

## **POLS 3315: JUDICIAL PROCESS**

Old Main 205

Tues. & Thurs., 1:30pm to 2:50pm

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CRN: 18973

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Office Hours: By Appointment

### **COURSE DESCRIPTION**

This class introduces students to the judicial system and the judicial process in the United States. We will examine judicial organization and administrative processes at the state and federal levels. The structure, influence, and processes of the American legal system will be reviewed. Topics covered include: classical theories of jurisprudence, judicial decision making, criminal and civil litigation, trial and appellate courts, and the scope and limits of judicial power.

### **UTEP EDGE**

This course will help you develop the following UTEP Edge skills: (1) *critical thinking* through the analysis of difficult readings and complex arguments; (2) *communication* through the completion of the case brief and case study assignments; (3) *problem-solving* through an understanding of how judges frame and resolve legal issues; and (4) *social responsibility* through an appreciation of how the law influences controversial social policies.

### **LEARNING OUTCOMES**

This course has two primary objectives: (1) to provide an understanding of the American judicial system, and (2) to help increase your critical reading and problem-solving skills.

At the end of this course you will be able to:

- *Understand* the American judicial system;
- *Recognize* the legal issues and developments found in the common law;
- *Explain* the scope and limits of judicial power;
- *Construct, Deconstruct, and Reconstruct* complex arguments; and
- *Appreciate* the multi-faceted legal and social complexities that come before the courts.

### **REQUIRED MATERIALS**

Banks, C. P., & O'Brien, D. M. (2016). *Judicial Process: Law, Courts, and Judicial Politics*. Los Angeles, CA: CQ Press. (ISBN: 978-1-4833-1701-4).

Additional required readings will be made available on the Blackboard course site, which may be accessed at <https://my.utep.edu/>.

## ASSESSMENTS AND GRADING

Your grade will be based upon the following assignments:

Assessment	Percent of Grade	Total Points
Attendance	10%	50
Case Briefs (2 in total)	10%	50
Midterm Exam	20%	100
Case Studies (2 in total)	40%	200
Final Exam	20%	100
<b>Total</b>	<b>100%</b>	<b>500</b>

### ATTENDANCE

Attendance will be taken each class. Students receive 2 points for each class session they attend. Missing class will adversely affect your final grade. Students are expected to be on time. Persistent tardiness and leaving class early are not acceptable. Two tardies and/or early exists will count as 1 absence; 4 tardies and/or early exists equal 2 absences, etc.

### CASE BRIEFS

There will be two case briefs in this course. The Course Schedule section below identifies the cases you need to brief and when the case briefs are due. For purposes of this class, a “case brief” is an analytical summary of a judicial opinion. It contains the key components of the decision. The purpose of briefing a case is to help you better understand the case. Through the process of case briefing, you develop analytical and legal reasoning skills. A handout outlining what needs to be included in a case brief will be made available on Blackboard. A sample case brief will also be provided for your reference. You should refer to this sample case brief when you work on your case briefs. You will submit your case briefs on Blackboard.

### MIDTERM EXAM

The midterm exam will take place on **Thursday, Oct. 13th and must be completed by 5:00 pm.** The midterm exam is closed book and will consist of multiple choice questions. Specific information regarding the midterm exam will be provided as we progress through the course.

The midterm exam will be available on Blackboard and must be completed on Blackboard. Note: once you start the midterm exam, you must finish it within 1 ½ hours. Also note that we will not hold class on Thursday, Oct. 13th, the day of the midterm.

### CASE STUDIES

There will be two case studies in this course. The Course Schedule section below indicates when the case studies are due. Each case study will be available on Blackboard one week before its due date. Barring exigent circumstances, late submissions will not be accepted. Each case study includes a hypothetical scenario with accompanying cases for the supporting law. You will be the judge that decides the case, and you will write a short legal opinion supporting your decision. A sample case study on another hypothetical scenario in another area of the common law will be provided. You should refer to this sample case study when you work on your assignments. More information regarding the case studies, including the grading rubric, will be provided as we progress through the course. You will submit your case studies on Blackboard. Your case studies will also be submitted to SafeAssign, a plagiarism detecting software. SafeAssign is used to review assignment submissions for originality.

