

Course Syllabus
POL 353 Fall 2010 (Revised August 17, 2010)
Constitutional Law
Instructor: Evan C. McKenzie

3 hours. Prerequisite(s): POLS 101 or POLS 103 or POLS 190.
24888 12:30-1:45pm Tuesday/Thursday BSB 1115

- * Office--BSB 1122D
- * Office Hours--Tuesday/Thursday 9:30-10:45 am
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Required Texts:

David M. O'Brien, Constitutional Law and Politics Volume I: Struggles for Power and Government Accountability, Seventh Edition

David M. O'Brien, Supreme Court Watch 2009 Supplement

These two books are being sold as a package deal at the UIC Bookstore.

Recommended Text: The United States Constitution: I have ordered a pocket Constitution that I would like you to buy from me for \$1.00 to cover my costs. You will find this very convenient to refer to during class and while you are reading the casebook. However, the Constitution is reproduced in your textbook for your reference if you don't mind flipping back and forth.

You need to bring your books to every class session because we will be dealing directly with the text of the Constitution and the specific language of cases, and you cannot hope to follow the discussion without having the book in front of you.

This course is being taught using Blackboard 9 course management software. All students who register for the course are automatically subscribed to the Blackboard site. Familiarize yourself with how the Blackboard site is organized.

The Course: This course is intended to expose you to many of the aspects of constitutional law that deal with the powers of the legislative, executive, and judicial branches of the federal government and the relationship between the states and the national government. The specific topics are listed in the reading schedule below.

This is not a law school class, but it is about as close to one as you can get without being in a law school. That's why this is a demanding and rewarding course. The reading is not easy and there is a good deal of it, and those expectations are realistic given the nature of legal education and the legal profession. Please understand that law students work hard, and lawyers work even harder. Consistent preparation, regular class attendance, and informed participation are essential.

Be aware that I do not count absences as excused, accept late assignments, or give makeup tests except in case of documented emergencies and religious holidays. Use of Blackboard for turning in written assignments is mandatory. The Blackboard boxes close automatically at set times, after which the assignments cannot be submitted. No other form of submission is allowed, so do not email papers to me as attachments, stick them under my office door, put them in my mailbox, or send them via carrier pigeon. These delivery methods do not constitute turning in an assignment. I will also deduct 5 points from your point total if you email an assignment to me.

I will tinker with this syllabus as the semester moves along. You will receive an email to that

effect if and when it happens.

I am here to help you and I want you to succeed. Spending time with students one-on-one is part of my job and something I am happy to do. Please do not hesitate to contact me by email, phone, or in person.

Assignments and Grading:

* Midterm Examination = 30% This will be a combination of essay and hypothetical questions.

* Final Examination = 30%. Same format as the midterm.

* Briefs = 15 x 10 points = 150 points (15%). These briefs are due BY 12:00 noon on the dates specified in the schedule below. They must be turned in using Blackboard. On the main course panel there is a "Submit Briefs" section that contains a series of assignment boxes, one for each brief. You can type or cut and paste your content into the text box you will see there. Your brief must fit in the text box. Submitting attachments is not allowed.

* Case simulation: = 15%. We will simulate deciding a Supreme Court case that is on their 2010 term docket. The term starts on October 4 and ends in June, 2011. You will write a paper and participate in the simulation in class. We will have practice sessions in class that you must attend. You lose 5 points (out of 100) for each practice session you miss, and you lose 50 points for not participating in the final simulation.

* Class participation and attendance = 100 points (10%). I will be calling on people every day. This is one of the main ways I will decide what participation grade you deserve. You need to be prepared to respond in a substantive way that shows me you read and made an effort to understand the case or issue I am asking you about. Just expressing personal opinions isn't the goal. There will be significant point deductions (potentially taking your score all the way down to zero) for breaches of civility. This would include, for example, coming to class late or unprepared, inattentiveness, side conversations, talking out of turn, being rude or intolerant toward your classmates or me, and other forms of incivility. Any student missing more than six classes (with lateness counting as 1/2 an absence) is subject to receiving a zero for participation and attendance, at my discretion.

