PSC 404.001
American Constitutional II
Fall 2015
Human Services – Telecom 101
Tues. & Thurs. 11:00am - 12:15pm

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Office Hours: Mon. 1pm - 3pm, Tues. 2pm - 3pm, Weds. 1pm - 3pm

Course Description

This course explores the constitutional roots of civil rights and civil liberties, and the major political controversies and legal developments in the United States. This is done through an analysis of the case law on the constitutional guarantees of personal and social freedoms derived from the Bill of Rights and the Fourteenth Amendment. Topics to be covered include: the role of the judiciary in protecting rights, methods of constitutional interpretation, incorporation, the right to bear arms, economic liberty, abortion and privacy rights, freedom of religion, freedom of speech, freedom of association, freedom of the press, the death penalty, and equal protection before the law. Prerequisites: PSC 141 and 142.

Text Books


Program Learning Outcomes

This course is a general education core curriculum course and no specific program learning outcomes for a political science major are addressed in this course.

Grading

Grades will be based on the following: exams, legal briefs, and class participation.

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¹Because this is a syllabus, it is a guide for how the semester will unfold. To be clear, I reserve the right to change ANY aspect of the course as necessary.

²A copy of the book is on reserve at the library.
### Assignment Points

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<tr>
<th>Assignment</th>
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<tr>
<td>Exam 1</td>
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<td>Exam 3</td>
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<td>Final Exam</td>
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<td>Brief Check 1</td>
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<td>Brief Check 2</td>
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<td>Brief Check 3</td>
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<td>Random Brief 2</td>
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<td>Class Participation</td>
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<td><strong>Total</strong></td>
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**Legal Briefs.** You must write a 1 page *brief* for all cases assigned on the syllabus, and you must either have a printed copy of relevant briefs with you in class or have on your lap top in class. Briefing cases not only helps you learn the material, but provides the basis for your informed participation in class discussions. To ensure that students are keeping up, I will check your briefs at random three times. At the end of any given class, I may announce “Turn in the brief for case X.” You will receive full credit if a) you turn in a hard copy of the brief (or email it to me) at precisely that time, and b) it follows the format for briefs noted on our at end of this syllabus (and it should go without saying that it must not be plagiarized from an on-line or other source). No exceptions permitted. **In addition, there are FOUR scheduled brief checks:** You will receive credit for each brief check if and only if you provide a paper or electronic copy of all cases that follow the required brief format. There will be a 2 point penalty for each missing case.

*Note: It’s critical not to fall behind with readings in this course; if I feel students are not adequately preparing for class I will ask to collect additional case briefs or may administer a short pop quiz at the beginning of class.*

**Exams.** There will be *four* exams: three midterms and a final. These will be weighted equally and you are expected to take the exams on the dates listed. If you cannot take the exams on those dates, you must talk with me at least three days prior to the exam to make separate arrangements. This timeline is non-negotiable. Exceptions to this will be made only in the most unusual of circumstances!

**Class participation.** Class participation will consist of attending class and participating in the discussions. To be clear, class attendance is mandatory, and I will take attendance each class. At the beginning of each class I will pass around an attendance sheet, it is your responsibility to sign it. If you do not sign it, you will be marked absent. If you do not to sign it during class, sign it after class. More than three absences will affect your final grade by 10% per absence. For example, if you have an 89 final average with 3 absences, your final grade will be 89; if you have an 89 final average with 4 absences, your final grade would...
will be 79; and if you have an 89 final average with 5 absences, your final grade will be 69. Exceptions will be made for excused absences, and students will be responsible for notifying me in advance, when possible, for excusable absences. The following are acceptable excuses: illness with a doctor’s note, military duty, death in the family, or participation in approved university-sponsored events. The following are NOT acceptable excuses: forgetting to set your alarm, scheduled flights or trips, scheduled non-emergency doctor appointments, going to work, picking up relatives at the airport, chauffeuring a friend somewhere, etc.

**Academic Integrity**

The following is taken from SFASU’s *Policy Manual* (2014), section on “Academic Integrity” (A-4): Academic integrity is a responsibility of all university faculty and students. Faculty members promote academic integrity in multiple ways including instruction on the components of academic honesty, as well as abiding by university policy on penalties for cheating and plagiarism. Definition of Academic Dishonesty: Academic dishonesty includes both cheating and plagiarism. Cheating includes but is not limited to (1) using or attempting to use unauthorized materials to aid in achieving a better grade on a component of a class; (2) the falsification or invention of any information, including citations, on an assigned exercise; and/or (3) helping or attempting to help another in an act of cheating or plagiarism. Plagiarism is presenting the words or ideas of another person as if they were your own. Examples of plagiarism are (1) submitting an assignment as if it were one’s own work when, in fact, it is at least partly the work of another; (2) submitting a work that has been purchased or otherwise obtained from an Internet source or another source; and (3) incorporating the words or ideas of an author into one’s paper without giving the author due credit.