## FINAL EXAM

The final exam will take place on **Thursday, Dec. 8th and must be completed by 5:00 pm**. The final exam is closed book and will consist of multiple choice questions. The final exam will not be comprehensive. Specific information regarding the final exam will be provided as we progress through the course.

The final exam will be available on Blackboard and must be completed on Blackboard. Note: once you start the final exam, you must finish it within 1 ½ hours. Also note that we will not hold class on Thursday, Dec. 8th, the day of the final.

## QUALITY OF WORK

You are expected to produce quality work, which requires being prepared and encompasses both substance and presentation (style, organization, grammar, etc.). Poor presentation distracts from what it is you are trying to communicate. Producing quality work requires more than a minimum effort. In all cases, quality trumps quantity.

## CLASSROOM RESPONSE SYSTEM

We will use a cloud-based student response software by iClicker to administer polls during class. There is no extra cost for using this software application. You are required to “check-in” to participate in the iClicker Cloud polls. You can participate with a smartphone, tablet, laptop, or desktop computer. It is your responsibility to set up your iClicker Student account in a timely fashion and to make sure your device is working properly. You will need to create an iClicker Student account if you do not already have one. You will also need to connect to the internet or to your mobile data plan while using iClicker Student.

## COURSE COMMUNICATION

Important course information will primarily be communicated in class and through email. Note: your “miners.utep.edu” email address is the only email address I will use when communicating important information via email. Students who are absent from class are responsible for obtaining any important information they may have missed. Students are responsible for regularly checking their official UTEP email. It is not a valid excuse to say, “I did not receive the email.”

## COURSE POLICIES

### CLASSROOM ENVIRONMENT

I will strive to provide a classroom environment appropriate for academic instruction and discussion. For this to occur, make sure you read the assignments, as scheduled; silence cell phones; and arrive on time. We will welcome and encourage different ideas and viewpoints. Some topics are controversial and students should feel comfortable expressing their thoughts. We will respect what others have to say – we do not have to agree with them – and avoid personal insult, interrupting, and rudeness. We will avoid becoming politically charged when discussing sensitive topics. We will be civil.

### ACCOMMODATIONS

The University is committed to providing reasonable accommodations and auxiliary services to students with documented disabilities in order to provide them with equal opportunities to participate in programs, services, and activities in compliance with sections 503 and 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (ADA) of 1990 and

the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. Students requesting accommodations based on a disability must register with the [UTEP Center for Accommodations and Support Services](#) (CASS). Contact CASS at 915-747-5148 or email them at [cass@utep.edu](mailto:cass@utep.edu). Students can also apply for accommodations online via the [CASS portal](#).

#### COVID-19 ACCOMMODATIONS

Students are not permitted on campus when they have a positive COVID-19 test, exposure or symptoms. If you are not permitted on campus, you should contact me as soon as possible so we can arrange necessary and appropriate accommodations. We can further discuss what accommodations are needed should you miss assessment deadlines because you are sick with COVID-19. Your health takes priority.

#### WITHDRAWAL POLICY

To be withdrawn from the class, students must take appropriate actions on or before UTEP's deadlines. Automatic withdrawals will not be made by the instructor. A student may officially withdraw from this class with an automatic 'W' at any time **before Oct. 28th**. According to UTEP policy, no withdrawals will be allowed after this date. You will receive a failing grade if you simply stop coming to class and do not take appropriate actions to withdraw from the course.

#### COVID-19 PRECAUTIONS

Please stay home if you have been diagnosed with COVID-19 or are experiencing COVID-19 symptoms. If you are feeling unwell, please let me know as soon as possible, so we can work on appropriate accommodations. If you have tested positive for COVID-19, you are encouraged to report your results to [covidaction@utep.edu](mailto:covidaction@utep.edu), so that the Dean of Students Office can provide you with support and help with communication with your professors. The Student Health Center is equipped to provide COVID-19 testing.

