

Political Science  
Y305 American Constitutional Law II

Spring 2004

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Course Description

This course will explore in depth the constitutional politics of civil liberties and civil rights. It will examine the Supreme Court's decisions regarding Bill of Rights freedoms and Fourteenth Amendment guarantees. Primary attention will be given to rival interpretations of those freedoms and guarantees and to the role of the Supreme Court in the ongoing debate over civil rights and liberties.

Evaluation of Student Performance

The course meets twice a week for lecture and discussion. Course requirements include a final examination, two intermediate examinations, and class participation which will include extensive oral participation in discussion of cases and may include completion of small written assignments. Evaluation of student performance will be based upon these requirements. The intermediate examinations will each count 30% of the course grade and the final examination will count 40% of the course grade. Finally, the instructor's evaluation of class attendance, participation, and performance will be considered in the final grade determination. Participation accounts for quality as well as quantity of responses. However, consistent failure to attend or consistent unwillingness to respond meaningfully (in other words, a response based on having read the assignments) may result in a failing grade.

Class Policies

Students are expected to take or turn in (in the case of take-home tests) all examinations on the scheduled examination dates. Exceptions to this policy will be made only under appropriate and unusual circumstances. Makeup examinations and acceptance of late examinations are the instructor's prerogative. Only one makeup, if ever allowed, will be given to any student, and the makeup may be different in format. In order to be considered for a makeup, a student must directly contact the instructor prior to the due date. It is also the student's responsibility to follow up with the instructor on any arrangements concerning a makeup.

Students are expected **to read all assigned material prior to discussion of the material in class and be prepared to discuss these readings in class**. The instructor may play devil's advocate to stimulate discussion. Because we will be discussing controversial material, it is imperative that everyone be respectful of one another and one another's views, no matter how much one disagrees. Disruptive behavior will not be tolerated. (This includes communications devices—cell phones, pagers, beepers, etc.)

Class attendance is strongly recommended since the essays will be based on lectures, class discussion and on assigned readings. Class participation cannot be made up. If you miss a class, contact someone

who has attended. Announcements pertinent to the course will frequently be made in class, and students will be held responsible for knowing these announcements. Reading assignments, essay assignments and due dates will be announced in class in order to ensure flexibility for maximum student learning. Reading assignments and/or course requirements and evaluation of student performance may be altered during the course of the semester. Finally, students are also expected to keep up with current events, especially those legally related.

Cheating, plagiarism, or even facilitating academic dishonesty are serious offenses that may lead to failure on an assignment, failure for a course, or, in serious cases, suspension or expulsion from the university. Collaborative work is considered cheating. You may study together, discuss exam topics together, but do your own thinking. **Significant duplication or near duplication** can constitute cheating. (See IPFW Code of Student Rights, Responsibilities, and Conduct) Finally, taping of classes is generally not permitted.

If you have or acquire a disability and would like to find out what special services and accommodations may be available to you, contact Services for Students with Disabilities in WU113 (481-6657, voice/TTY).

#### Required Book:

Ducat, C. *Constitutional Interpretation: Rights of the Individual*, volume II, 8<sup>th</sup> ed.

Other required readings will be given to you in the form of handouts or placed on reserve in the library.

#### Course Outline:

- I. Introduction to Civil Liberties and Civil Rights
  - A. Civil Liberties and Civil Rights: What are they?
  - B. The Place of Law in the American Political System
  - C. Court Organization and Structure
  - D. Supreme Court Decision Making  
Recommended Readings: *Constitutional Interpretation*, pgs. 1324-1348
- II. The Nationalization of the Bill of Rights  
Required Readings (RR): *Constitutional Interpretation*, ch. 8, pgs. 467-493 and 498-501
- III. Freedom of Religion
  - A. The Establishment Clause
    1. Prayer, Bible-Reading, and Sunday Closing Laws  
RR: *Constitutional Interpretation*, Chapter 13, pgs. 1045-1061
    2. The Lemon Test and Financial Aid to Religion  
RR: *Constitutional Interpretation*, Chapter 13, pgs. 1061-1088

3. Whither Lemon?  
RR: *Constitutional Interpretation*, Chapter 13, pgs. 1088-1102

B. The Free Exercise Clause

RR: *Constitutional Interpretation*, Chapter 13, pgs. 1103-1122

IV. Freedom of Speech

A. Establishing Limits on Political Dissent

RR: *Constitutional Interpretation*, Chapter 11, pgs. 775-811

B. Protests, Pickets, and Demonstrations

1. The Public Forum

RR: *Constitutional Interpretation*, Chapter 11, pgs. 812-831

2. Private Property

RR: *Constitutional Interpretation*, Chapter 11, pgs. 838-850

C. Offensive Speech

RR: *Constitutional Interpretation*, Chapter 11, pgs. 850-856

D. Symbolic Speech

RR: *Constitutional Interpretation*, Chapter 11, pgs. 858-887

E. Speech and the Political Process

RR: *Constitutional Interpretation*, Chapter 11, pgs. 887-912

F. Analytical Framework

RR: *Constitutional Interpretation*, Chapter 11, pgs. 927-929

## V. Freedom of the Press

### A. Prior Restraint

RR: *Constitutional Interpretation*, Chapter 12, pgs. 930-949 and 972-975

### B. Obscenity

RR: *Constitutional Interpretation*, Chapter 12, pgs. 975-988 and 1003-1005

### C. Libel

RR: *Constitutional Interpretation*, Chapter 12, pgs. 1006-1027

### D. Free Press/Fair Trial

RR: *Constitutional Interpretation*, Chapter 12, pgs. 1027-1044

## VI. The Rights of the Accused

### A. The Fourth Amendment

#### 1. The Exclusionary Rule

RR: *Constitutional Interpretation*, Chapter 9, pgs. 600-606 and 612-620

#### 2. Searches and Seizures

RR: *Constitutional Interpretation*, Chapter 9, pgs. 620-624, 629-643, 647-651, 668-675, and 680-683

#### 3. Wiretapping and Eavesdropping

RR: *Constitutional Interpretation*, Chapter 9, pgs. 683-688 and 693-703

### B. The Fifth Amendment

#### 1. The Right to Counsel

RR: *Constitutional Interpretation*, Chapter 8, pgs. 517-533

#### 2. The Right against Self-Incrimination

RR: *Constitutional Interpretation*, Chapter 8, pgs. 533-549

#### 3. The Eighth Amendment

RR: *Constitutional Interpretation*, Chapter 8, pgs. 556-584 and 588-599

## VII. Equal Protection of the Law

### A. Racial Discrimination

RR: *Constitutional Interpretation*, Chapter 14, pgs. 1123-1136, 1155-1160, and 1179-1189

### B. Affirmative Action

RR: *Constitutional Interpretation*, Chapter 14, pgs. 1166-1179

### C. Nonracial Classifications

RR: *Constitutional Interpretation*, Chapter 14, pgs. 1249-1250, 1258-1269, 1274-1291, and 1303-1315

VIII. The Right to Privacy

RR: *Constitutional Interpretation*, Chapter 10, 704-721 and 749-774

IX. Final Observations

RR: *Constitutional Interpretation*, reprise pgs. 1324-1348