

PSC 318-01: Constitutional Law
Fall 2008
Tuesday and Thursday, 11 am – 12:15 pm
Graham 209

Instructor & Office Hours:

Dr. Susan Johnson

Office: 233 Graham

Office Hours: Tuesdays and Thursdays, 2 pm – 3:15 pm and by appointment

Office Phone: (336) 256-0512

Email: swjohnso@uncg.edu

Course Catalog Description:

Case-method approach to the most important aspects of constitutional law regarding separation of powers, federalism, and economic regulation. Emphasis on importance of historical eras to the evolution of these cases, and current reassessment.

Student Learning Outcomes:

- To practice the skill of reading and analyzing written judicial opinions.
- To become familiar with the U.S. Constitution and its interpretation by the U.S. Supreme Court.
- To explore the division of power among the federal branches of government.
- To explore the relationship between the federal government and the states.
- To explore individual rights of representative government and economic liberty.

Required Texts:

O'Brien, David M. 2008. *Constitutional Law and Politics: Volume One – Struggles for Power and Governmental Accountability*. W.W. Norton: 7th edition.

Course Requirements:

Class participation	10%
Five (5) briefs	15%
Exam 1	25%
Exam 2	25%
Exam 3	25%

Class Participation:

Students are expected to regularly attend class and participate in discussion. This means that students should be prepared each class period to be called upon to answer questions relevant to the reading. Quality is more important than quantity in my evaluation of class participation. Class participation may also occasionally consist of assigned discussion questions for the following class period or a pop quiz, at the instructor's discretion.

Case Briefs:

In order to adequately prepare for class, students should brief all of the assigned cases. Doing so will make studying for the exams much easier.

Five (5) case briefs (of the students' choice) are required to be turned in during the semester. Students will sign-up for cases on blackboard. Students may only sign up for one case per day so that everyone has a chance to sign-up. It is up to the student to keep up with the number of briefs turned in and ensure that all five (5) briefs are turned in by the last regular class

period. Class briefs are due the day that the case is assigned, as indicated on the schedule. Late briefs will not be accepted. **ONLY HARD (PAPER) COPIES OF ASSIGNMENTS WILL BE ACCEPTED.**

Exams:

Three in-class exams will be held during the semester. Exams will consist of multiple choice and/or short answer and essay questions. Success on these examinations will require a thorough understanding of the reading assignments and class discussions/lectures.

Late briefs/Missed exams

Students are expected to turn briefs in on time and be present to take the exams at their scheduled times. Only in extraordinary circumstances will make-up opportunities exist. Students must notify me **PRIOR** to the missed exam or brief with a valid excuse and must be prepared to provide credible evidence (such as a written doctor's note) of the excuse. Excuses for late briefs and missed exams after the fact will not be allowed, resulting in a failing grade for the missed brief and/or exam. It is the instructor's sole discretion to determine whether or not an excuse is acceptable.

Make-up exams will be scheduled for the same day, time and place for everyone. I will announce the make-up exam time in class. Students will be allowed to make-up only one (1) exam during the semester.

Academic Honor Code:

I expect all students in this course to abide by both the letter and spirit of the university's academic integrity policy.

Students with Special Needs:

Students with special needs should contact the instructor during the first week of class. I will make every effort to accommodate the needs of students with special requirements.

Grading Scale:

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

Assigned Readings:

Students are expected to complete the assigned reading before class and be prepared to discuss the assigned cases.

A few notes about the course:

This course will most likely be quite different from other courses you have had, including other Political Science courses. Most of the students who take this course are interested in (or at least thinking about) law school. Nevertheless, this course can be quite valuable even for those who are not interested in law school and only want to learn something about American constitutional law and politics. This course is not necessary for those planning on law school, but it can be very helpful. In this course you will learn how to read an "opinion" of a court (its formal written decision), how to interpret court opinions (what these opinions mean for the average citizen), and you will also learn a great deal of legal terminology.

The reading load for this course is relatively light in terms of the number of pages, but do not let this fool you into thinking the course will be easy. Court opinions are often very complex. In reading the cases (opinions) you must pay attention to every word. It is not enough that you get the general idea. You must know and understand the specifics of the cases. The justices of the Supreme Court, as you will see, often make very fine distinctions between cases and you must understand those distinctions in order to understand the cases. To succeed in this course, you must commit yourself to spending a substantial amount of time preparing for class.

This brings me to explaining what we will do during class time. In addition to some traditional lecturing, most of the material will be presented in a question and answer format modeled on what is known as the Socratic method (which is often used in law schools). Using this format, students must be prepared to be called upon to discuss the assigned cases. I usually begin by asking a student to tell me the important facts of the first case. Next I might ask a second student whether he or she concurs or thinks there are other important facts. At some point I begin to ask about the issues involved in the case as well as the decision of the court. To get the most out of this course, students must be prepared for the discussion.

