

CIVIL LIBERTIES IN AMERICA

Political Science 3543 - Spring Semester 2009

Writing Intensive Course

Prerequisite: PLS 1153

Class Meetings: M,W, F, 12:00-12:50

Classroom: 2210 Coleman Hall

Professor: Karen Swenson

Office: 2321 Coleman Hall

Office Hours (drop-in): 2:00-4:00, Tuesday; 2:00-5:00, Thursday; appointments are also available other times as arranged

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Course Objectives: This course will introduce you to the Supreme Court's interpretations of the constitutional principles governing the civil rights and liberties of individuals. We will address a number of topics including: the First Amendment freedom of expression and the religion clauses; the constitutional right to privacy; the Second Amendment right to keep and bear arms; and the equal protection clause of the Fourteenth Amendment. (The constitutional rights of criminal defendants are addressed in another course, Criminal Law.)

Through reading Supreme Court case opinions addressing these topics, you will develop a basic understanding of the constitutional law governing these important constitutional rights. You will also become familiar with theories of constitutional interpretation and how they are applied by the Court. Furthermore, you will be able to critically analyze the justices' reasoning and opinions, as well as shifts in Court doctrines. You will develop tools that will allow you to analyze current civil liberties controversies.

You will take a more active role in this class relative to others you have had. Lecturing will be at a minimum, as a substantial portion of this course will be taught using a modified "socratic method" in which students will be called upon to discuss the cases.

Course Material: The assigned text for this course is *Constitutional Law for a Changing America: Rights, Liberties and Justice*, 5th edition, by Lee Epstein and Thomas G. Walker. *Bring your textbook to class with you every day - much class time is used to interpret the text of the opinions and the constitution.*

Should you want or need to supplement your textbook, unedited Court opinions are available in the library in several publications, including U.S. Reports and U. S. Law Week. Internet sources for Court opinions include Lexis-Nexis Academic Universe (available through the library website) and www.findlaw.com.

Assessment: Class Participation - 20%; Attendance - 10%; Midterm Exams - 20% each; Final Exam - 30%.

Exams: The midterm exams will test you on the material covered up through the class prior to the exam. The final exam will be comprehensive, but with more focus on materials covered since the midterm. The first midterm exam will be held on **Monday, February 16**; the second midterm exam will be held on **Friday, March 27**. The final

exam will be held according to the University Final Examinations schedule.

Class Preparation and Participation: As class participation is important to the quality of the class, regular student attendance and preparation in advance of class is generally a necessity.

Most of the class discussion will involve analyzing Supreme Court cases excerpted in the textbook; the best way you can prepare for class is to “brief” the assigned cases (those noted in the course outline) in the style discussed in Appendix 8 of the textbook and in the handout “How to Prepare for Class / How to Brief a Case”. (Doing so will also make studying for the exams easier.) I will not collect and grade your briefs, but I am glad to review them and offer feedback. In addition to containing excerpted cases, your textbook also includes a great deal of useful commentary. Be sure to read the commentary at the beginning of each chapter that is covered in this course, and to read the commentary preceding and following each assigned case.

To insure student participation in discussion, several students will be assigned to bear primary responsibility for cases once we reach part 2 in the syllabus. I will call on those students to discuss the cases, and I expect you to be prepared. Case assignments will be made early in the semester. If you anticipate that you cannot be present at a class session where you will be called on, you may arrange a swap with another student on your own. (Be sure to tell me that you are doing this so I can assign credit appropriately.) Your overall class participation grade will reflect your performance during the classes where we discuss your assigned cases. Informed contribution to class discussion on other days is encouraged as well, and may bump you up if your grade is close. There is no “extra credit” in this class, however.

I have not scheduled particular cases for particular days, because we will benefit from the freedom to cover the material at our own pace. As a ballpark figure, however, I estimate that at first, we may go as slowly as 2 cases per class, but will pick up the pace as we become more familiar with reading and analyzing cases.

WebCT: This course will make use of WebCT. Course handouts will be available on it, and I will maintain a file that I will update after each class to indicate where we currently are on the syllabus. In addition, I encourage students to post comments in “discussions” about course content or course procedure.

Writing Intensive Course: A brief that you prepare for this class is eligible for submission to your Electronic Writing Portfolio (EWP), if it is at least 750 words (approximately 3 pages). For more information on the EWP, and how to submit a piece of writing, see the website at www.eiu.edu/~assess, or contact CASA at 581-8384 or email csdd@eiu.edu. They will prefer that you put the material in complete sentences and avoid the use of numbers to prevent the appearance of a “list”.

Dishonesty: No dishonest practices on the simulation project or the exams will be acceptable, and any suspected cases of dishonesty will be reported to the appropriate departmental committee and the University Judicial Affairs Office and handled according to departmental and university policy. Plagiarism is a dishonest practice, and includes

borrowing the ideas of another author without attribution, as well as paraphrasing (or directly quoting) the words of another author without attribution.

Timeliness: You are expected to take all exams on the scheduled dates. A *documented* medical emergency or *documented* excuse of similar magnitude will be needed to alter these dates without penalty. If humanly possible, notify me in advance that you must miss a scheduled assignment. Failure to provide advance notification, unless the documented excuse explains why this was not possible, will result in a zero for the assignment.

