

LAW & SOCIETY 201
CONSTITUTIONAL LAW
Philadelphia University

Syllabus

Instructor: Evan Edward Laine, MA, JD

Office: Ravenhill Mansion, Room 302

Telephone: 215.951.2768 E-MAIL STRONGLY PREFERRED

Office hours: Monday, Wednesday, and Fridays by appointment 9-11 & 3-5

E-mail: Lainee@philau.edu

I Mission

We will be studying controversial topics in American culture and how they had been affected, shaped, aggravated, or solved by the opinions of the Supreme Court. We will study how a Supreme Court case begins, who brings them, and how individuals, organizations, lawyers, and judges have fought, sometimes to their great detriment and sacrifice, to create what they believe to be a more democratic country by bringing their controversies to the Supreme Court of the United States. We will concentrate on topics where there is often great disagreement among our citizens as to what is the proper solution or policy. We will discover how our democracy has been formed by the Supreme Court's decisions and how the Justices through their interpretation of the Constitution affect our very way of life. This course will stress interaction in the class where student opinion and participation is central. Respect for other opinions will be a paramount rule in this class. The prevailing purpose of the class is to teach the concept that often the matters of the real world do not exist in the simple pro/con dynamic as demanded by our media, but rather in a flexible middle ground, which should not be derived from emotion, but from careful vetting of reliable information.

II Topics of Study with Assignments

A) FOUNDATIONS

Week of 8/23
Readings Irons Chapters 2, 3 & 4

Week of 8/30
Readings Irons Chapters 6, 8 & 9

Summary: Although this is not a law school class, to properly understand how American political and sociological culture is shaped Supreme Court, it is absolutely necessary that we understand the procedure of how a case gets to the Supreme Court. You will learn the concept of jurisdiction and the critical issue of constitutional interpretation. In addition, we will discover how the Court's power was created and its intended purpose according to the Founders. We will learn how through the acts of Chief Justice John Marshall, the court morphed from irrelevancy to a position of significant power where now it's opinions affect economics, civil rights, gender rights, elections and sexual and procreation activities.

B) IMMIGRATION LAW

Week of 9/6 & 9/13

Readings

Immigration law primer PDF on (BB)
The Bill PDF on (BB)
Human Rights and the Current Immigration Debate PDF on (BB)
Bykofsky Columns PDF on (BB)

Assignments Symposium leadership to be assigned in class (to count as oral position piece)

Summary: In the spring of 2010, the state of Arizona passed a law allowing law enforcement officials to arrest individuals suspected of being a legal immigrants. This law ignited a firestorm of media coverage and debate throughout the country. The issue of legal and illegal immigration is a hot button issue throughout the United States, and it is one that is not easily understood or solved. There are many intricate complicated elements to this debate that we will explore in this section. Intricate to classroom work will be a University wide symposium that this class will sponsor on the issue of the Arizona law and the general issues of illegal and legal immigration in America. At least two students will give presentations at that symposium on the issues of immigration and constitutionality of the Arizona law. The constitutionality of the Arizona law will be examined from both a human rights and Federalist point of view. Students presenting at the symposium will be selected as a result of a voluntary process he further explained in class.

C) THE 2000 PRESIDENTIAL ELECTION

Week of 9/20

Readings

Taking Sides American History since 1945, Part 3 Issue 16, p 344-371 (PDF on BB)
Irons p 512-14
The Electoral College by William C. Kimberling (PDF on BB)
What Are the Arguments Made in Favor--And Against--the Electoral College? By Nathaniel Bates (PDF on BB)

Assignments

Character Piece- Alan Dershowitz

Electoral College Written Position Piece (See BB for Assignment)

Gore – Bush Oral Position Piece

Pro/con Student Presentation on 2000 election (See BB for assigned students & Assignment)

SUMMARY: We will analyze how and why the U.S. Supreme Court ultimately impacted the election of the 2000 Presidential election between George Bush and Albert Gore. We will carefully analyze the voting process itself to determine exactly how the controversy arose and discuss whether or not the democratic system prevailed.

D) HABEAS CORPUS 1941 & 9/11

Week of 9/27 & 10/4

Readings

Irons, Chapter 27 p 348-364 & p 519-526

Penn State student internment video (Link on BB)

Habeas & War (PDF on BB)

Assignments

Character Pieces (Students assigned on BB and PDFs on BB)

Tsukamoto Interview.