Please read the complete policy at the following website: [http://www.sfasu.edu/policies/student_academic_dishonesty.pdf](http://www.sfasu.edu/policies/student_academic_dishonesty.pdf) All cases of academic dishonesty will be handled according to University policies and procedures (A-4.1). The consequences for academic dishonesty will be an “F” for the course. For details, students should refer to the SFA *Policy Manual* (2014) or the University’s *General Bulletin*, 2014-2015 section entitled “Academic Integrity” and other sources of University policy.

**Withheld Grades**

The following is taken from SFASU’s *Policy Manual* (2014), “Semester Grades Policy” (A-54): At the discretion of the instructor of record and with the approval of the academic chair/director, a grade of WH will be assigned only if the student cannot complete the course work because of unavoidable circumstances. Students must complete the work within one calendar year from the end of the semester in which they receive a WH, or the grade automatically becomes an F. If students register for the same course in future semesters, the WH will automatically become an F and will be counted as a repeated course for the purpose of computing the grade point average.
Students with Disabilities

To obtain disability related accommodations, alternate formats and/or auxiliary aids, students with disabilities must contact the Office of Disability Services (ODS), Human Services Building, and Room 325, 468-3004 / 468-1004 (TDD) as early as possible in the semester. Once verified, ODS will notify the course instructor and outline the accommodation and/or auxiliary aids to be provided. Failure to request services in a timely manner may delay your accommodations. For additional information, go to http://www.sfasu.edu/disabilityservices/.

Acceptable Student Behavior

Classroom behavior should not interfere with the instructor’s ability to conduct the class or the ability of other students to learn from the instructional program (see the Student Conduct Code, policy D-34.1). Unacceptable or disruptive behavior will not be tolerated. Students who disrupt the learning environment may be asked to leave class and may be subject to judicial, academic or other penalties. This prohibition applies to all instructional forums, including electronic, classroom, labs, discussion groups, field trips, etc. The instructor shall have full discretion over what behavior is appropriate/inappropriate in the classroom. Students who do not attend class regularly or who perform poorly on class projects/exams may be referred to the Early Alert Program. This program provides students with recommendations for resources or other assistance that is available to help SFA students succeed.
Course Outline

Jan. 19: Introduction
  • No Readings

Jan. 21: The Constitution & Supreme Court
  • Introduction to the Court
    – Epstein and Walker p. 11-23
  • Introduction to the Constitution
    – Epstein and Walker p. 699-704

Jan. 26: Judicial Interpretation
  • Theories and Methods of Constitutional Interpretation (D2L)
  • Justice Antonin Scalia, “Originalism: The Lesser Evil” (D2L)
  • Justice Thurgood Marshall, “Reflections on the Bicentennial” (D2L)
  • Justice William Brennan, “To the Text and Teaching Symposium” (D2L)
  • Epstein and Walker p. 21-31

Jan. 28: Incorporation of the Bill of Rights
  • Initial Responses
    – Barron v. Baltimore
  • Incorporation through the Fourteenth Amendment
    – Hurtado v. California (1884)
  • A Standard Emerges
    – Palko v. Connecticut (1937)
  • Incorporation in the the Aftermath of Palko
    – Duncan v. Louisiana (1968)

3This is a tentative schedule, and I reserve the right to change the schedule as necessary.
Feb. 2: Religion – Exercise and Establishent

- Free Exercise of Religion
  - Cantwell v. Connecticut (1940)
  - Sherbert v. Verner (1963)
  - Wisconsin v. Yoder (1972)
  - Employment Division, Department of Human Resources of Oregon v. Smith (1990)

Feb. 4: Religion – Exercise and Establishent

- Free Exercise of Religion
  - City of Boerne v. Flores (1997)
- Religious Establishment
  - Everson v. Board of Education (1947)
  - Agostini v. Felton (1997)

Feb. 9: Religion – Exercise and Establishent

- Religious Establishment
  - Lee v. Weisman (1992)

Feb. 11: Religion – Exercise and Establishent

- Religious Establishment
  - Van Orden v. Perry (2005)

- *Submit a hard copy of all case briefs for Religion – Exercise and Establishment*

