

**POLS 433B: CIVIL RIGHTS AND LIBERTIES
SPRING 2009**

**PULLIAM 310
TR: 9:35 – 10:50**

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COURSE PURPOSE

The purpose of this course is to introduce you to civil liberties in the United States, and to investigate how social and political forces play a role in the development of legal doctrine. We will focus primarily on the First, Ninth, Tenth, and Fourteenth Amendments, though we will also discuss the Third, Fourth, and Fifth Amendments as they apply to the right to privacy. Emphasis will be placed on evaluating how the United States Supreme Court defines, establishes, and protects these liberties through its interpretation of the Constitution. By the end of the course, you will have a greater understanding of the role of the Bill of Rights in American political and social consciousness, and you will emerge with a clearer picture of how Supreme Court interpretations of key provisions of the Constitution affect our political structure and social relationships.

Another primary purpose of this course is to improve your critical reading, writing, and organizational skills. Toward that end, the written assignments and exams will focus on improving proficiency in those areas. You will learn to brief Supreme Court cases, and exams will evaluate your ability to extrapolate from the cases themselves and construct arguments that demonstrate a knowledge of the concepts behind the cases. Through the research paper, you will cultivate the ability to conduct independent research, construct and support an argument with various types of evidence, and improve your ability to convey complex ideas and information clearly. In addition, emphasis is placed on classroom participation and critical discussion of the readings.

TEXT

Epstein, Lee and Thomas G. Walker. 2004. *Constitutional Law For a Changing America: Rights, Liberties, and Justice*. Fifth Edition. Washington D.C.: CQ Press.

Additional cases not contained in the texts will be posted on *Blackboard*. These are marked in **bold** throughout the syllabus. I will also make additional readings available on *Blackboard* as well.

COURSE REQUIREMENTS

Your grade will be based on your performance on two exams, a research paper, case briefs/quizzes, and class participation.

CONTACTING ME

You are always welcome to stop by my office during office hours to discuss questions/issues related to the course or other academic matters. If my office hours conflict with your schedule, you may also contact me by phone or via *Blackboard*. I will do my best to return your call within 24 hours. If you would like a more immediate response, I check my email frequently, and will return messages as

promptly as possible. This is a difficult class, and I expect that many of you will encounter problems in completing some of the assignments. Please take advantage of the opportunity to discuss the course material with me outside of class, particularly if you are having trouble, or would like additional clarification.

COURSE WEB PAGE

This course will be managed using [Blackboard](#). Detailed instructions to assist you in creating an account and adding this course can be accessed from the [Morris Library](#) page. You will have access to all course information, including the syllabus, course schedule, reading assignments, resources for your papers, discussion boards, and an email system to contact me or other students in the class. I will regularly post messages regarding the reading, schedule, assignments, and grades to the course page. Therefore, you should make a habit of checking the course page on a daily basis to keep up with reading assignments and other course related announcements. There are numerous computer labs on campus, so access to *Blackboard* should not be a problem. You may also access information related to the course from the [course web page](#). You **MUST** create an account by the second day of class. Ten points will be deducted daily until you create an account.

EXAMS (20% EACH)

As this is an upper level course, I expect you to develop your analytical and writing skills. The test questions are designed to challenge your ability to extrapolate from the information provided in class and in the readings, and also to convey that information in a clear, concise, and effective manner. I expect you to know the material and be able to analyze it critically. If you are unable to take an exam on the day it is scheduled, you will not be allowed to reschedule it for another time, but will instead complete a written assignment on a topic of my choosing to be completed within two weeks of the date scheduled for the missed exam. No student will be allowed to take the final exam prior to its scheduled date. All exams, including the final are non-comprehensive.

RESEARCH PAPER (30%)

Each of you will write a research paper on a topic of your own choosing related to the Supreme Court's treatment of a civil rights or civil liberties issue, **not** including criminal rights protected under the Fourth, Fifth, Sixth and Eighth Amendments.

You are required to meet with me by the end of week five (February 13th) of the semester to get approval for your topic. I suggest that you begin to think about potential topics as soon as possible. You may want to go through the book and scan for topics that might be of interest, and come into our meeting with two or three ideas for your paper. I will try to help you focus and refine your specific research question, and provide you with some ideas and suggestions for sources of data and plans of attack for completing your paper.

The paper should be 20 – 25 pages in length, and should consist of some original research on your part. This may require that you collect quantitative data to answer a specific research question, or it may require you to conduct in-depth qualitative analysis of the Court's interpretation of a particular vein of law. By week five, I will provide you with a number of resources to assist in completing the paper, including some general sources of data and information, and a detailed list of guidelines for style, length, and format of the paper. **The paper is due in my mailbox in the Political Science main office by May 1st, at 4:00 p.m.** Ten points will be deducted for each day that your paper is late.

