

**Political Science 411-01
Constitutional Law
University of Dayton
Spring 2017**

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Class: MWF 10:10–11:00 AM, St. Joseph 434
Office: St. Joseph 201
Office Hours: By appointment

Course Description

This course analyzes the contents and legal applications of the United States Constitution, with particular focus on its interpretation by the U.S. Supreme Court. As part of that analysis, we will examine the historical development of the U.S. Constitution; the structure, processes, and powers of the federal judiciary; methods of constitutional interpretation; major Supreme Court rulings, in terms of historical significance and establishment of existing precedent; and current constitutional controversies. To these ends, and to achieve the learning outcomes described below, students will evaluate and apply content from reading assignments and class meetings through written assignments (including homework exercises, an in-class exam, case briefs, and essays), contributions to in-class learning (including daily participation and individual or group presentations). Also, students will conduct original research about members of the U.S. Supreme Court and a case currently before the Court.

By its very nature, the study of constitutional law involves reading complex legal texts and presenting carefully reasoned responses to the subject matter based on rigorous logic and a clear command of relevant facts. Therefore, students should expect this to be a particularly challenging course, with high standards for reading, writing, and analytical quality.

Learning Outcomes

The goals for this course reflect the substantive emphases and pedagogical premises described above. In particular, students will be expected to:

- identify key provisions and principles of the U.S. Constitution, and the federal judiciary's standards of constitutional interpretation;
- assess the constitutional legitimacy of government policies and/or actions, based on an informed understanding of the U.S. Constitution's substance and meaning;
- understand the structure of the U.S. judiciary, and the process by which it evaluates, responds to, and influences constitutional controversies;
- analyze and explain the factors influencing how individual judges, and the Supreme Court as a whole, formulates constitutional rulings;
- summarize judicial rulings, fully and accurately, by describing the significance of relevant case facts, constitutional provisions, and legal precedents.

Course Expectations

Class Participation & Attendance: Students are expected to attend class regularly, attentively, and on time. Students who are absent from more than 10 class sessions will fail the course; excused absences do count toward this total. Also, excessive tardiness may be counted toward this total. Students who behave in a distracting way – including sleeping or using a phone or computer – may be asked to leave, and if so will be counted as absent.

Late Assignments: Written assignments will be penalized by 10% of the total points available for each 24-hour period that they are submitted past the deadline, beginning immediately after the deadline has passed. Also, 25% of exam points will be deducted for failing to take an exam at the scheduled time. Exceptions will be made only for excused absences, as documented by the relevant university administrators and with the instructor's approval.

Course Text (required):

Epstein, Lee, and Thomas G. Walker. 2015. *Constitutional Law for a Changing America: A Short Course*, 6th edition. Los Angeles: CQ Press.

Honor Pledge, University Resources, and Policies

University of Dayton Honor Pledge

I understand that as a student at the University of the Dayton, I am a member of our academic and social community. I recognize the importance of my education and the value of experiencing life in such an integrated community. I believe that the value of my education and degree is critically dependent upon the academic integrity of the university community, and so in order to maintain our academic integrity, I pledge to:

- Complete all assignments and examinations by the guidelines given to me by my instructors;
- Avoid plagiarism and any other form of misrepresenting someone else's work as my own;
- Adhere to the Standards of Conduct as outlined in the Academic Honor Code.

In doing this, I hold myself and my community to a higher standard of excellence, and set an example for my peers to follow.

Students are expected to abide by the University of Dayton Honor Pledge.

Cheating and Plagiarism

Cheating and plagiarism will not be tolerated. Any student suspected of either cheating or plagiarism will be referred to appropriate administrative proceedings at the University of Dayton. Additionally, the student will receive a zero for the assignment.

Learning Support and Writing Resources

A wide range of support and resources are available to UD students and I strongly encourage students to avail themselves of these opportunities. The LTC's Office of Learning Resources (OLR) is a learning resource for all students and it offers a wide variety of services to assist you in achieving academic success at the university, including study skills classes and workshops, tutoring and consultations, disability screenings, and a website with many resources (<http://learningsupport.udayton.edu>). Please contact OLR at 937-229-2066 or visit their office on the ground floor of Roesch Library (LTC 023) if you would like to talk about how you could be a more effective learner.

The Write Place is a free service available to all UD students that offers peer-to-peer writing support on any writing assignment and at any stage of the writing process. Students can drop-in to the Write Place without making an appointment. It is located in Roesch Library Room 502. Contact Christina Klimo, Write Place Coordinator, if you have any questions at klimochm@notes.udayton.edu or 229-2066.

Students with Disabilities

If you feel you need an accommodation based on the impact of a disability, please contact me privately to discuss your specific needs. Formal disability-related accommodations are determined through the Learning Teaching Center's Office of Learning Resources (OLR). It is very important that you be registered with OLR and notify me of your eligibility for reasonable accommodations with a signed SLS Self-Identification Form. We can then plan how best to coordinate your accommodations. For more information, please contact OLR at 937-229-2066, by email at disability.services@udayton.edu, or stop by the OLR office in LTC 023.

