

POLS 4334.01 81305 CONSTITUTIONAL LAW I

Semester: Fall 2017

Time: TTH: 9:30 – 10:50 a.m.

Room: CHSS

Professor: Dr. John C. Domino

Office: CHSS 475

Office Hours: TTH 11-12 (or by appointment)

E-mail pol_jcd@shsu.edu (email is the best way to contact me)

Phone: 936/ 294-1463

I. COURSE DESCRIPTION:

Constitutional law is a body of law created by the interpretation and application of the Constitution by the United States Supreme Court. This body of law is deals with the proper scope of governmental powers *and* the rights of individuals and groups. This course, Constitutional Law I, will immerse students in the body of case law pertaining to civil rights and liberties. We will do so by reading, briefing cases, and class discussion.

II. COURSE OBJECTIVES:

- Learn the outcomes of the landmark rulings of the Supreme Court and, thus, develop an understanding of civil rights/liberties.
- Understand the principles and logic underlying the significant rulings the United States Supreme Court.
- Be able to read and comprehend the reasoning of the Court as set forth in actual Court opinions and summarize in legal briefs the complex language and logic of the justices.
- Prepare students to think critically, speak, and write clearly and coherently on the principles and ideas contained in assigned cases and materials.

III. REQUIRED TEXT:

Ducat, Craig, *Constitutional Interpretation: Volume II, Rights of the Individual*, 10th edition ISBN-13: 978-1111833008. A used book available from online sources.

Note: It is the student's responsibility to obtain the book *immediately – no exceptions*. I do not have books to give or loan to you, nor do I have influence over any bookstores. I did not place a copy of the book on reserve. If you decide to use a previous edition that's fine, *but it is solely your responsibility to find the assigned opinions that do not appear in the older edition*.

IV. COURSE REQUIREMENTS:

A. Exams:

- **Four essay exams**: students will take three “midterms” and a final. You must have a valid excuse (with documentation) to take a make-up exam.*

*An example of a valid excuse is: jury duty, military deployment, illness treated by healthcare professional, university-related event, family emergency. All require official documentation. You cannot take a make-up for work related reasons.

B. Case Briefing:

- Since our discussions and exams will be based on the opinions of the Supreme Court, you will brief a large number of opinions. Case briefing requirement is linked with the class participation expectation. Brief all opinions unless it is noted otherwise. These 1-3 page (10 point max.) briefs will be turned in for credit and you will receive a cumulative grade for the body of your work at the end of the semester. Note that on the course outline you are informed which of these case briefs must be turned in for a grade by the word **“turn in for grade”** after the case name.
- The briefs must be turned in on the day that they are covered in class. Late briefs are permitted with a legitimate excuse but the brief must be turned in by the end of the week that it was assigned. Late briefs may receive up to 50% off the full grade.
- The professor reserves the right to increase or decrease the number of case briefs to be turned in for a grade.
- At the end of the semester you will receive a grade based on the percentage of points available. For example if you are assigned 35 ten point briefs (350 points) and you receive 9 points per brief (315 points) your semester brief grade would be a 90%.

C. Attendance Policy:

- Regular attendance is required. A student will be allowed five unexcused absences in this course. Beyond that, five points will be taken off the student’s final grade for each additional unexcused absence. This is not an independent study course. I have enforced this policy and as an unfortunate result some students have lost one full letter grade or have failed the course. Absences are posted on Bb.
- If you anticipate missing classes very often due to work, etc., then you should reconsider taking this course.
- If you do miss a large amount of classes and or assigned work due to health or personal issues then you should consider contacting the *appropriate administrative office* here at SHSU.

E. Final Course Grade:

The **final grade** is the average of five grades: the four exams and the case briefing grade.

- Scale: 90-100=A 80-89=B 70-79=C 60-69=D 0-59=F
- All grades will be posted on BlackBoard. No rounding, extra credit, consideration of hardships, scholarships, athletic eligibility, and financial aid will be used in computing the final grade.

