

# POLI 3321 – CIVIL LIBERTIES

*MW: 1:30 - 2:50 pm in LART 318*

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OFFICE HOURS: MWF 11:30am-1:20 pm, or by appointment

## **COURSE DESCRIPTION AND LEARNING OUTCOMES**

This course is designed to familiarize students with the development of constitutional law in the United States. Specifically we will examine cases rendered by the Supreme Court in areas involving civil rights, civil liberties and criminal rights. Over the course of the semester students will have:

- Developed an understanding of how the Supreme Court operates when it reviews questions of constitutionality.
- Learned specific areas of constitutional law (including civil rights, civil liberties and criminal rights) and the cases associated with specific legal doctrine.
- Developed and enhanced the skills necessary to understand Supreme Court opinions.
- Learned to think critically about constitutional issues and articulate arguments in response to specific legal questions.

## **REQUIRED READING**

- Epstein, Lee and Thomas G. Walker. 2015. *Constitutional Law for a Changing America: Rights, Liberties, and Justice*, 9<sup>th</sup> Edition. Washington, DC: CQ Press.

## **RECOMMENDED READING**

- Baum, Lawrence. 2009. *The Supreme Court, 10<sup>th</sup> Edition*. Washington, DC: CQ Press.
- van Geel, T.R. 2007. *Understanding Supreme Court Opinions, 6<sup>th</sup> Edition*. New York: Longman Publishers.

## **COURSE REQUIREMENTS AND GRADING**

Evaluation in this course will be based on the following components:

Attendance/Participation in Class	10%
First Midterm Examination	25%
Second Midterm Examination	30%
Final Examination	35%

The grading scale is as follows:

90-100	A
80-89	B
70-79	C
60-69	D
59 and below	F

*Examinations:* There will be 3 examinations during the course, two midterms and a final. The exams are closed book. All exams are **cumulative** and will cover material learned in the class lectures and the assigned reading. As a general rule, **make up exams will NOT be offered**; although make up exams will be permitted only under the gravest of circumstances, and I reserve the right to determine whether a make up exam is offered to individuals based upon their situation and timely request, and I reserve the right to alter the questions for make up exams. **Grade challenges must be in written form and submitted within one week of taking the exam.**

*Participation:* At various points during the semester I will pass around a sign-up sheet to see who is attending class. If you are absent when these sheets are passed out or fail to sign in, you will receive no points for your participation score. I expect students to come to class prepared to intelligently discuss the material. I will rely on a modified Socratic method and classes will consist of a series of questions, which the students are expected to answer. Other times, I will choose specific individuals to answer questions. Students will be graded according to their willingness to participate and their responses. If you are absent from class when your name is called, you will receive no participation points. All quizzes, class assignments, and homework assignments will contribute to participation scores. **Late assignments will receive no credit.**

#### **SPECIAL NEEDS**

If you have a disability and need classroom accommodations, please contact The Center for Accommodations and Support Services (CASS) at 747-5148, or by email to [cass@utep.edu](mailto:cass@utep.edu), or visit their office located in UTEP Union East, Room 106. For additional information, please visit the CASS website at [www.sa.utep.edu/cass](http://www.sa.utep.edu/cass). *CASS' Staff are the only individuals who can validate and if need be, authorize accommodations for students with disabilities.* Additionally, students with special needs **must** contact me in order to arrange appropriate accommodations.

#### **ACADEMIC DISHONESTY**

**Absolutely no form of academic dishonesty will be tolerated.** The University of Texas at El Paso prides itself on its standards of academic excellence. In all matters of intellectual pursuit, UTEP faculty and students must strive to achieve excellence based on the quality of work produced by the individual. In the classroom and in all other academic activities, students are expected to uphold the highest standards of academic integrity. Any form of scholastic dishonesty is an affront to the pursuit of knowledge and jeopardizes the quality of the degree awarded to all graduates of UTEP. It is imperative, therefore, that the members of this academic community understand the regulations pertaining to academic integrity and that all faculty insist on adherence to these standards.

Any student who commits an act of scholastic dishonesty is subject to discipline. Scholastic 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, taking an examination for another person, and any act designed to give unfair advantage to a student or the attempt to commit such acts. Proven violations of the detailed regulations, as printed in the Handbook of Operating Procedures (HOP) and available in the Office of the Dean of Students and the homepage of The Dean of Students at [www.utep.edu/dos](http://www.utep.edu/dos), may result in sanctions ranging from disciplinary probation, to failing a grade on the work in question, to a failing grade in the course, to suspension or dismissal, among others.