CASE BRIEFS/QUIZZES (20%)

Most of our focus this semester will be on cases decided by the Supreme Court. Briefing will help you to better understand the cases, and make studying for the exams much easier. You are expected to come to class every day having completed all of the reading, and having briefed the appropriate cases for that day's topic. I will randomly assign 5 – 10 cases to be briefed. I will then collect those briefs in class one week from the date they are assigned. All briefs must be prepared on a typewriter or word processor and printed. Make sure that your name is on every page and that all briefs are stapled together. I do not accept briefs via email. **Late briefs will not be accepted under any circumstances.** I will discuss the proper formatting and content of briefs during the first week of class.

The other component of this portion of your grade will consist of quizzes administered randomly throughout the semester. The quizzes will cover assigned reading material including, but not limited to, cases from Epstein and Walker. Quizzes will be unannounced. Make certain that you bring paper and a pen to class every day so that you can take the quiz. Quizzes will take no more than ten minutes and will be turned in immediately. Books, notes, and other supplementary sources may not be used for the quizzes.

PARTICIPATION (10%)

Attendance in this course is required. For many of you, this is the first time you have been exposed to Supreme Court cases. We will devote a significant portion of class time to the discussion and analysis of those cases. Because I feel that class time is so important, I do not offer excused absences, except for religious observance, as required by the University. You must notify me at least three class periods prior to the day you will be absent in order to be excused from class for religious reasons.

You will have two “free” absences, meaning that you may miss class twice without points being subtracted from your grade. For every absence after the first two, including illness, ten points will be deducted from your final grade. You may prevent those points from being deducted by submitting a one-page, single spaced, analysis paper, covering the material to be covered in class the day you were absent, within one week from the day of your absence. In the paper, you should discuss the primary legal issues involved, the Court's reasoning, and the outcome of the case. A maximum of five analysis papers may be submitted to cover absences. If you complete five analysis papers (and continue to miss class), ten points will be deducted for every additional absence.

I begin class promptly at the scheduled time. I do not tolerate tardiness. If you enter class late, I consider that an absence, and points will be deducted accordingly. I will not make a point to remind you that you are late or that you are accumulating absences. It is your responsibility to monitor your own attendance and submit analysis papers as necessary. If you have circumstances that dictate chronic absence or tardiness, I strongly suggest that you reevaluate your decision to take this class.

Mere attendance is not sufficient; you must be an active member of the class. In order to receive credit for this portion of your grade you must show a willingness to engage the material, discussing cases in a critical manner. I expect volunteers to lead discussion on cases that are assigned. I will also call on students to present the facts of the case and to provide an analysis of the Court's decision. Reading the course material thoroughly and coming to class prepared to discuss cases is expected, and essential to learning the material.

STUDENT CONDUCT

Students should behave in a professional and courteous manner at all times. Students are expected to turn off all cell phones and pagers when entering class. Eating is not permitted. It is essential that students feel comfortable in the classroom, and while disagreement is expected and encouraged, please remain respectful of your fellow students and the professor. Any student behaving in a manner that is in any way disruptive or inappropriate will be removed, and potentially sanctioned as outlined in the [University Student Conduct Code](#).

ACADEMIC INTEGRITY

You are responsible for your own work. It is considered cheating to submit someone else's work as your own. Using information from another source (book, article, internet site, another student, etc.) without properly crediting the author is plagiarism. Direct quotations, paraphrased information, and the general use of another person's idea must be properly referenced in your work. During exams, you are not allowed external aids (notes, books, etc.). The penalty for violations such as plagiarism, cheating, or other misconduct will result in a failing grade in the course, and may result in a formal charge of misconduct as outlined in the [University Student Conduct Code](#), possibly leading to further sanctions, including suspension or expulsion.

If you have any questions about what constitutes cheating and plagiarism, contact the Southern Illinois University office of Academic Advising, or view the [University Undergraduate Catalog](#) for more information.

DISABILITIES

Students with disabilities who require individualized testing or other accommodations should identify themselves to me immediately. Every effort will be made to accommodate your needs. [Disabilities Support Services](#) can assist you with testing, note-taking, and accessibility issues.