Total points possible = 1000 (100%). I will rank students from highest to lowest point total and assign the same course letter grades to students with approximately the same final point scores. The usual 90, 80, 70, 60 breaking points are good guides as we go through the semester, and they are floors above which you can be assured of the normal grade. That is, a 900 plus point total will certainly earn you an A. But normally the final letter grade ranges go a bit below those numbers, depending on the way the scores group at the end.

Course schedule, assignments, and readings:

Academic dishonesty. If you have an academic dishonesty charge on your record, such as plagiarizing a brief, getting into law school will be difficult, and it would have to be disclosed as part of the character and fitness investigation that occurs when you apply for bar admission.

I am here to help you and I want you to succeed. Spending time with students one-on-one is part of my job and something I am happy to do. Please do not hesitate to contact me by email, phone, or in person.

Readings and due dates:

The date for each week is Tuesday of that week. Your briefs are always due on Tuesday by noon except for Week One.

Week 1. August 24

Introduction to the course; Legal citations; how to brief a case
Read Chapter 1: The Federal Judicial Power.

Brief: Marbury v. Madison (due on Thursday, August 26)

Week 2. August 31:

Law and politics in the Supreme Court: Jurisdiction and decision making process.

Jurisdiction and justiciability; Read Chapter 2, Part A (through page 174)

Brief (from now on always due Tuesday by noon): Elk Grove Unified School District v. Newdow

Week 3. September 7

The Court's docket and screening cases; Read Chapter 2, part B (through end of chapter)

Brief: Commonwealth of Kentucky v. Jeffrey Wasson

Week 4. September 14:

Presidential power, the rule of law, and foreign affairs; treaty making, executive agreements.
Read Chapter 3, parts A, B, and C (through p. 263)

Brief: US v. Pink

Week 5. September 21

Presidency and foreign affairs (cont.) War making and emergency powers. Read Ch. 3, Part D (pp. 264-end)

Brief: Hamdan v. Rumsfeld

Week 6. September 28

The President as chief executive in domestic affairs. National security, inherent, and emergency powers; appointment and removal power. Read Ch. 4, parts A and B (through p. 415)

Brief: New York Times Company v. US

Week 7. October 5:

President in domestic affairs (cont.). Legislative powers; accountability and immunities. Read Ch. 4, Parts C and D (through end of chapter).

Brief: Clinton v. City of New York

Week 8: October 12

Congress: membership, immunities, and investigatory powers. Read all of Chapter 5

Brief: Barenblatt v. United States

Week 9: October 19

Congress: legislative, taxing, and spending powers. The classic view; legal formalism and the New Deal Crisis. Read Chapter 6, parts A and B (through p. 584)

Brief: McCulloch v. Maryland

Week 10: October 26.

Congress (cont.) the administrative state; taxing and spending powers. Read Chapter 6, parts C and D (through end of chapter).

Brief: Wickard v. Filburn

Week 11. November 2 :

The states and American federalism. State power over commerce; the 10th and 11th amendments. Read Chapter 7, parts A and B (through p. 791)

Brief: Pennsylvania v. Nelson

Week 12. November 9:

States (cont.) Judicial federalism; state courts and state constitutional law. Read Chapter 7, parts C and D (through end of chapter)

Brief: Martin v. Hunter's Lessee

Week 13. November 16

Representative government; Campaign finance. Read Chapter 8, Part C only (pp. 902-981)

Brief: Citizens United v. Federal Election Commission

Week 14: November 23

(Tuesday only--Thursday is Thanksgiving Holiday)

Economic rights and American capitalism. The contract clause; "liberty of contract." Read Chapter 9, parts A and B (through p. 1049)

Brief: Trustees of Dartmouth College v. Woodward

Week 15: November 30:

Economic rights (cont.) The takings clause. Read Chapter 9, part C (through end of chapter)

Brief: Kelo v. City of New London

Case simulation will take place on Thursday, December 2. Simulation paper is due by noon on Thursday, December, via Blackboard. Bring a hard copy to class for your use during the simulation.

Week 16. December 6-10: Finals week: Final Examination as scheduled by University.