Lakhdar Boumediene

Scalia Dissent

Denbeaux

Oral Position Piece Internment

Pro/con Student Presentation on Civil Rights vs. National Security (See BB for assigned students & Assignment)

SUMMARY: This unit will study how the civil rights of American citizens and foreign nationals, guaranteed under the Constitution, become compromised under times of war or other extreme national stress. We discuss and argue the conflict that exists between the necessities for national security and how that can threaten the freedom of that country's citizens during a time of threat. We will start with the Japanese/American experience after the bombing of Pearl Harbor and the beginning of WW II. Concentration will be on the dispossession and internment of American citizens with Japanese ancestry into detainment camps. We will study the efforts of three Japanese American citizens who chose to fight these laws and the reasons behind the efforts of those who supported the government policy. We will then shift to the after events of 9/11 involving the detainment of "prisoners" at the Guantanamo Bay Detention Camp by the United States government and their fight for due process.

E) SAME SEX MARRIAGE

Week of 10/11

Readings

Arguments in Support (PDF ON BB)
Arguments in opposition (PDF ON BB)
Myths and Misconceptions About Behavioral Genetics And Homosexuality
Douglas A. Abbott (PDF ON BB)
Atlantic Article (PDF ON BB)
Same Sex marriage Taking sides (PDF on BB)

Assignments

Oral Position Piece

Symposium Presentation summarizing arguments in support (to count as an oral position piece)
Symposium Presentation summarizing arguments in opposition (to count as an oral position piece)

Character Piece

Travis Parker

SUMMARY: In this section we will examine the controversy concerning same sex marriage. We will examine the relevant legal arguments that will be debated when and if this issue eventually reaches the Supreme Court of the United States. Central to this analysis will be understanding what is meant by level of scrutiny, suspect class, and how these definitions and classifications may be critical in determining the ultimate issue of whether or not denying homosexuals the right to marriage is a violation of the 14th amendment of the United States Constitution. This section will also be presented as a part of University symposium articulating the contrasting opinions and arguments on this very important issue.

F) MAPP V. OHIO: THE CREATION OF A RIGHT TO PRIVACY AND THE EXCLUSIONARY RULE

Week of 10/18

Readings

The Mapp Story (PDF on BB)
Tinsley and Kinsella, In Defense of Evidence: Against the Exclusionary Rule (PDF on BB)
Timothy Lynch, In Defense of the Exclusionary Rule (PDF on BB)
Arguing against the Exclusionary Rule 2 (PDF on BB)
Jeffrey Chudnow, The Exclusionary Rule: Viability in 1997 (PDF on BB)
Mapp Exceptions (PDF on BB)

Assignments

Oral Position Piece

Pro/con Student Presentation on the Exclusionary Rule

SUMMARY: We will study the facts and circumstances concerning the case of Mapp vs. Ohio. We will discover how the right to privacy was created by the Supreme Court and we will debate the benefits and costs of a judicially created policy. We will then discover how the exclusionary rule; a process where important evidence in criminal actions may be excluded from trial was created by the court in response to police misconduct. We will then debate the costs and benefits to society of this rule.

G) MIRANDA: YOU HAVE THE RIGHT TO REMAIN SILENT

Week of 10/25 & 11/1

Readings

Miranda Basics (PDF on BB)

Miranda the Story (PDF on BB)

Miranda Opinion Excerpts (PDF on BB)

Miranda Dissenting Opinion Excerpts (PDF on BB)

Assignments

Oral Position Piece

Miranda Facts Scenario One

Miranda Facts Scenario Two

Written Position Piece for All Students

Pro/con Student Presentation on the Miranda Rule

SUMMARY: In March of 1963, Ernesto Miranda was arrested for the rape of a young girl. During a police interrogation, he confessed. He was never advised of his right to remain silent or his right to an attorney. His confession was eventually thrown out by the court. This case was the genesis for the famous Miranda “warnings” which are required in specific situations involving police contact with individuals. You will learn how this case began, and how it made its way to the Supreme Court. We will discuss, through classroom exercise using particular fact patterns, when Miranda applies, and its numerous exceptions and ambiguities. Will then debate whether the famous warnings that derive from this case are necessary to protect our civil rights or whether they improperly interfere with good police work and their ability to protect the public from criminals.

