

## **POLS 5360.01 CRN 80493 SEMINAR IN JUDICIAL POLITICS**

Semester: Fall 2017 (August 23-December 7)  
Location: Online  
Professor: Dr. John C. Domino  
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### **COURSE DESCRIPTION:**

This graduate seminar is intended to provide a comprehensive overview of American Judicial Politics. Specifically, it examines the function, role and operation, and impact of the United States Supreme Court. The assigned reading selections employ qualitative, normative, legal and quantitative and approaches. This course is designed to be reading and writing intensive, appropriate to a Master's level endeavor.

### **COURSE OBJECTIVES:**

At the end of this course the student should be able to:

1. Develop an advanced understanding of the United States Supreme Court.
2. Understand how the Court functions not just as a constitutional tribunal but in a broader political and cultural role.
3. Develop an advanced understanding of the United States Supreme Court.
4. To learn about how the Court plays not just a constitutional role but a broader political and cultural role.
5. Understand the process and politics of judicial selection.
6. Examine the relationship of the judiciary to other actors in Judicial Politics, including legislatures, executives, interest groups, and the public.

**REQUIRED TEXTS AND MATERIALS:**

- Baum, Lawrence, *The Supreme Court*, Twelfth Edition, CQ Press, ISBN: 978-1-4833-7611-0
- Bolick, Clint, *David's Hammer: The Case for an Activist Judiciary*, Cato Institute Press (2007), ISBN: 978-1-9339-9502-1
- Other Materials: Students will be required to read scholarly journals and court cases. Other materials will be posted on Bb.  
Or found through databases such as JSTOR and Westlaw

## COURSE REQUIREMENTS:

### ***A. Weekly Analysis Papers:***

Students will write **8** analysis papers reacting to/analyzing the assigned readings for that week. **You do only 8 of the 9 assigned papers. Although you must do the two Bolick David's Hammer papers.** All papers will:

- Address the author's (a) major points or questions, (b) contributions of the readings (i.e., what have we learned?), (c) conclusions/findings, and (d) in your view, the strongest or weakest aspect of the author's research.
- Be properly written and grammatically correct. In your own words – always.
- Typed
- Handed in through Turnitin .
- Each paper will have a maximum value of 50 points. Note: Specific instructions and expectations for each paper will be provided on BlackBoard. So, **50 points x 8 papers = 400 points.**

*See Analysis Paper course link for specific assignments*

***B. Discussion Board Activities:*** Throughout the semester students will engage with each other through 8 (out of 9) discussion board activities. So, **25 points each x 8 = 200 points.**

*The specific Discussion Board assignment will be found in each Unit*

***C. Final Exam:*** The specifics of this exam will be posted mid semester. **100 points.**

**Final Course Grade:**

8 Analysis Papers:	400 points
8 Discussion Board Activities:	200 points
<u>1 Final Exam</u>	<u>100 points</u>
Total:	700 points

*Grading scale:*

A= 630-700 (90-100%)

B= 560-629 (80-89%)

C= 490-559 (70-79%)

D= 420-489 (60-69%)

F= 000-419 (0-59%)

**Late Assignments and Missed Work Policy:**

1. Late assignments will not be accepted without prior approval or evidence of serious personal or medical extenuating circumstances. Contact me within one week of the missed work.
2. Job-related issues are not a valid excuse. I will not accommodate your employment schedule.
3. If you miss or anticipate missing a large amount of work due to illness or personal problems it might be best if you contact an *appropriate administrative office at SHSU*.

**COURSE POLICIES:**

## **A. Academic Dishonesty:**

According to University Academic Policy Statement 810213 and the Faculty handbook:

*All students are expected to engage in all academic pursuits in a manner that is above reproach. Students are expected to maintain complete honesty and integrity in the academic experiences both in and out of the classroom. Any student found guilty of dishonesty in any phase of academic work will be subject to disciplinary action. The University and its official representatives may initiate disciplinary proceedings against a student accused of any form of academic dishonesty including, but not limited to, cheating on an examination or other academic work which is to be submitted, plagiarism, collusion and the abuse of resource materials. Dean of Students Office: <http://www.shsu.edu/dept/dean-of-students/index.html>*

Q: What precisely constitutes academic dishonesty in this course?