V. COURSE POLICIES:

A. Academic Dishonesty (cheating):

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 from students or from any source. Cutting and pasting anything from the web.
2. Handing in a brief or simulation assignment that was written by someone other than you or from previous classes. This includes working collaboratively on briefs or purchasing material online. Soliciting material from other students.
3. Copying answers from another student's exam.
4. Bringing filled out bluebooks, or "cheat sheets" to an exam.
5. Misrepresentation: using deceit or false statements as a means of making up missed work.
6. Using a smart phone or any other electronic device during an exam.
7. Leaving the classroom during an exam for the purpose of conferring with a person about the exam or checking notes.

Q: What are the possible penalties for the above actions?

1. Exams: If you cheat in any way (as described above) during an exam you will fail the course.
2. Briefs: If you cheat in any way (as described above) on briefs you will receive a 0 (F) for your semester's brief grade.

3. Other assignments: If you cheat in any way (as described above) on an assignment you will receive a 0 (F) for that assignment.

4. By registering for this class you agree to abide by these conditions and understand that you or your work may be photographed as evidence in the event of suspected cheating.

B. Disruptive Conduct:

The First Amendment prevails in this class. However, a student who engages on *any speech or conduct or makes any display* in the classroom that intentionally or unintentionally disrupts the learning process and, thus, “impedes the mission of the university,” will be asked to leave the class and may be reported to the Dean of Students for disciplinary action in accordance with written university policy. Silence and pack away all cell phones.

Cell phones: *Texting during class is disruptive behavior; as is inappropriate (non academic use) use of notebook computers. I will pause and tell you to put away your phone. jFor every two texting incidents in class I will deduct 5 points from your final grade. 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>

E. Visitors: Only registered students may attend class. Exceptions can be made on a case-by-case basis by the professor. In all cases, visitors must not present a disruption to the class by their attendance. Students wishing to audit a class must apply to do so through the Registrar's Office.

F. Course Evaluations:

Students will be asked to complete a course/instructor evaluation form toward the end of the semester.

VI. COURSE APPROACH & PEDAGOGY (FAQs):

Q: What approach do we take in this class?

A: A modified case-method/Socratic approach used in law school. I do not use a lecture approach in this class. In other words, heavy class participation is the norm. You will be called on and be expected to speak in class. We all have our own opinions -- and are free to express them -- but the only opinions that truly matter in this course are the justices' opinion.

Q: What are the daily expectations?

A: Students are all expected to have read and briefed the cases before class and to be prepared to answer the professor's questions, respond to other students, as well as raise questions of their own. I use a seating chart and will call on you. Assignments will be due every day.

Q: What kind of exams should I expect?

Essay exams will be drawn from assigned cases, class discussions and independent reading. *In many ways, every class is a study session for the exams.*

Q: What kind of workload should I expect?

A: This is a very rigorous and challenging 4000-level course, probably requiring more hours and effort than many other courses you have taken. Ideally, you should have taken at least one class that was writing intensive before taking this class. *Read the syllabus carefully so that you fully understand my expectations. You will be best served by a good attitude and strong motivation to do well in this course. If you have a poor attitude and little time to devote to this class you will probably be unhappy.*

Q: Is there much writing expected in this class?

A: Yes. As mentioned above, daily briefs and essay exams.

VII: DAILY BRIEFING ASSIGNMENTS:

1. **Brief all cases listed. Turn in for grade those designated “turn in for grade.”**
2. Please read the cases in the order they appear on the syllabus.
3. Most listed cases are in *abridged* form in the Ducat. If they are not in the book then you see the word “full opinion online” next to the case. You will need to find the cases on the Supreme Court’s official website (<http://www.supremecourt.gov/>) or other databases that have the full *original* opinion.
4. Although I have not included page numbers on the syllabus, these cases have accompanying commentary and interpretation that is included in each chapter of the Ducat book to help you better understand the opinions.
5. Always bring your briefs to class. It is due the day of the class discussion. Also, in the past we have had printer drama nearly every day. This caused tardiness and disruption. Find a way to deal with this. Do not email briefs to me.
6. Late briefs are permitted with a legitimate excuse but the brief must be turned in by the end of the week that it was assigned. Late briefs will receive 50% of the full grade.
7. Always bring your book to class.
8. *As mentioned above, always, always use your own words when writing your brief. Cutting and pasting from the web or copying another’s brief is plagiarism. I read these briefs very carefully. I am very familiar with the justices’ opinions. Very Important: Read the Court’s actual opinion and not some “expert’s” interpretation of the court’s ruling. Your brief must be in your own words and be based on the justices’ own words. If you use Wikipedia, some blog, or some other source I will give you a 0 on that brief for the first violation. For the second violation you will get a 0 for the entire semester’s brief grade. Third violation I will give you a 0 for the course. If I see a sentence or passage that I suspect is not in your words then the above consequences apply. You may use short block quotes from the justices in quotation marks.*