H) DESEGREGATION/BROWN

Week of 11/8 & 11/15

Readings

Peter Irons, Chap 29, 30, 31 p. 383-420
Halberstam, The 50s chapter 28 p 411-428, chapter 29 p 429-441 chapter 44, p 667-692 (PDFs on BB) ,

Assignments

Brown Oral Position Piece
Pro/Con Student Presentation
Character Pieces
Briggs

SUMMARY: We will study the development and causes of black slavery in America from 1640 to the Civil War. We will focus on the creation, use, and factual basis, if any, for the “Sambo” myth. We will then study desegregation in American society and school systems, and how it was attacked and “defeated.” Central to our analysis will be how the Supreme Court decision in Brown v Topeka Board of Education, the Little Rock Arkansas High School 9, the murder of Emmitt Till, and the media changed racial relationships in America. We will finish this topic by arguing the proper role of the Court in American race relations.

I) FREE SPEECH /SKOKIE

Week of 11/22 & 11/29

Readings

Strum, Chapters 1-3, 5, 6 pages 1-51, 70-96

Assignments

Character Pieces
Sol Goldstein (PDF on BB)
David Goldberger (PDF on BB)
Rabbi Kahane (PDF on BB)
Frank Collin (PDF on BB)

SUMMARY: In 1977, an American Nazi threatened to “march” in Skokie Illinois, a small town with a large Jewish population of former concentration camp victims. We will study the highly personal reaction of the citizens of the town and interested third parties including the American Civil Liberties Union. Their face off concerning the conflicting rights of citizens offers an excellent opportunity to argue and discuss the limits and costs of free speech in America.

J) AFFIRMATIVE ACTION

<u>Week of</u>	TBD
<u>Readings</u>	The Bakke Story (PDF on BB) Affirmative Action (PDF on BB)
<u>Assignments</u>	<u>College Admission Exercise</u> (in class) Pro/Con Student Oral Presentation <u>Character Piece</u> Robles: A Kinder, Gentler form of Bigotry (PDF on BB)

SUMMARY: We will discuss and argue the efficacy and fairness of affirmative action in the university setting. Particular attention will be paid to the efforts of Allan Bakke, a white, potential medical school student, who argued that University of California's admission program, which favored less qualified, disadvantaged minorities over white students with higher qualifications, was unfair and illegal.

III Course Requirements

Writing and communication skills are essential elements to this class. You will use your writing and oral skills to help you conceive new ideas and new ways of thinking about problems. Moreover, writing leads to clear thinking and the University is committed to helping you use writing to learn. Your responsibilities to the course will be as follows:

A. Position Piece

You will present one oral position piece to the class. You will be given the topic and the particular side you will be arguing at least one class before you are responsible for your presentation. All selections will be random.. Each topic we study will have at least one position piece. Your research for this presentation will be the readings that are assigned for that topic. You can present this position piece either by reading verbatim from your desk, or in front of the class or in an interview format with me where I would be asking leading questions concerning the topic. I will discuss with every student responsible for the presentation what is the most comfortable method for them and employ that method. I encourage personal interaction between myself and the responsible student so that we may discuss the presentation before class time! The student presenting the assigned position has the option of presenting his or her personal opinion on the topic if they wish to do so.

B. Written Position Piece

The class will be assigned a two page (double spaced 12 point font) writing assignments to discuss a certain position. There will be a total of 2 papers required per student. In most circumstances, ½ of the responsible section will argue for a certain pre-selected position and the

other ½ will argue against a certain topic. Your position on a topic is preassigned by me. The student writing the position piece, must hand in the assignment at the beginning of class it is due. Timely submission is the actual, handed in submission at the beginning of class for the date the assignment is due. On a timely submitted paper, the student will have the option to accept the grade given to them or revise the draft based upon my comments, and or the comments of writing tutors available through the University to seek a higher grade. If a position piece is not submitted in time as discussed above, there is no opportunity for revisions. If the position piece is late as delineated above, ½ half grade deduction will be applies for each day late up to a maximum of 4 days late which at that time it will not be accepted. See Position Piece Rubric on BB

C. Character Piece

Each student will also be responsible for one character piece. It is my goal that a significant percentage of primary evidence will be presented to the class by the students. For example, in addition to reading about Japanese internment during WWII, you will learn how it affected the fabric of their lives from students selected to play the part of internees. All selections will be random.. This is also meant as a fun exercise and the more the student gets into character the more interesting it will be. Note, you will be given, as the character, the exact information you are to present to the class. Additional research a paraphrasing to make the topic interesting is encouraged however, it must be based on information I provide.