1. Plagiarizing is using another person or entity's work or words, even that which is found in the public domain, without proper attribution such as footnotes, endnotes, or quotation marks. A "work" includes but is not limited to a scholarly article, research paper, and textbook, work of fiction or nonfiction.
2. Cutting and pasting anything from the web. Using someone else's phrases or sentences without attribution such as footnotes or quotation marks is plagiarism.
3. Handing in/posting an assignment that was written by someone other than you or from previous classes. This includes working collaboratively on papers and exams or purchasing material online and soliciting material from other students.
4. Sometimes, writers unintentionally plagiarize by failing to understand that they should not 1) cut and paste from the internet or 2) neglect to write in their own words.

Q: What are the possible penalties for plagiarism?

1. Exam: If you cheat in any way (as described above) on the comprehensive exam you will fail (0 F) the exam.
2. Papers/Posts: If you cheat in any way (as described above) you will receive a 0 (F) for that assignment.
3. Other assignments: If you cheat in any way (as described above) on an assignment you will receive a 0 (F) for that assignment.

By registering for this class you agree to abide by these conditions, understand that work will be submitted through **turnitin**. This program does not prove plagiarism occurred but shows the percentage of the paper that has been taken verbatim from another source on the Web. With that information, a judgement is made.

#### **B. Conduct:**

The First Amendment prevails in this class. However, a student who engages on any behavior or language in the course that intentionally or unintentionally disrupts the learning process and, thus, “impedes the mission of the university,” will be reported to the Dean of Students for disciplinary action in accordance with written university policy.

see <https://www.shsu.edu/students/guide/dean/codeofconduct.html>.

#### **C. Americans with Disabilities Act:**

It is the policy of Sam Houston State University that individuals otherwise qualified shall not be excluded, solely by reason of their disability, from participation in any academic program of the university. Further, they shall not be denied the benefits of these programs nor shall they be subjected to discrimination. Students with disabilities that might affect their academic performance are expected to visit with the Office of Services for Students with Disabilities (SSD) located in the Lee Drain Annex. No accommodation can be made until you register with the SSD. For the full policy and further information please click on the link below. <http://www.shsu.edu/dept/disability/>

#### **D. Religious Holidays:**

University policy states that a student who is absent from class for the observance of a religious holy day shall be permitted to take an examination or complete an assignment scheduled for that day within a reasonable time after the absence. Not later than the 15th calendar day after the first day of the semester, or the 7th calendar day after the first day of a summer session, the student must notify the instructor of each scheduled class that he/she would be absent for a religious holy day. <http://www.shsu.edu/dept/academic-affairs/documents/aps/students/861001.pdf>

## **COURSE SCHEDULE**

### **(8/23- 8/24): Course Orientation and Introduction**

**Reading/Assignments (most of the readings and assignments in this course are posted on Blackboard (Bb) in the units).**

- Review syllabus
- Review course expectations, assignments, and course design
- Review Course FAQs
- Review how to brief a court opinion
- “Introduce Yourself” Discussion Board Post

### **Unit 1 (8/25-9/3): Foundations of Judicial Power in the United States**

#### **Readings/Assignments:**

- Video lecture: “Philosophical Foundations of American Law and Judging: Parts One and Two”
- Article III, U.S. Const.
- Federalist #78 and #82 (Hamilton)
- Anti-Federalist #11 and #12 (Brutus)
- Discussion Board Activity #1 on Federalist/Anti-Federalist (due no later than 9/3)
- Discussion Board Activity #2 on “Philosophical Foundations”

### **Unit 2 (9/4-9/11): Judicial Review and Judicial Independence**

#### **Readings/Assignments:**

- Video lecture: “Common Law Origins of Judicial Review.”
- *Marbury v. Madison* court opinion
- *Marbury v. Madison* video
- Jackson, Vicki, “Packages of Judicial Independence.”
- Discussion Board Activity #3 on *Marbury v. Madison* video (due 9/11)
- Analysis paper #1 on Jackson article (due no later than 9/11)