How, then, does one prepare for class? Two main things need to be done before the class discussion of a case: 1) you must read the case, and 2) you must "brief" the case. In doing the first, I must again emphasize that a quick scan will not be sufficient. You must read the case in detail. For the second, briefing a case means picking out certain important details from a case. By briefing a case you are essentially outlining it or taking notes on it. Again, this needs to be done before class. We will spend one class period early in the semester learning to brief cases.

Another important aspect of the course is the integration of the material. Although each case may be important, it does not stand alone. My questions often concern how the results of a particular case relate to other cases in that area, and in other areas. Do not treat the cases as discrete units. You must try to fit them together into some coherent whole.

A major misconception about the study of The Law is that such a thing exists. For most of the questions we will face in this course there is no one right answer, or at least one that does not contain several qualifiers. During discussion I explore possibilities and hypothetical case scenarios. One purpose of these explorations is to help you to understand what the court did say or decide and, more important, what it will say or decide in future cases. A thorough understanding of the Court's past decisions will make you better prepared to evaluate what the Court might (or should) decide in other situations.

Course schedule:

Minor adjustments to the reading schedule may be made depending on how quickly material is covered. Students are responsible for keeping up with any schedule adjustments that are announced in class or on blackboard.

Tentative Schedule

Date	Topic/Assignment
8/26	Introduction
8/28	Overview of U.S. judicial system; The Constitution; Judicial Interpretation Constitution exercise
9/2	Judicial Review – <i>Marbury v. Madison</i> How to brief cases

- 9/4 Jurisdiction – *Lujan v. Defenders of Wildlife*, *Baker v. Carr*, *Walter Nixon v. U.S.* (ch. 5, p. 537)
- 9/9 President in Foreign Affairs – *U.S. v. Curtiss-Wright*, *Dames & Moore v. Regan*, *Missouri v. Holland*, *U.S. v. Pink*
- 9/11 *U.S. v. Alvarez-Machain*, *Prize cases*, *Ex Parte Milligan*, *Korematsu v. U.S.*
- 9/16 *Rasul v. Bush*, *Hamdi v. Rumsfeld*, *Hamdan v. Rumsfeld*
- 9/18 President in Domestic Affairs – *Youngstown Sheet v. Sawyer*, *NY Times v. U.S.*, *Morrison v. Olson*.
- 9/23 *INS v. Chadha*, *Clinton v. New York*, *U.S. v. Nixon*, *Clinton v. Jones*
- 9/25 Wrap-up and review
- 9/30 EXAM I**
- 10/2 Congress: *Powell v. McCormack*, *U.S. Term Limits Inc. v. Thornton*
Investigatory Powers – *Watkins v. U.S.*, *Barenblatt v. U.S.*
- 10/7 Classic Congressional Powers – *McCulloch v. Maryland*, *Gibbons v. Ogden*
Commerce Clause – *U.S. v. E.C. Knight*
- 10/9 *Hammer v. Dagenhart*, *NLRB v. Jones & Laughlin Steel*, *U.S. v. Darby Lumber*,
Wickard v. Filburn
- 10/14 *Heart of Atlanta Motel v. U.S.*, *U.S. v. Lopez*, *U.S. v. Morrison*
- 10/16 *Gonzales v. Raich*, *Gonzales v. Oregon*
- 10/21 Fall Break**
- 10/23 Taxing & Spending: *Steward Machine v. Davis*, *South Dakota v. Dole*
- 10/28 Federalism: *Cooley v. Board of Wardens*, *Southern Pacific v. Arizona*, *Bibb v. Navajo Freight Lines*, *Maine v. Taylor*
- 10/30 10th & 11th: *Garcia v. San Antonio Metro*, *New York v. U.S.*, *Printz v. U.S.*
- 11/4 *Seminole Tribe of FL v. FL*, *Alden v. Maine*, *Nevada Dept of HR v. Hibbs*
- 11/6 Wrap-up and review
- 11/11 EXAM II**
- 11/13 Voting: *SC v. Katzenbach*, *Wesberry v. Sanders*, *Reynolds v. Sims*
- 11/18 Reapportionment: *Shaw v. Reno*, *Hunt v. Cromartie*, *Bush v. Gore*

- 11/20 Contract clause: *Fletcher v. Peck*, *Trustees of Dartmouth v. Woodward*, *Charles River Bridge v. Warren Bridge*, *Home Building & Loan v. Blaisdell*, *U.S. Trust Co. of NY v. State of NJ*
- 11/25 Liberty of Contract: *Slaughterhouse cases*, *Munn v. Illinois*, *Lochner v. NY*, *Muller v. Oregon*, *West Coast Hotel v. Parrish*
- 11/27 Thanksgiving Break**
- 12/2 Takings Clause: *Hawaii Housing v. Midkiff*, *Lucas v. SC Coastal Council*, *Kelo v. City of New London*
- 12/4 Wrap-up and review
- 12/16 EXAM III (Noon – 3pm)**