

Political Science 4251 - 001
CONSTITUTIONAL LAW II

SPRING 2009

M, W, F 12:00 - 12:50 pm
HUMN 135

Pre Law Advising: 2-5 pm M-F (by appt. only)
University Club 111; appts: //aac.colorado.edu

Prof. Douglas Costain
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Phone: 303.492.6806
Hours: T/Th 10-11:30 am
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Graduate Assistant: Mark Denniston, J.D.; Office- Ketchum 131A; hours- M 10:30-11:30am; W 10-11am.

This course examines selected aspects of the evolution of the US Constitution through interpretation by the Supreme Court. The Supreme Court as a social and political institution will be briefly reviewed in the first part of the course. Then we look at the major cases decided by the Court in many key areas of civil rights and civil liberties. Through analysis of these cases we will discuss the changing doctrines used by the Justices to allocate and limit individual freedoms and government powers. With Democrats now in control of the White House and US Senate, we will track the policies within the Justice Department and the politics of judicial appointments closely. NOTE: There will be several supplements to this syllabus. One will provide guidelines on how to brief cases.

COURSE REQUIREMENTS

Required Book: (both are paperbacks and one copy of each will be on reserve at Norlin)

Lee Epstein, T. Walker, *Constitutional Law for a Changing America: Vol.2 Rights, Liberties and Justice:* 6th edition (2007).

OPTIONAL: Lawrence Baum, *The Supreme Court* 9th Ed. (2006) **essential for students without background courses on the US Courts.**

Accommodation of Disability/ Religious Observances/ Requirements of the Honor Code:

If you require special accommodations, due to disability or religious observances please notify me before January 30. I will meet your needs. The Office of Disability Services is located in Willard 322; (303.492.8671.) The CU Honor Code, with its description of unethical behavior, and the academic sanctions that may result, is available at: www.colorado.edu/academics/honorcode/.

Examinations:

First Examination, Monday, Feb 16 (25%)

Second Examination, Wednesday, March 18 (25%)

Final Examination, Monday, MAY 4 (35%) 4:30 - 7:00 PM

Case Briefings and Oral Presentations: (15%)

“Briefing groups” of two or three students will be formed to provide in class overviews, oral and written case briefs of the cases from the syllabus, *including updates on recent appellate and Supreme Court decisions*. Each student group will prepare and submit **written briefs** on specific cases from the syllabus, which will be distributed to the class, via email, 24 hours in advance of the class discussion. Each person will also give **oral briefs** to the class on several cases with their briefing group. Details will be given later in class.

Extra-Credit: Optional Oral Reports.

Case briefings/presentations by individuals or coops on current constitutional cases NOT analyzed in the course will be arranged. Bonus points worth **up to 10 points (added to the in-class exams score)** will be earned by participants.

Constitutional News: Students can earn bonus points by reporting to the class on **news** of a Constitutional case before the federal courts or a court's opinion on a current Constitutional case. Web sources include:

(www.uscourts.gov/links.html)(findlaw.com/casecode)(oyez.org)(law.cornell.edu/supct/index.html)

TOPICS AND ASSIGNMENTS (# = briefing group)

- Jan 12-21 Introduction The politics of the Supreme Court
Epstein & Walker, *Constitutional Law...: Rights, Liberties and Justice*, I Ch. 1.
Supreme Court-- ALL
- Jan 23-28 Briefing Court Cases: Judicial Review and its Limits; Epstein & Walker, I Ch. 2.
Cases: *Marbury v. Madison*; *Ex parte McCordle*;
- Jan 30-Feb 2 Incorporation/ Nationalization of the Bill of Rights;
Epstein & Walker, I Ch. 3 and cases (**Student Group #1**)
- II Civil Liberties: Religion: Exercise and Establishment**
- Feb 4-6 II Ch. 4, and Free Exercise cases (**Student Group #2**)
- Feb 6-9 Religious Establishment: II Ch. 4(second half)
and cases (**Student Group #3**)
- Feb 9-11 Freedom of Speech, Assembly and Association II Ch. 5,
Cases for **Student Group #4--** Legal Standards/Times of Crisis
- Feb 11-13 Freedom of Speech. II Ch. 5. **Student Group #5** "Regulating Expression" cases ending
with *Hill v. CO.*
- Feb 16 MONDAY FIRST EXAMINATION- BRING "BLUE" BOOKS** (Review time will be set up)
- Feb 18,20 Regulating Expression, Ch. 5, and cases (**Student Group #6**)
Begin with: R.A.V. v. City of St Paul MN.
- Feb 23 Free Press, Ch. 6, and cases (Student Group #7)
- Feb 25 Obscenity Ch. 7, and cases (Student Group #8)
Feb 27 Libel Ch. 7, and cases (Student Group #9)
- March 2 The Second Amendment, Ch. 8, and cases-2008 UPDATE (Student Group #10*)
The Right of Privacy
- March 4 Foundations, Ch. 9, Intro and *Griswold v. CT* case (Student Group #10*)
- March 6, 9 Reproductive Freedom, ch. 9, and *Roe, Planned Parenthood* cases (Group #11)
- March 11 "Applications of Griswold", Ch. 9, and cases (Student Group #12)
- III: Rights of the Criminally Accused:**
- March 13 Ch. 10, with Intro. and cases up to Terry v OH (Student Group #13)
- March 16 Exclusionary Rule, (4th Amend.) Ch. 10, and cases (Group #14)

MARCH 18 WEDNESDAY -SECOND EXAMINATION -- BRING "BLUE" BOOKS

(*March 20*)
(March 23-27)

(NO CLASS)
SPRING BREAK!!

March 30 Self incrimination and the 5th Amend., Ch. 10, and cases (Group # 15)

(April 1) *LAW SCHOOL INFORMATION DAY –UMC Rm. 285; 1:30-4:30pm

April 1 Right to Counsel, (& Bail), Ch. 11, and cases (Student Group #16)

April 3 Sixth Amendment & Fair Trial, Ch. 11 cases (Student Group #17)

April 6 Eighth Amend./death penalty, Ch. 11, cases & conclusion. (Student Group #18)

IV: Civil Rights

April 8-13 Intro & in Chapter 12, Racial Discrimination, and cases
Group #19, cases--*Plessy to Brown II*.
Group #20, cases--*Swann to Moose Lodge*.

April 15 Sex Discrimination in Chapter 12, and cases (Student Group #21)

April 17-20 Sexual Orientation & Other Discrimination in Chapter 12, and cases (Group #22)

April 22-24 Affirmative Action & Conclusion in Chapter 12, and cases--with 2009 policy/politics update (Student Group #23)

April 27 Elections and Voting Chapter 13; Voting Rights and cases (Student Group #24)

April 29 “Representation” in Ch. 13 and cases; 2009 UPDATE (Student Group #25)

May 1 Catch Up and Review

FINAL EXAMINATION (non-cumulative)
MAY 4 MONDAY – 4:30 -7:00 PM

UNIVERSITY RULES DO NOT ALLOW EARLY EXAMS TO BE GIVEN