## GENERAL EXPECTATIONS

I expect all students to behave professionally in this class. You will be held responsible for all material covered in the textbooks, articles, videos, and the class discussions. If you miss a class, you are still responsible for the content of that day's information. I will not tolerate disruptive behavior, including (but not limited to) reading newspapers, talking during lectures, using cell phones or pagers, and disrespecting classmates or the instructor. Additionally, I expect all students to attend class prepared and to show up on time. It is disrespectful to the instructor and the other students when individuals show up late or are not prepared to participate in the class discussion. I allow the use of laptops for note-taking purposes only; however, should laptop usage become disruptive, I reserve the right to prohibit laptops and other electronic devices.

This class is designed to provide information and challenge students with new, sometimes controversial, ideas, and arguments. This class is designed to be a safe, open environment to express ideas, arguments, and opinions for learning purposes. This class is designed to initiate an open discussion based upon the required readings, encourage critical thinking and application to current events, and enable students to digest difficult material through these discussions. This class DOES NOT give you knowledge—i.e. knowledge and understanding is not transfused to students by simply sitting in class. **Learning is an interactive process and one that is the primary responsibility of each student.**

## COURSE SCHEDULE

The following is a list of topics to be covered at each class meeting, and the readings which should be completed in order to fully participate in class that day. I **require** you to read the material prior to the class since you will be expected to participate in the discussion. *Cases not included in the textbook but listed on syllabus are the responsibility of students to locate (online) and read.* Exam material will consist of assigned readings and information covered during assignments and the class discussion. Finally, while I give specific days on which certain topics will be discussed, the calendar is subject to change. Any alterations to the course schedule will be clearly announced. (As a general rule the course will follow this order of topics, regardless of date changes, unless otherwise announced.)

January	20	Distribute Syllabus and Introduction
	25	The Supreme Court and the Constitution Epstein and Walker 1-43
	27	The Supreme Court and the Constitution (Continue previous discussion)
February	1	Judicial Powers and Constraints Epstein and Walker 45-57 Cases: <i>Marbury v. Madison</i> <i>Ex parte McCardle</i>
	3	Incorporation of the Bill of Rights Epstein and Walker 66-87 Cases: <i>Barron v. Baltimore</i> <i>Hurtado v. California</i> <i>Palko v. Connecticut</i> <i>Duncan v. Louisiana</i>

	8	1 <sup>st</sup> Amendment and the Free Exercise of Religion Epstein and Walker 95-130 Cases: <i>Sherbert v. Verner</i> <i>Wisconsin v. Yoder</i> <i>Employment Division of Oregon v. Smith</i> <i>City of Boerne v. Flores</i>
	10	1 <sup>st</sup> Amendment and the Establishment of Religion Epstein and Walker 131-189 Cases: <i>Everson v. Board of Education</i> <i>Lemon v. Kurtzman</i> <i>Zelman v. Simmons-Harris</i> <i>Edwards v. Aguillard</i> <i>Lee v. Wiseman</i> <i>McCreary County, KY v. ACLU</i> (found online) <i>Van Orden v. Perry</i> <i>Hosanna-Tabor v. Employment Commission</i>
	15	Establishment of Religion Continue previous discussion
	17	<b>No Class</b>
	22	Review for Midterm Exam
	24	<b>Midterm Exam I</b>
	29	1 <sup>st</sup> Amendment and Freedom of Speech and Assembly (Speech in Times of Crisis) Epstein and Walker 191-221 Cases: <i>Schenck v. United States</i> <i>Gitlow v. New York</i> <i>Dennis v. United States</i> <i>Brandenburg v. Ohio</i>
March	2	1 <sup>st</sup> Amendment and Freedom of Speech and Assembly (Regulating Expression) Epstein and Walker 221-290 Cases: <i>United States v. O'Brien</i> <i>Tinker v. Des Moines School District</i> <i>Texas v. Johnson</i> <i>Chaplinsky v. New Hampshire</i> <i>Cohen v. California</i> <i>R.A.V. v. St. Paul, Minnesota</i> <i>Snyder v. Phelps</i> <i>Boy Scouts of America v. Dale</i>