Feb. 16: Exam

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Feb. 18: Freedom of Speech, Assembly, and Association

- The emergence of law in times of crisis
  - Schenck v. United States (1919)
  - Abrams v. United States (1919)
  - Gitlow v. New York (1925)
  - Dennis v. United States (1951)

Feb. 23: Freedom of Speech, Assembly, and Association

- The emergence of law in times of crisis
  - Brandenburg v. Ohio (1969)

- Content and Contexts
  - United States v. O’Brien (1968)
  - Chaplinsky v. New Hampshire (1942)

Feb. 25: Freedom of Speech, Assembly, and Association

- The emergence of law in times of crisis
  - Cohen v. California (1971)
  - Snyder v. Phelps (2011)

Mar. 1: Freedom of Speech, Assembly, and Association

- Content and Contexts
  - Morse v. Frederick
  - West Virginia State Board of Education v. Barnette (1943)
Mar. 3: Freedom of Speech, Assembly, and Association

- Content and Contexts

- Submit a hard copy of all case briefs for Freedom of Speech, Assembly, and Association

Mar. 8: Exam

Mar. 10: Freedom of the Press

- Prior Restraint
  - Near v. Minnesota (1931)

Mar. 15: Spring Break

- No class

Mar. 17: Spring Break

- No Class

Mar. 22: The Right to Keep and Bear Arms


Mar. 24: Easter Break

- No class
Mar. 29: The Boundaries of Free Expression

- Libel
  - Hustler Magazine v. Falwell (1988)

- Obscenity
  - Roth v. United States (1957)

Mar. 31: The Boundaries of Free Expression

- Obscenity
  - Miller v. California (1973)

- Cruelty and Violence

Apr. 5: The Right to Privacy

- Foundations
  - Griswold v. Connecticut (1965)

- Reproductive freedom and the right to privacy
  - Roe v. Wade (1973)
  - Planned Parenthood of Southeastern Pennsylvania v. Casey (1992)
  - Webster v. Reproductive Health Services (1989)

Apr. 7:

- No Class

Apr. 12: The Right to Privacy

- Private Activities and the Application of Griswold
  - Cruzan v. Director, Missouri Department of Health (1990)

- Submit a hard copy of all case briefs for The Boundaries of Free Expression and The Right to Privacy
Apr. 14: Exam

Apr. 19: Discrimination

- Racial Discrimination
  - Plessy v. Ferguson (1896)
  - Sweatt v. Painter (1950)
  - Brown v. Board of Education I (1954)
  - Brown v. Board of Education II (1955)

Apr. 21: Discrimination

- Racial Discrimination
  - Swann v. Charlotte-Mecklenburg Board of Education (1971)
  - Parents Involved in Community Schools v. Seattle School District No. 1; Meredith v. Jefferson County Board of Education (2007)
  - Loving v. Virginia (1967)

Apr. 26: Discrimination

- Racial Discrimination
  - Shelley v. Kraemer (1948)
  - Burton v. Wilmington Parking Authority (1961)
  - Moose Lodge No. 107 v. Irvis (1972)

Apr. 28: Discrimination

- Sex Discrimination
  - Reed v. Reed (1971)
  - Craig v. Boren (1976)

May 3: Discrimination

- Remediing the Effects of Discrimination: Affirmative Action
  - Regents of the University of California v. Bakke (1978)
  - Fisher v. University of Texas (2013)
May 5: Review Day
   • *Submit a hard copy of all case briefs for Discrimination*

May 10: Final Exam
   • 10:30 am – 12:30 pm
Schenck v. U.S. (1919)
249 U.S. 47 (1919)

Facts:

• Charles Schenck, the general secretary for the Socialist Party of Philadelphia, had 15,000 pamphlets printed, urging resistance to the draft. Federal authorities arrested him for violating the Espionage Act. Specifically they charged that he attempted to obstruct the draft and that he illegally used the mail to do so.

Legal Question:

• Does the Espionage Act violate the First Amendment guarantee of Free Speech?

Holding:

• Yes. 9-0. Holmes wrote.

Legal Reasoning

• It is clear that the intended effect of the pamphlet was to influence people to obstruct the draft.

• In many placed and in ordinary times, what the defendant said would have been within their constitutional rights. But the character of every act depends on the circumstances in which it occurs. The most stringent protection of free speech does not protect a man from falsely shouting fire in a crowded movie theater.

• Main question is whether the words used are used in such circumstances and are of such a nature as to create a “Clear and Present Danger” that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree. In this case, with the nation at war the words in the pamphlets do create a clear and present danger.