday, November 6
- Last Day of Class: Friday, December 4
- Final exam: *Monday, December 7. 3:00-5:00 p.m. [220 Stubbs]*

**Schedule of Readings and Assignments (to be read PRIOR to coming to class)**

<table>
<thead>
<tr>
<th>Date</th>
<th>Assignment/Reading</th>
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<tr>
<td>Mon., Aug. 24</td>
<td>Introduction to course</td>
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| Wed., Aug. 26 | **I. Introduction to Law and Judicial Power**  
Reading: Ducat, pp. 26-40, 89-102 |
| Fri., Aug. 28 | In-class exercise: judges in their own words                                       |
| Mon., Aug. 31 | **A. Supreme Court jurisdiction & judicial review**  
Reading: Ducat, pp. 3-26; How to brief a court case [on M] |
|             | **Brief case:** Marbury v. Madison                                                 |
| Wed., Sept. 2 | **Supreme Court jurisdiction & judicial review (continued)**  
|             | **Brief cases from Monday’s reading (pp. 3-26):**  
Eakin v. Raub; Martin v. Hunter’s Lessee; Ex parte McCardle |
| Fri., Sept. 4 | **B. Interpreting Legal Texts**  
Reading: pp. 76-102  
In class: Levinson, “On Interpretation: The Adultery Clause of the Ten Commandments” |
| Mon., Sept. 7 | NO CLASS: LABOR DAY                                                               |
| Wed., Sept. 9 | **Interpreting Legal Texts continued**  
Brief case: District of Columbia v. Heller [on M] |
| Fri., Sept. 11 | **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                         |
| Mon., Sept. 14 | **Due Process and Incorporation (continued)**  
Reading: pp. 483-501 |
Brief cases:
*Hurtado v. California; Palko v. Connecticut; Adamson v. California; Rochin v. California*

**Wed., Sept. 16**

**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*

**Fri., Sept. 18**  

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

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

**Mon., Sept. 21**  

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

Brief cases:  
*Griswold v. Connecticut; Eisenstadt v. Baird [pp. 721]; Roe v. Wade*

**Wed., Sept. 23**  

**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]*

**Fri., Sept. 25**  

**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*

**Mon., Sept. 28**  

**QUIZ 1**

**Wed., Sept. 30**  

**HYPOTHETICAL 1**

**Fri., Oct. 2**  

NO CLASS: FALL BREAK

**Mon., Oct. 5**  

**V. First Amendment: Free Speech**
A. What is speech?
Reading:
pp. 777-783

Wed., Oct. 7

B. "Clear and Present Danger"
Reading:
pp. 783-792

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

Fri., Oct. 9

"Clear and Present Danger" (con’t)
Reading:
pp. 792-810

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

Mon., Oct. 12
Catch up day/review for mid-term exam

Wed., Oct. 14
**MID-TERM EXAM**

Fri., Oct. 16
Law school and graduate school discussion
Midterm evals

Mon., Oct. 19

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. 21

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. 23

Symbolic Speech (con’t)
Reading:
pp. 870-888

Brief cases:
United States v. O’Brien; Texas v. Johnson; RAV v. City of St. Paul
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. 28

**HYPOTHETICAL 2: FREEDOM OF SPEECH & PRESS**

Fri., Oct. 30

VII. First Amendment: Religion (Establishment Clause)
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

Mon., Nov. 2

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

Wed., Nov. 4

First Amendment: Religion (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

Fri., Nov. 6

**QUIZ 2: FIRST AMENDMENT**

Mon., Nov. 9

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

Wed., Nov. 11

Race (con't)
Reading:
pp. 1145-1165
**Brief cases:**
*Swann v. Charlotte-Mecklenburg Board of Education*
*Miliken v. Bradley*
*Parents Involved in Community Schools v. Seattle School District*

**Fri., Nov. 13**

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

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

**Mon., Nov. 16**

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

**Cases:**
*Frontiero v. Richardson*
*Craig v. Boren*
*United States v. Virginia*

**Wed. Nov. 18**

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

**Cases**
*Romer v. Evans*
*Goodridge v. Department of Public Health*

**Fri. Nov. 20**

**JUSTICE PAPERS AND ATTORNEY BRIEFS DUE**
In-class preparation for oral argument
(Attorney groups practice argument; justices read attorney briefs and develop questions)

**Mon., Nov. 23**

**ORAL ARGUMENTS (GROUP 1)**
[class held at law school]

**Wed., Nov. 25**

**Fri., Nov. 27**

**Mon., Nov. 30**

**NO CLASS: OFFICE HOURS DURING CLASS TIME**

**NO CLASS: THANKSGIVING BREAK**

**ORAL ARGUMENTS (GROUP 2)**
[class held at law school]

**Wed., Dec. 2**

**Fri., Dec. 4**

**Mon., Dec. 7**

**CONFERENCE DELIBERATIONS (BOTH GROUPS)**
Course wrap-up and review for final exam

**FINAL EXAM**
3:00-5:00 p.m. [220 Stubbs]