Grade Calculation

Class Participation	5%
Homework Assignments	10%
Exam (Section 1)	15%
Judicial Profile	
Paper	15%
Presentation	5%
Case Briefs	25%
Supreme Court Ruling	
Opinion	20%
Deliberation	5%
<hr/> TOTAL	<hr/> 100%

Grading Scale:

A: 93%-100%	A-: 90%-93%	B+: 87%-90%	B: 83%-87%
B-: 80%-83%	C+: 77%-80%	C: 73%-77%	C-: 70%-73%
D: 60%-70%	Fail: <60%		

*If your final course grade falls within 0.25% of the next highest letter grade, I will round it up (e.g. 86.75% = B+, 89.75 = A-, etc.).

Graded Assignments

Daily In-Class Participation:

Students will earn one point for making a substantive contribution to a class session, and two points for making multiple substantive contributions. At the end of the semester, I will calculate participation grades as the percentage of classes in which a student made a substantive contribution. Bonus points will be awarded to students averaging more than one contribution per class.

Homework Assignments:

The first two sections of the course include a number of homework assignments, designed to facilitate engagement with course readings and other material, in formats ranging from quizzes to essays to presentations. All homework assignments, with due dates and times, are listed on this course's Isidore page.

Exam:

There will be one in-class exam held during our regularly-scheduled class session on February 10, covering material from the first section of the course (the U.S. Constitution). The exam will include multiple choice questions, identification of constitutional articles and amendments, and essays.

Judicial Profile:

Each student will be assigned to research the life and judicial philosophy of a justice of the U.S. Supreme Court. Based upon this research, the student will write a three-page profile paper and deliver a ten-minute PowerPoint presentation addressing four major topics relating to the assigned justice. This

project will provide an opportunity for all students to learn and teach each other about who our Supreme Court justices are and how they interpret the Constitution.

Also, later in the semester, students' expert knowledge about the assigned justice will be critical when "playing" him or her during our mock Supreme Court deliberations – ruling upon, and writing about, the case as if the student were that justice.

Further instructions are provided in the assignment on our course Isidore page.

Case Briefs:

Our discussion of constitutional law will consist of numerous Supreme Court cases excerpted in the Epstein & Walker textbook. Students will select ten cases over the course of the semester about which they will complete a summary of the case facts and Court ruling (conforming to the assignment template that I am providing to you), to be submitted via Isidore no later than 9:00 AM on the day that we are scheduled to discuss the case in class.

Cases eligible for this assignment are listed in italics directly below the associated reading assignment in this syllabus' course schedule. You may submit only one case brief per class, even though there are multiple eligible cases within some reading assignments. In other words, you must submit case briefs for ten *different* reading assignments.

If you do not submit ten case briefs, you will receive a zero for the missing assignment(s). Please plan ahead so that this does not happen for any reason, including unexpected life events. This is your responsibility. Late submissions will be accepted, but only for half-credit, and no later than on the last day of classes.

Further instructions, as well as the template for completing case briefs, are provided on our course Isidore page.

Supreme Court Ruling (Opinion & Deliberation)

We will cap off our study of constitutional law and the U.S. Supreme Court with a mock deliberation and decision on an actual case before the Court. Each student will act as the Supreme Court justice to which s/he was assigned earlier in the semester. As that justice, you will use the oral arguments and legal precedents pertaining to the case in question to write an informed 4-5 page legal opinion and then explain your ruling during an in-class deliberation including all members of the "Court." This is a capstone project for the course that will integrate learning about the procedures of the Supreme Court, actual Supreme Court justices, constitutional interpretation, and relevant case law. Further instructions are provided in the assignment on our course Isidore page.

Course Schedule

Assigned readings must be completed prior to class on the first date under which they are listed below. Readings from the required textbook are listed as “EW” (Epstein & Walker). All other reading assignments can be found online by clicking the link provided or through our Isidore (<http://isidore.udayton.edu>) course page.

Part I: The U.S. Constitution

Introduction to Constitutional Law

January 18 (Wed.) Syllabus

Case Study: Same-Sex Marriage

January 20 (Fri.) U.S. Supreme Court Majority Opinion, *Obergefell v. Hodges*, p. 6-33 ([web](#))

January 23 (Mon.) Justice Scalia’s Dissenting Opinion, *Obergefell v. Hodges*, p. 69-77 ([web](#))
Chief Justice Roberts’ Dissenting Opinion, *Obergefell v. Hodges*, pp. 40-68 ([web](#))

Foundations of Constitutional Law

Founding Ideals

January 25 (Wed.) John Locke, excerpts from *Second Treatise on Government* (Isidore)
Declaration of Independence ([web](#))

Articles of Confederation

January 27 (Fri.) Articles of Confederation ([web](#))
Ron Chernow, excerpts from *Washington: A Life* (Isidore)

Constitutional Convention

January 30 (Mon.) U.S. Constitution, Articles I-VII ([web](#))
EW, pp. 7-10 & 59-62

Constitutional Ratification & Amendment

Ratification

February 1 (Wed.) Clinton Rossiter, excerpts from *Federalist Papers* (Isidore)
Groups: Federalist Papers #10, 47, 51, or 85 ([web](#))

February 3 (Fri.) U.S. Constitution, Bill of Rights ([web](#))
EW, pp. 11-14
Harlow Giles Unger, excerpts from *The Last Founding Father* (Isidore)

Amendments

February 6 (Mon.) U.S. Constitution, Amendments #11-27 ([web](#))
EW, pp. 14-19

February 8 (Wed.) No new reading.