GRADING

Midterm Exam	100 points (20%)
Final Exam	100 points (20%)
Research Paper	150 points (30%)
Case Briefs/Quizzes	100 points (20%)
<u>Participation</u>	<u>50 points (10%)</u>
Total	500 points

GRADING SCALE (PERCENTAGES)

A	90 – 100
B	80 – 89
C	70 – 79
D	60 – 69
F	59 – Below

COURSE SCHEDULE¹

I. INTRODUCTION TO THE SUPREME COURT (JANUARY 15TH)

- A. The Role of the Court in the American Legal System
 - **Epstein & Walker (E&W), pp. 3 – 49**
- B. Approaches to Supreme Court Decision-Making
- C. Legal Research and Briefing Cases
- D. Powers and Constraints
 - **E&W, pp. 50 – 74**
 - **Cases:** *Marbury v. Madison* (1803).

II. THE BILL OF RIGHTS (JANUARY 20TH – 27TH)

- A. Introduction to the Bill of Rights
- B. Incorporation
 - **E&W, pp. 75 – 97**
 - **Cases:** *Barron v. Baltimore* (1833), *Hurtado v. California* (1884), *Palko v. Connecticut* (1937), *Duncan v. Louisiana* (1968).
- C. Substantive Due Process
 - **E&W, Vol. 1, pp. 554 – 599 (Blackboard)**
 - **Cases:** *Lochner v. New York* (1905), *Nebbia v. New York* (1934), *West Coast Hotel v. Parrish* (1937).
- D. The Preferred Freedoms Doctrine
 - **Cases:** *United States v. Carolene Products Co.* (1938).

III. RELIGIOUS FREEDOM (JANUARY 29TH – FEBRUARY 10TH)

- A. Introduction
- B. The Free Exercise Clause
 - **E&W, pp. 101 – 145**
 - **Cases:** *Cantwell v. Connecticut* (1940), *Sherbert v. Verner* (1963), *Wisconsin v. Yoder* (1972), *Employment Division, Department of Human Resources of Oregon v. Smith* (1990), *City of Boerne v. Flores* (1997), *Cutter v. Wilkinson* (2005), *Gonzales v. O Centro Espiritita Beneficente Uniao Do Vegital* (2006).
- C. Religious Establishment
 - **E&W, pp. 145 – 213**
 - **Cases:** *Everson v. Board of Education* (1947), *Lemon v. Kurtzman*; *Early v. DiCenso* (1971), *Agostini v. Felton* (1997), *Zelman v. Simmons-Harris* (2002), *Locke v. Davey* (2004), *Edwards v. Aguillard* (1987), *McCreary County, Kentucky v. American Civil Liberties Union of Kentucky* (2005), *Van Orden v. Perry* (2005), *School District of Abington Township v. Schempp* (1963), *Lee v. Weisman* (1992).

¹ I reserve the right to make changes to this syllabus as necessary.

IV. FREE EXPRESSION, ASSEMBLY, AND ASSOCIATION (FEBRUARY 12TH – MARCH 3RD)

- A. Introduction: The History and Development of Free Speech Standards
- B. Expression During Times of Crisis
 - **E&W, pp. 214 – 246**
 - **Cases:** *Schenck v. United States* (1919), *Abrams v. United States* (1919), *Gitlow v. New York* (1925), *Dennis v. United States* (1951), *Brandenburg v. Ohio* (1969).
- C. Regulation of Expression
 - **E&W, pp. 246 – 318**
 - 1.) Public Disturbances and Fighting Words
 - **Cases:** *United States v. O'Brien* (1968), *Tinker v. Des Moines* (1969), *Texas v. Johnson* (1989), *Chaplinsky v. New Hampshire* (1942), *Cohen v. California* (1971), *Hill v. Colorado* (2000).
 - 2.) Content Based Regulations
 - **Cases:** *R.A.V. v. City of St. Paul* (1992), ***Virginia v. Black* (2003)**, *Wisconsin v. Mitchell* (1993), *West Virginia State Board of Education v. Barnette* (1943), ***Morse v. Frederick* (2007)**.
 - 3.) Campaigns and Elections
 - **Cases:** *Buckley v. Valeo* (1976), ***McConnell v. Federal Election Commission* (2003)**, ***Randall v. Sorrell* (2006)**, ***Federal Election Commission v. Wisconsin Right to Life, Inc.* (2007)**.
 - 4.) Other Regulations
 - **Cases:** *Bates v. State Bar of Arizona* (1977), *Central Hudson Gas and Electric Corporation v. Public Service Commission of New York* (1980), *Boy Scouts of America v. Dale* (2000), ***Rumsfeld v. FAIR* (2006)**.