OUTLINE OF COURSE:

I. Introduction: 8/24, 8/29

- A. Syllabus
- B. Case Briefing – watch video overview
- C. The United States Supreme Court: A Quick Course – watch video overview
- D. Finding Court opinions online – watch video overview

II. CIVIL RIGHTS AND LIBERTIES (selected cases).

- Brief and be prepared to discuss ALL cases listed; but note which are to be turned in.
- When this course is scheduled over a MWF week then one case brief is due per day. Generally, over a TuTH week two case briefs are due one day and one case brief the other day.

A. Freedom of Speech: This section focuses on the scope of the First Amendment and the extent to which the government can restrict speech. Read Ducat commentary and cases in chap. 11:

1. Schenck v. US (1919) [turn in for grade] 8/31
2. Terminello v. Chicago (1949) [turn in for grade] 9/5
3. Brandenburg v. OH (1969) [turn in for grade] 9/5
4. Cohen v. CA (1971) [turn in for grade] 9/7
5. West Virginia State Board of Education v. Barnette (1943) [turn in for grade] 9/12
6. Texas v. Johnson (1989) [turn in for grade] 9/12
7. [Virginia v. Black](#) (2003) (full opinion online) [turn in for grade] 9/14
8. New York Times v. U.S. (1971) [turn in for grade] 9/19
9. Miller v. CA (1973) [turn in for grade] 9/21

FIRST EXAM – 9/26

C. Freedom of Religion *and* Freedom from State-Sponsored Religion. This section deals with the controversies arising under the two religion clauses. Ducat, chap. 13:

10. Engel v. Vitale (1962) (full opinion online) [turn in for grade] 9/28
11. Lee v. Weisman (1992) [turn in for grade] 10/3
12. Lemon v. Kurtzman (1971) [turn in for grade] 10/3
13. Edwards v. Aguillard (1987) [turn in for grade] 10/5
14. Van Orden v. Perry (2005) [turn in for grade] 10/10
15. [Town of Greece v. Galloway](#) (2014) (full opinion online) [turn in for grade] 10/10
16. Employment Division v. Smith (1990) [turn in for grade] 10/12

SECOND EXAM -- 10/17

D. Equal Protection of the Laws. These cases examine the application of the 14th Amendment to discriminatory treatment of different groups or classes of people. Ducat chap. 14:

17. Plessy v. Ferguson (1896) [turn in for grade] 10/19
18. Sweatt v. Painter (1950) [turn in for grade] 10/24
19. Brown v. Board of Education I (1954) [turn in for grade] 10/24
20. Frontiero v. Richardson (1973) [turn in for grade] 10/26
21. U.S. v. Virginia (1996) [turn in for grade] 10/31
22. Regents v. Bakke (1978) [turn in for grade] 10/31
23. Parents Involved v. Seattle (2007) [turn in for grade] 11/2

THIRD EXAM— 11/7

E. Right to Privacy/Substantive Due Process. What is the definition and scope of the right to privacy? Ducat, chap. 10:

24. *Griswold v. CT* (1965) [turn in for grade] 11/9

25. *Roe v. Wade* (1973) [turn in for grade] 11/9

26. *Lawrence v. TX* (2003) [turn in for grade] 11/14

27. *Katz v. U.S.* (1967) [turn in for grade] 11/14

28. *CA v. Ciruolo* (1986) [turn in for grade] 11/16

29. *Kyllo v. U.S.* (2001) [turn in for grade] 11/16

Thanksgiving Break 11/20-11/24

30. [Obergefell v. Hodges](#) (2015) (full opinion online – it's very long) [hand in for grade] 11/28

F. Right to Bear Arms. This section examines the Court's only two and very recent rulings on the scope of Second Amendment protections.

31. [McDonald v. Chicago](#) (2010) [turn in for grade] (this opinion is 214 pages long so you may want to read it online) 11/30

11/30 – last day of class

FINAL EXAM --_____