The Center for Disease Control and Prevention recommends that people in areas of substantial or high COVID-19 transmission wear face masks when indoors in groups of people. The best way that Miners can take care of Miners is to get the vaccine. If you still need the vaccine, it is widely available in the El Paso area, and will be available at no charge on campus during the first week of classes. For more information about the current rates, testing, and vaccinations, please visit [cpstrong.org](http://cpstrong.org).

#### SCHOLASTIC DISHONESTY

##### **Scholastic Dishonesty will not be tolerated.**

I am required by the Handbook of Operating Procedures for The University of Texas at El Paso to report "all alleged acts of scholastic dishonesty...to the Dean of Students for disposition." (See Section III of the Handbook of Operating Procedures for UTEP (*Academic Policies and Faculty Personnel Matters* 4.14a.))

As stated in Section II of the Handbook of Operating Procedures for UTEP (*Student Conduct and Discipline* 1.2.3(a)): "Any student who commits an act of academic dishonesty is subject to discipline. Academic dishonesty includes but is not limited to cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person without giving sufficient credit, taking an examination for another person, or any act designed to give unfair advantage to a student or the attempt to commit such acts."

Please refer to UTEP's Office of Student Conduct and Conflict Resolution's *Tips for Academic Integrity and Scholastic Dishonesty* at <https://www.utep.edu/student-affairs/osccr/student-conduct/academic-integrity.html>. You should read the *Avoiding Plagiarism* handout available on their site, which is also available on Blackboard.

## COURSE SCHEDULE

The schedule below outlines what will be covered in this course. It will be followed to the extent possible in meeting the instructional goals and needs of the course, but I reserve the right to alter this schedule as needed. In addition to the required textbook, other readings will be made available on Blackboard. You are required to complete the assigned readings for each week. Pay particular attention to when the case briefs and case studies are due.

Date	Readings and Assignments
Week 1 8/23, 8/25	<i>Law and Courts in Society</i> <ul style="list-style-type: none"> <li>✓ Ch. 1, pp. 2-25</li> <li>✓ U.S. Constitution</li> <li>✓ <i>Federalist</i> #78</li> <li>✓ <i>U.S. v. Jones</i>, 565 U.S. 400 (2012) <b>[Sample Case Brief]</b></li> </ul>
Week 2 8/30, 9/1	<i>Law and Jurisprudence I</i> <ul style="list-style-type: none"> <li>✓ Ch. 2, pp. 30-48</li> <li>✓ H.L.A. Hart, <i>Positivism &amp; the Separation of Law &amp; Morals</i>, 71 HARV. L. REV. 593 (1957)</li> <li>✓ Ronald M. Dworkin, <i>The Model of Rules</i>, 35 U. CHI. L. REV. 14 (1967)</li> </ul>
Week 3 9/6, 9/8	Sept. 5th: Labor Day - University Closed Sept. 7th: Fall Census Day  <i>Law and Jurisprudence II</i> <ul style="list-style-type: none"> <li>✓ Continuation of H.L.A. Hart and Ronald Dworkin articles (if needed)</li> <li>✓ Lon L. Fuller, <i>The Case of the Speluncean Explorers</i>, 62 HARV. L. REV. 616 (1949)</li> </ul>
Week 4 9/13, 9/15	<i>Judicial Organization and Administration</i> <ul style="list-style-type: none"> <li>✓ Ch. 3, pp. 56-89</li> <li>✓ Mitchell, Jonathan F., <i>Judicial Review and the Future of Federalism</i>, 49 ARIZ. ST. L.J. 1091 (Fall 2017)</li> </ul>
Week 5 9/20, 9/22	<i>Judicial Selection and Removal</i> <ul style="list-style-type: none"> <li>✓ Ch. 4, pp. 99-130</li> <li>✓ Congressional Research Service. <i>Supreme Court Appointment Process: President's Selection of a Nominee</i> (R44235), Prepared by Barry J. McMillion. Washington: Library of Congress, March 8, 2022.</li> <li>✓ <i>Caperton v. A.T. Massey Coal Co. Inc.</i>, 556 U.S. 868 (2009) <b>[Case Brief #1]</b></li> </ul>
Week 6 9/27, 9/29	<i>The Practice of Law</i> <ul style="list-style-type: none"> <li>✓ Ch. 5, pp. 142-167</li> <li>✓ <i>Farett v. California</i>, 442 U.S. 806 (1975) <b>[Case Brief #2]</b></li> </ul>
Week 7 10/4, 10/6	Catch Up & Midterm Exam Review - Oct. 4th  No Class - Oct. 6th [Tentative]