****MIDTERM: THURSDAY MARCH 5TH **²**

V. FREEDOM OF THE PRESS (MARCH 17TH – 19TH)

- A. Prior Restraint
 - **E&W, pp. 319 – 340**
 - **Cases:** *Near v. Minnesota* (1931), *New York Times v. United States* (1971), *Hazelwood School District v. Kuhlmeier* (1988).
- B. Governmental Control of Content
 - **E&W, pp. 340 – 350**
 - **Case:** *Red Lion Broadcasting v. FCC* (1969).
- C. The Media and Special Rights
 - **E&W, pp. 350 – 357**
 - **Case:** *Branzburg v. Hayes* (1972).

² The date for the Midterm is subject to change depending on our progress with the material.

VI. OBSCENITY AND LIBEL (MARCH 24TH – 26TH)

A. Obscenity

- **E&W, pp. 358 – 395**
- **Cases:** *Roth v. United States* (1957), *Miller v. California* (1973), *New York v. Ferber* (1982), *Ashcroft v. Free Speech Coalition* (2001), *Reno v. American Civil Liberties Union* (1997), *Ashcroft v. ACLU* (2002).

B. Libel

- **E&W, pp. 395 – 418**
- **Cases:** *New York Times v. Sullivan* (1964), *Gertz v. Welch* (1974), *Hustler Magazine v. Falwell* (1988).

VII. THE RIGHT TO PRIVACY (MARCH 31ST – APRIL 9TH)

A. Introduction to the Right to Privacy

- **E&W, pp. 429 – 438**
- **Case:** *Griswold v. Connecticut* (1965).

B. Reproductive Rights – Abortion

- **E&W, pp. 438 – 472**
- **Cases:** *Roe v. Wade* (1973), *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992), *Gonzales v. Carhart* (2007).

C. Privacy post-*Griswold*

- **E&W, pp. 472 – 500**
- **Cases:** *Bowers v. Hardwick* (1986), *Lawrence v. Texas* (2003), *Cruzan v. Director, Missouri Department of Health* (1990).

VIII. DISCRIMINATION (APRIL 14TH – 23RD)

A. Racial Discrimination

- **E&W, pp. 651 – 696**
- **Cases:** *Plessy v. Ferguson* (1896), *Sweatt v. Painter* (1950), *Brown v. Board of Education (I & II)* (1954 & 1955), *Swann v. Charlotte-Mecklenburg Board of Education* (1971), *Loving v. Virginia* (1967), *Shelley v. Kraemer* (1948), *Burton v. Wilmington Parking Authority* (1961), *Moose Lodge No. 107 v. Irvis* (1972).

B. Sex Discrimination

- **E&W, pp. 696 – 729**
- **Cases:** *Reed v. Reed* (1971), *Frontiero v. Richardson* (1973), *Craig v. Boren* (1976), *United States v. Virginia* (1996), *Rostker v. Goldberg* (1981).

C. Other Discrimination

- **E&W, pp. 729 – 744**
- **Cases:** *Romer v. Evans* (1996), *San Antonio Independent School District v. Rodriguez* (1973), *Saenz v. Roe* (1999).

D. Remedies: Affirmative Action

- **E&W, pp. 744 – 779**
- **Cases:** *Regents of the University of California v. Bakke* (1978), *City of Richmond v. J. A. Croson Co.* (1989), *Adarand Constructors, Inc. v. Peña* (1995), *Grutter v. Bollinger* (2003).

IX. VOTING AND REPRESENTATION (APRIL 28TH – 30TH)

A. Voting Rights

- **E&W, pp. 780 – 808**
- **Cases:** *Bush v. Gore* (2000), *Louisiana v. United States* (1965), *South Carolina v. Katzenbach* (1966), *California Democratic Party v. Jones* (2000).

B. Political Representation

- **E&W, pp. 808 – 836**
- **Cases:** *Baker v. Carr* (1962), *Reynolds v. Sims* (1964), *Miller v. Johnson* (1995),

****FINAL EXAM: TUESDAY, MAY 7TH, 8:00 – 9:50 A.M.****

IMPORTANT DATES

MIDTERM EXAM: THURSDAY, MARCH 5TH
FINAL EXAM: THURSDAY, MAY 7TH, 8:00 – 9:50 A.M.
PAPER TOPIC: FEBRUARY 13TH
REFERENCE LIST: FEBRUARY 27TH
PAPER THESIS: MARCH 20TH
PAPER OUTLINE: MARCH 27TH
ROUGH DRAFT: APRIL 10TH
RESEARCH PAPER DUE: FRIDAY, MAY 1ST, 4:00 P.M.

NO CLASS HELD: MARCH 10TH – 12TH (SPRING BREAK)
APRIL 2ND (MPSA)

FINAL DAY TO DROP WITHOUT A GRADE AND FOR A FULL REFUND: JANUARY 23RD