Special Needs: Students who have special needs under the Americans with Disabilities Act as documented by the Office of Disability Services should make their needs known to the instructor as soon as possible. Reasonable accommodation will be arranged in consultation with the Office of Disability Services.

Course Outline: This lists the order of the readings we will cover, and may be revised as we go along. Pay special attention (i.e., brief) the cases listed in the parentheses. These are the cases I will call on students to cover in class. You are responsible for all parts of assigned chapters of the textbook, however, so look over the authors' commentary and the cases not listed as well.

1. Introduction to the Supreme Court - Introduction to Part 1, Chapters 1 and 2; also skim appendices 1-10 and the textbook indexes.

2. The Legal Framework of Civil Liberties Policy

- a. Incorporation of the Bill of Rights - Chapter 3 (*Palko v. Connecticut*, p. 86; *Duncan v. Louisiana*, p. 90).
- b. Governmental and Private Action - pp. 687-688 (*Burton v. Wilmington Parking Authority*, p. 691; *Moose Lodge v. Irvis*, p. 694).

3. AMENDMENT I / FREE SPEECH AND PRESS CLAUSES: The Right to Freedom of Expression - Chapters 5-7

- a. Political Expression and the Impact of National Security Concerns and Crisis (*Schenck v. United States*, p. 217; *Gitlow v. New York*, p. 224; *Abrams v. United States*, p. 219; *Dennis v. United States*, p. 235; *Brandenburg v. Ohio*, p. 242; *New York Times v. United States*, p. 326).
- b. Expression Assertedly Warranting Little or No First Amendment Protection
 - 1. Symbolic Expression (*United States v. O'Brien*, p. 251; *Tinker v. Des Moines*, p. 254; *Texas v. Johnson*, p. 259).
 - 2. Fighting Words (*Chaplinsky v. New Hampshire*, p. 265).
 - 3. Indecency (*Cohen v. California*, p. 266).
 - 4. Hate Speech (*R.A.V. v. City of St. Paul*, p. 280).
 - 5. Campaign Donations and Expenditures (*Buckley v. Valeo*, p. 295).
 - 6. Commercial Speech (*Bates v. State Bar of Arizona*, p. 303).
 - 7. Obscenity (*Roth v. United States*, p. 360; *Miller v. California*, p. 367; *New York v. Ferber*, p. 372).

*Indecency, Obscenity, and Regulation of the Internet (*Ashcroft v. Free Speech Coalition*, p. 376; *Reno v. American Civil Liberties Union*, p. 381).

8. Libel (*New York Times v. Sullivan*, p. 396; *Gertz v. Welch*, p. 405; *Hustler Magazine v. Falwell*, p. 411).

c. Freedom of Association and Gay Rights (*Boy Scouts of America v. Dale*, p. 313).

4. AMENDMENT II: The Right to Keep and Bear Arms - Chapter 8 (*U.S. v. Miller*, p. 420; *District of Columbia v. Heller* (128 S. Ct. 2783 (2008) [locate on your own])).

5. AMENDMENT XIV / DUE PROCESS CLAUSE: The Right to Privacy - Chapter 9 (*Griswold v. Connecticut*, p. 432; *Roe v. Wade*, p. 440; *Planned Parenthood v. Casey*, p. 458; *Lawrence v. Texas*, p. 479; *Cruzan v. Director, Missouri Department of Health*, p. 489).

6. AMENDMENT XIV / EQUAL PROTECTION CLAUSE: The Right to be Free from Discrimination - Introduction to Part IV, Chapter 12

a. Race Discrimination (*Plessy v. Ferguson*, p. 661; *Sweatt v. Painter*, p. 668; *Brown v. Board of Education I*, p. 670; *Brown v. Board of Education II*, p. 674; *Swann v. Charlotte-Mecklenburg Board of Education*, p. 677; *Loving v. Virginia*, p. 683).

b. Sex Discrimination (*Frontiero v. Richardson*, p. 702; *Craig v. Boren*, p. 705; *U.S. v. Virginia*, p. 711; *Rostker v. Goldberg*, p. 719).

c. Sexual Orientation Discrimination (*Romer v. Evans*, p. 724).

d. Other Types of Discrimination (*San Antonio Independent School District*, p. 731).

e. Affirmative Action (*Regents of the University of California v. Bakke*, p. 746; *Grutter v. Bollinger*, p. 766; *Adarand Constructors v. Pena*, p. 761; *Parents Involved in Community Schools v. Seattle School District / Meredith v. Jefferson County Board of Education* (127 S. Ct. 2738 (2007) [locate on your own]).

7. AMENDMENT I / RELIGION CLAUSES - Chapter 4

a. The Right to Free Exercise of Religion (*Cantwell v. Connecticut*, p. 111; *Wisconsin v. Yoder*, p. 122; *Employment Division, Department of Human Resources of Oregon v. Smith*, p. 130).

b. The Right to be Free from Establishment of Religion (*Lemon v. Kurtzman*, p. 157; *Zelman v. Simmons-Harris*, p. 174; *Edwards v. Aguillard*, p. 187; *Lee v. Weisman*, p. 203; *Van Orden v. Perry*, 125 S. Ct. 2854; 162 L. Ed. 2d 607 (2005) [locate on your own]).