<b>Date</b>	<b>Readings and Assignments</b>
Week 8 10/11, 10/13	No Class - Oct. 11th [Tentative]  <b>Midterm Exam - Oct. 13th [No Class]</b>
Week 9 10/18, 10/20	<b>Sample Case Study</b>  <i>Access to Courts and Justice I</i> <ul style="list-style-type: none"> <li>✓ Ch. 6, pp. 177-190</li> <li>✓ Chemerinsky, Erwin, <i>Bush v. Gore was not Justiciable</i>, 76 NOTRE DAME L. REV. 1093 (June 2001)</li> </ul>
Week 10 10/25, 10/27	Oct. 28th: Fall Drop/Withdrawal Deadline  <i>Access to Courts and Justice II</i> <ul style="list-style-type: none"> <li>✓ <i>Lujan v. Defenders of Wildlife</i>, 504 U.S. 555 (1992)</li> <li>✓ <i>DaimlerChrysler Corp. v. Cuno</i>, 547 U.S. 332 (2006)</li> <li>✓ <i>Hollingsworth v. Perry</i>, 570 U.S. 693 (2013)</li> </ul>
Week 11 11/1, 11/3	<b>Case Study - Nov. 3rd</b>  <i>The Adversarial Process and Criminal Cases</i> <ul style="list-style-type: none"> <li>✓ Ch. 7, pp. 196-223</li> <li>✓ <i>Roper v. Simmons</i>, 543 U.S. 551 (2005)</li> </ul>
Week 12 11/8, 11/10	<i>Civil Cases and Litigation</i> <ul style="list-style-type: none"> <li>✓ Ch. 8, pp. 232-256</li> <li>✓ <i>Katko v. Briney</i>, 183 N.W.2d 657 (Iowa 1971)</li> <li>✓ <i>Minns v. United States</i>, 155 F.3d 445 (4th Cir. 1998)</li> <li>✓ <i>Tenet v. Doe</i>, 544 U.S. 1 (2005)</li> </ul>
Week 13 11/15, 11/17	<b>Case Study - Nov. 17th</b>  <i>Appellate Courts and Decision Making</i> <ul style="list-style-type: none"> <li>✓ Ch. 9, pp. 264-292</li> <li>✓ Justice Breyer and Justice Scalia</li> </ul>
Week 14 11/22, 11/24	Nov. 24-25th: Thanksgiving Holiday - University Closed  <i>The Scope and Limits of Judicial Power I</i> <ul style="list-style-type: none"> <li>✓ Ch. 10, pp. 301-314</li> <li>✓ Global War on Terrorism and Habeas Corpus</li> </ul>
Week 15 11/29, 12/1	Dec. 2nd: Dead Day  <i>The Scope and Limits of Judicial Power II</i> <ul style="list-style-type: none"> <li>✓ Ch. 10, pp. 315-328</li> <li>✓ <i>Obergefell v. Hodges</i>, 576 U.S. ____ (2015)</li> </ul>
<b>Finals Week</b> 12/5 - 12/9	<b>Final Exam - Dec. 8th</b>