

Constitutional Law: Civil Liberties PSC 411B

Fall 2007

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Office Hours: Monday 9-10:30; Tuesday 9:30-11; or by appointment

Course Description:

This course is designed to highlight the politics of civil liberties through the lens of the institution central to this political enterprise: the US Supreme Court. Through course readings, class lecture, and discussion, we will cover basic interpretive theories, incorporation of the bill of rights, economic and privacy rights, equal protection, freedoms of speech and religion. While case law dominates the reading for the course, class discussion will seek to elucidate judicial reasoning and examine the political nature of the decision-making process. This will, in part, require us to put the cases in their proper historical settings. By understanding the history and politics surrounding the Court's decision-making, we can ask and tentatively answer the following questions: Are there political forces seeking resolution of the issue? Are certain political actors benefiting from the Court deciding these issues? How? Why? Do political actors see these questions differently than do the justices? If so, what are the implications for the policy in question? Thus, this course not only focuses on how judges interpret and understand the Constitution but also on the nature of constitutional politics in America.

Required Text:

O'Brien, David M., *Constitutional Law and Politics, Volume 2: Civil Rights and Civil Liberties* (6th edition)

Academic Misconduct:

Academic integrity is a legitimate concern for every member of the campus community; all share in upholding the fundamental values of honesty, trust, respect, fairness, responsibility and professionalism. By choosing to join the UNLV community, students accept the expectations of the Academic Misconduct Policy and are encouraged when

faced with choices to always take the ethical path. Students enrolling in UNLV assume the obligation to conduct themselves in a manner compatible with UNLV's function as an educational institution.

An example of academic misconduct is plagiarism (i.e., using the words or ideas of another, from the internet or any source without proper citation of the sources).

Classroom Policies/Rules:

It is a faculty member's discretion and prerogative to determine what is and is not acceptable behavior in his or her classroom (i.e., late arrival, wearing hats). Also, classroom occupants are at the discretion of the instructor (per UNLV General Counsel). See: <http://studentlife.unlv.edu/judicial/student.html>

Consensual Relationships:

The University of Nevada, Las Vegas prohibits romantic or sexual relationships between members of the university community when one of the individuals involved has direct professional influence or direct authority over the other.

Copyright:

The University requires all members of the University Community to familiarize themselves and to follow copyright and fair use requirements. YOU ARE INDIVIDUALLY AND SOLELY RESPONSIBLE FOR VIOLATIONS OF COPYRIGHT AND FAIR USE LAWS. THE UNIVERSITY WILL NEITHER PROTECT NOR DEFEND YOU NOR ASSUME ANY RESPONSIBILITY FOR EMPLOYEE OR STUDENT VIOLATIONS OF FAIR USE LAWS. Violations of copyright laws could subject you to federal and state civil penalties and criminal liability as well as disciplinary action under University policies. To familiarize yourself with copyright and fair use policies, the University encourages you to visit its copyright website at: <http://www.unlv.edu/committees/copyright/>.

Accommodations:

Students with disabilities are requested to inform the instructor of their needs at the beginning of the course. Accommodations for disabilities will be happily granted, however, all such guidelines will follow the requirements of university-wide policy (see <http://www.unlv.edu/studentlife/disability/>).

As a general rule, a student missing a class assignment because of observance of a religious holiday shall have the opportunity to make up missed work. Students must

provide notice of anticipated absences by the last day of late registration (August 31) to be assured of this opportunity.

Also, students who represent UNLV at any official extracurricular activity shall have the opportunity to make up assignments, but the student must provide official written notification no less than one week prior to the missed class(es).

Missing deadlines or exams due to illness requires documentation from a doctor. Please refer to University policy if you have any questions or contact me directly.

Course Requirements:

Paper	20%
Unannounced Quizzes	10%
Class Participation	10%
Midterm Examination	25%
Final Exam	35%

Paper—The paper must be approximately 8-10 pages in length. You will be responsible, first, for making a policy argument and, second, translating that policy argument into a constitutional argument. A list of acceptable topics will be furnished by the professor and will be given to the class following the midterm exam.

Unannounced Quizzes—Quizzes will cover the reading assigned for the class in which the quiz is given. The number of quizzes given is subject to the discretion of the professor but students should expect at least four. The lowest quiz grade for each student will be dropped.

Class Participation—Participation means participating meaningfully in class discussion. Mere attendance is not sufficient to warrant credit for participation.

Examinations—Both the midterm and final examinations will be comprehensive of the material assigned and covered in class to the point of the exam.

Course Outline:

August 27—Introduction/Class Preliminaries

August 29—Theories of Interpretation

- Chapter 1, Section B (67-98; skim material on comparative perspective)

September 3—Labor Day (No Class)

September 5—Incorporation of the Bill of Rights

- Chapter 4 (309-325; read *The Slaughterhouse Cases*, 266-270)

September 10— Incorporation of the Bill of Rights

- Chapter 4 (326-353)

September 12—Economic Rights

- Chapter 3 (220-252)

September 17—Economic Rights (Constitution Day)

- Chapter 3 (252-284)

September 19—Economic Rights

- Chapter 3 (286-301)
- *Kelo v. City of New London*; available at <http://www.law.duke.edu/publiclaw/supremecourtonline/>

September 24—Right to Privacy

- Chapter 11 (1222-1254)

September 26—Right to Privacy

- Chapter 11 (1258-1281)

October 1—Right to Privacy

- Chapter 11 (1285-1324)

October 3—Equal Protection: Racial Classifications pre-1954

- Chapter 12 (1325-1381)

October 8—Equal Protection: Racial Discrimination in Education

- Chapter 12 (1382-1425)

October 10—Equal Protection/Midterm Review

October 15—**Midterm Examination**

October 17—Equal Protection: Affirmative Action

- Chapter 12 (1435-1471)

October 22—Equal Protection: Affirmative Action

- Chapter 12 (1471-1497)

October 24—Equal Protection: Gender

- Chapter 12 (1497-1529)

October 29—Equal Protection: Sexual Orientation

- Chapter 12 (1533-1545)

October 31— Free Expression

- Chapter 5 (386-430)

November 5— Free Expression: Obscenity

- Chapter 5 (431-479)

November 7— Free Expression: Fight Words and Hate Speech

- Chapter 5 (479-517)

November 12— Free Expression: Libel

- Chapter 5 (526-551)

November 14— Free Expression: Freedom of Press

- Chapter 5 (578-606)

November 19— Free Expression: Symbolic Speech

- Chapter 5 (637-666)

November 21— Religious Freedom: Establishment Clause

- Chapter 6 (688-733)

November 26—Religious Freedom: Establishment Clause

- Chapter 6 (733-798)

November 28—Religious Freedom: Free Exercise

- Chapter 6 (799-832)

December 3—Religious Freedom: Free Exercise (*Paper Due*)

- Chapter 6 (833-845)

December 5—Religious Freedom: Free Exercise/Final Exam Review

FINAL EXAM—TBA