D. Final Paper

The final exam in this course will be a 6-8 page research based (double spaced 12 point Arial font) essay based upon any topics covered in class or related to topics covered in class. One paragraph summary of you paper is due on 10/25/2010 for my review and approval. The paper is due 30 days before the scheduled final day for this class. I will offer you my suggestions for revisions and corrections no later than 10 days after your initial paragraph summary is filed and strongly encourage you revise the paper with my suggestions and the help of writing tutors. I encourage a personal meeting to go over the paper before you hand it in. See grading rubric in the Course Info section on Black Board for further in depth grading instructions.

E Short Essay Midterm

There will be a short essay midterm. Your answers will require no more than three to five sentences.

IV Sources

Required books are:

1. When the Nazis Came to Skokie: Freedom for Speech We Hate by Philippa Strum

2. A People's History of the Supreme Court: The Men and Women Whose Cases and Decisions Have Shaped Our Constitution, Revised Edition
Peter Irons

Except for the required books, all other sources for “Topics of Study” listed above are present on the Black Board web (BB) site for download under the “Modules” section. Further, all assignments for position & character pieces, will be posted on BB under the “Assignment” section.

V Grading

Grades will be based on the number system of zero to 100. The following equals the distribution of scores:

2 Written position papers worth a maximum of ten points per paper equaling	20 points total
1 Oral position piece worth a maximum of	10 total points
Midterm essay test worth a maximum of	25 total points
Final six page essay worth a maximum of	25 total points
Character piece worth a maximum of.....	5 total points
<u>Class participation, attendance and in class work worth a maximum of</u>	<u>15 total points</u>

Total available points.....100

In line with the school of Liberal Arts policy, the following grading scale will be used:

A 93-100 points	C 73-76 points
A- 90-92 points	C- 70-72 points
B+ 87-89 points	D+ 67-69 points
B 83-86 points	D 63-66 points
B- 80-82 points	D- 60-62 points
C+ 77-79 points	F 0-59 points

VI Course Policies

Academic integrity: I draw your attention to the University's policy on plagiarism as outlined in the student handbook. Plagiarism is illegal in the world outside college, and will not be tolerated in the academic world either. College-level writing frequently requires you to use a variety of sources. In this course, you will often use evidence from books, articles, and electronic resources to support points in your papers. If however, you use language, ideas, or information from another source without properly giving credit to that source, you have plagiarized. You must learn to cite sources correctly and to include footnotes. Any idea that is not your own must be cited (including those from class readings), giving the author and the page number (or website and date access), even if you do not quote the author. If you do not quote directly, you must learn to paraphrase the words of the author properly as well as providing correct documentation for his or her idea. Any papers that contain plagiarism will receive a zero. In addition, a letter documenting the incident may be placed in the students file in the office of the Assistant Dean of Academic Affairs. Plagiarism may also result in a failing grade for the course or the student may be reported to the student conduct committee. Plagiarism is a serious academic offense that can result in expulsion from the university. Be sure you have read and understand the Philadelphia University academic integrity policy, available in the student handbook.

VII E-Mail Policy

I will rely very heavily on e-mail communication and will only correspond to your university address. You must check your E-mail every day.

You are required to use the university e-mail account to communicate with me and other students. You may be required to submit assignments to me via e-mail and you will be asked to use blackboard. Make sure your university e-mail account is in working order.

VIII Attendance

Your required work will incorporate ideas discussed in class, rather than asking you to repeat back what you have learned in the readings. Therefore, students who do not come to class on a regular basis are in serious danger of failing. If you come to class late, it is your responsibility to

make sure I have marked you present. However, students who repeatedly come late to class will be marked as absent.

IX Participation

To do well and keep pace, it is essential you meet deadlines and carefully consider what you read and write. Preparation for meaningful participation is required for all course activities. Please be aware that this course is a working seminar. This means that everyone must come to class having read the assigned readings, prepared to discuss them fully, raise questions and perhaps to rethink the issues involved. The class is interactive and not lecture-based; most of your learning will come from ideas you exchange with your fellow students. By joining this class, you are making a commitment to participate fully.

X Technology Statement

Please be considerate and make sure that for each class you have turned off your cell phone, pagers, all types of “berries” and other potential distracting gadgetry. **THERE IS ABSOLUTELY NO TEXT/TWITTER MESSAGING OR PHONE CALLS ALLOWED DURING CLASS.** I bold and underline this because I mean it!!

Please note: the Syllabus and Assignments are subject to Change