**Unit 3 (9/12-9/21): The United States Supreme Court: The Justices -- Background and Nomination/Confirmation Process**

**Readings/Assignments:**

- Video lecture: “Nomination and Confirmation of Justices”
- Baum, chapters 1 and 2: The Justices
- Johnson, Timothy and Roberts, Jason, “Presidential Capital and Supreme Court Confirmation Process,” *Journal of Politics* 66, No. 3 (August 2004), pp. 663-683.
- Lee Epstein, et al., “The Changing Dynamics of Senate Voting on Supreme Court Nominees,” *Journal of Politics* 68 (May 2006).
- Discussion Board Activity #4 on Baum chapters (due no later than 9/21)
- Analysis paper #2 on Johnson and Epstein articles. (due no later than 9/21)

**Unit 4 (9/22-9/29): The Supreme Court’s Agenda: How legal and constitutional disputes make it to the Court. This is the first stage of the Court’s decision making process.**

**Readings/Assignments:**

- Baum, chapter 3: The Cases
- Joseph D. Kearney and Thomas W. Merrill, “The Influence of Amicus Curiae Briefs on the Supreme Court,” *University of Pennsylvania Law Review* 148 (January 2000).
- Discussion Board #5 (due no later than 9/29)
- Analysis paper #3 on Baum chapter and Kearney article (due no later than 9/29)

**Unit 5 (9/30-10/12): The Court's Decision Making: the steps/stages of the process as well as the external and internal influences on the justices' decisions.**

**Readings/Assignments:**

- Baum, chapter 4: Decision Making.
- Timothy R. Johnson, et al., "Oral Advocacy Before the United States Supreme Court: Does it Affect Justices' Decisions?" *Washington University Journal Law Review* (2007)
- Paul H. Edelman, et al, "Consensus, Disorder, and Ideology on the Supreme Court," *Journal of Empirical Legal Studies* 9 (March 2012).
- Discussion Board Activity #6: Listen to Oral Argument (due no later than 10/12)
- Analysis paper #4 covering Baum chapter and Johnson and Edelman articles (due no later than 10/12)

**Unit 6 (10/13-10/25): The Court's Rulings and Opinions**

**Readings/Assignments:**

- Baum, chapter 5: Policy Outputs
- Choose 5 of the following landmark cases to be briefed:
  1. Brown v. Board of Education
  2. Frontiero v. Richardson
  3. Griswold v. CT
  4. Roe v. Wade
  5. Texas v. Johnson
  6. Lawrence v. Texas
  7. D.C. v. Heller
  8. Snyder v. Phelps
- Discussion Board Activity #7 (due no later than 10/25)
- Analysis paper #5 – case briefs (due no later than 10/25)

## **Unit 7 (10/26-11/4): The Court's Impact on the American Political System**

### **Readings/Assignments:**

- Baum, chapter 6: The Court's Impact
- James Buatti and Richard L. Hasen, "Conscious Congressional Overriding of the Supreme Court, Gridlock, and Partisan Politics," *Texas Law Review*
- Bethany Blackstone and Greg Goelzhauser, "Presidential Rhetoric Toward the Supreme Court," *Judicature* 97 (January/February 2014).
- Analysis paper #6 on Buatti and Blackstone articles (due no later than 11/4)

## **Unit 8 (11/5-11/12): The Court and Public Opinion: Here we take a look at the relationship between public opinion (and voters) and the Court.**

### **Readings/Assignments:**

- Stoutenborough, James W. et al., "Reassessing the Impact of Supreme Court Decisions on Public Opinion: Gay Civil Rights Cases," *Political Research Quarterly*, September 2006, Vol. 59, No 3.
- Bassok, Or, "The Supreme Court's New Source of Legitimacy," *University of Pennsylvania Journal of Constitutional Law*, Vol. 16, 2013.
- Public Opinion Polls on the U.S. Supreme Court
- Discussion Board Activity #8 (due no later than 11/12)
- Analysis Paper #7 on (due no later than 11/12)

## **Unit 9 (11/13-12/1): The Application of Judicial Power: The Judicial Activism versus Restraint Debate**

### **Readings/Assignments:**

- Video lecture: "Judicial Activism"
- Domino, "The Concept of Judicial Activism: Developing an Empirical Measure"

- Bolick, David's Hammer
- Discussion Board Activity #9 – your opinion of Bolick book (due no later than 11/30)
- Analysis paper #8 over Bolick part one (due no later than 11/26)
- Analysis paper #9 over Bolick part two (due no later than 12/1)
- Final Exam (due no later than 12/5)

❖ **Thanksgiving Break (11/22-11/26):**

❖ **Last Day of Class (12/1)**