February 10 (Fri.) EXAM

Part II: The Judicial Branch

Judicial Power

- February 13 (Mon.) EW, pp. 63-68 & 21-31
- February 15 (Wed.) Federalist #78 ([web](#))
EW, pp. 68-76
Case Brief (required): Marbury v. Madison
- February 17 (Fri.) EW, pp. 76-88

Interpreting the Constitution

- February 20 (Mon.) EW, pp. 31-52
- February 22 (Wed.) No new reading.

Nomination & Confirmation

- February 24 (Fri.) Lawrence Baum, excerpts from *The Supreme Court* (Isidore)
- February 27 (Mon.) Michael Gerhardt, “The Gorsuch Nomination: What’s Next” ([web](#))
- March 1 (Wed.) No class meeting – work on PowerPoint presentations

Judicial Profile Paper due Wednesday, March 1 @ 9:30 AM
- March 3 (Fri.) No class (Spring Break)

Judicial Profile Presentations

- March 6 (Mon.), March 8 (Wed.), & March 10 (Fri.) – In-class presentations

Judicial Profile PowerPoint due Monday, March 6 @ 9:30 AM

Part III: Case Law

Institutions of Government

Legislative Power

March 13 (Mon.) EW, pp. 89-92 & 103-113
Case: McCulloch v. Maryland

Executive Power

March 15 (Wed.) EW, pp. 157-170
Case: Korematsu v. United States

March 17 (Fri.) EW, pp. 170-183
Case: Youngstown Sheet & Tube Co. v. Sawyer
Case: Hamdi v. Rumsfeld

Federalism & Interstate Commerce

March 20 (Mon.) EW, pp. 214-216 & 229-244
Case: A.L.A. Schechter Poultry Corp. v. United States
Case: National Labor Relations Board v. Jones & Laughlin Steel Corporation

March 22 (Wed.) EW, pp. 247-256 & 262-269
Case: Wickard v. Filburn
Case: Heart of Atlanta Motel, Inc. v. United States
Case: United States v. Lopez

Civil Rights & Equal Protection

March 24 (Fri.) EW, pp. 657-677
Case: Plessy v. Ferguson
Case: Brown v. Board of Education

March 27 (Mon.) EW, pp. 703-719
Case: Grutter v. Bollinger

Civil Liberties

Religious Exercise

March 29 (Wed.) EW, pp. 382-402
Case: Sherbert v. Verner
Case: Employment Division, Department of Human Resources of Oregon v. Smith

Religious Establishment

March 31 (Fri.) EW, pp. 402-403 & 407-419
Case: School District of Abington Township v. Schempp; Murray v. Curlett
Case: Lemon v. Kurtzman; Earley v. DiCenso

April 3 (Mon.) EW, pp. 419-435
Case: Zelman v. Simmons-Harris
Case: Van Orden v. Perry

April 5 (Wed.) Bro. Joseph W. Stander Symposium – participation expectations will be forthcoming at the Stander Symposium agenda is developed.

April 7 (Fri.) Professor attending academic conference – assignment TBA

Freedom of Speech

April 10 (Mon.) EW, pp. 437-438 & 450-468
Case: Texas v. Johnson
Case: Morse v. Frederick

April 12 (Wed.) EW, pp. 468-473
Case: Snyder v. Phelps

April 14 (Fri.) & April 17 (Mon.) – No class (Easter Break)

Project

April 19 (Wed.) Oral Arguments (in-class)

Rights of the Criminally Accused

Fourth Amendment

April 21 (Fri.) EW, pp. 494-611
Case: United States v. Jones
Case: Mapp v. Ohio
Case: United States v. Leon

Fifth Amendment

April 24 (Mon.) EW, pp. 611-623
Case: Miranda v. Arizona

Privacy Rights

April 26 (Wed.) EW, pp. 543-563
Case: Griswold v. Connecticut
Case: Roe v. Wade

April 28 (Fri.) EW, pp. 563-578
Case: Lawrence v. Texas

Supreme Court Opinion due Thursday, May 4 @ 11:55 PM
Supreme Court Deliberations – Friday, May 5 (10:10 AM – 12:00 PM)

*Disclaimer: This course schedule is subject to change at the instructor's discretion, including the addition, subtraction, or replacement of reading assignments listed above. I will notify you of any changes in class and/or via e-mail, and post an updated version of the syllabus to Isidore if any such changes are made.

It is your responsibility to be familiar with the content of this course schedule, and the syllabus in its entirety, and to complete all assignments in accordance with the instructions provided.