- 7-11 Spring Break – No Class**
- 14 1<sup>st</sup> Amendment and Freedom of Speech and Assembly  
(Regulating Expression)  
Continue previous discussion
- 16 Freedom of the Press  
Epstein and Walker 293-319  
Cases: *Near v. Minnesota*  
*New York Times v. United States*  
*Hazelwood School District v. Kuhlmeier*  
*Branzburg v. Hayes*
- 21 Libel and Obscenity  
Epstein and Walker 321-378  
Cases: *New York Times v. Sullivan*  
*Hustler Magazine v. Falwell*  
*Roth v. United States*  
*Miller v. California*  
*New York v. Ferber*  
*Brown v. Entertainment Merchants association*  
*Reno v. ACLU*  
*United states v. Williams*
- 23 Libel and Obscenity  
Continue previous discussion
- 28 2<sup>nd</sup> Amendment Right to Bear Arms  
Epstein and Walker 379-388  
Cases: *District of Columbia v. Heller*
- Right to Privacy  
Epstein and Walker 390-415  
Cases: *Griswold v. Connecticut*  
*Roe v. Wade*  
*Planned Parenthood of PA v. Casey*
- 30 Right to Privacy and Applications of *Griswold*  
Epstein and Walker 415-459  
Cases: *Stanley v. Georgia* (found online)  
*Cruzan v. Missouri Dept. of Health*  
*Bowers v. Hardwick* (found online)  
*Lawrence v. Texas*  
*Obergefell v. Hodges*

April	4	Review for Midterm Exam
	<b>6</b>	<b>Midterm Exam II</b>
	11	No class—subject to change
	13	Rights of the Accused and the 4 <sup>th</sup> , 5 <sup>th</sup> , 6 <sup>th</sup> , and 8 <sup>th</sup> Amendments Epstein and Walker 461-596 Cases: <i>Katz v. United States</i> <i>Terry v. Ohio</i> <i>Mapp v. Ohio</i> <i>Hudson v. Michigan</i> <i>Escobedo v. Illinois</i> <i>Miranda v. Arizona</i> <i>Missouri v. Selbert</i> <i>Powell v. Alabama</i> <i>Gideon v. Wainwright</i> <i>Gregg v. Georgia</i> <i>Atkins v. Virginia</i>
	18	Rights of the Accused Continue previous discussion
	20	Rights of the Accused Continue previous discussion
	25	14 <sup>th</sup> Amendment and Racial Discrimination Epstein and Walker 599-669 Cases: <i>Scott v. Sandford</i> (found online) <i>Civil Rights Cases</i> (given in class) <i>Plessy v. Ferguson</i> <i>Shelley v. Kraemer</i> <i>Brown v. Board of Education I and II</i> <i>Swann v. Charlotte-Mecklenberg Board of Education</i> <i>Meredith v. Jefferson County Board of Education</i>
	11	14 <sup>th</sup> Amendment and Racial Discrimination Continue previous discussion
	13	14 <sup>th</sup> Amendment and Gender Discrimination Epstein and Walker 669-687 Cases: <i>Bradwell v. Illinois</i> (found online) <i>Frontiero v. Richardson</i> <i>Craig v. Boren</i> <i>United States v. Virginia</i>

	18	14 <sup>th</sup> Amendment and Reverse Discrimination Epstein and Walker 644-668 Cases: <i>Regents of UC-Davis v. Bakke</i> <i>City of Richmond v. Croson</i> (found online) <i>Adarand v. Pena</i> <i>Grutter v. Bollinger</i>
	20	14 <sup>th</sup> Amendment and Discrimination (other) Epstein and Walker 688-716 Cases: <i>Romer v. Evans</i> <i>San Antonio Independent School Districts v. Rodriguez</i> <i>Plyder v. Doe</i>
	25	Voting and Political Participation Epstein and Walker 717-769 Cases: <i>Bush v. Gore</i> <i>South Carolina v. Katzenbach</i> <i>Shelby County, Alabama v. Holden, Attorney General</i> <i>Citizens United v. Federal Election Commission</i> <i>Reynolds v. Sims</i> <i>Miller v. Johnson</i>
	27	Voting and Political Participation Continue previous discussion
May	2	Voting and Political Participation Continue previous discussion
	4	Review for Final Exam (Last Day of Class)
	<b>9-13</b>	<b>Final Exam Week</b>

## NOTES ON HOW TO “BRIEF” A CASE

All students are encouraged to take notes on each case in the form of a “brief.” Taking notes following the outline below will not only help you understand the essential points of each case, but they will also assist you in preparing for the exams. Success in this course can be greatly enhanced by following the guidelines below.

1. *Background Information and Case Facts:* Note the litigants in each case as well as the citation of the case. State the facts of a particular case in as much detail as possible and necessary. Be sure to include key statutes or portions of the Constitution that are at issue.
2. *Central Issues:* State the central issue(s) in the case in the form of a question that can be answered “yes” or “no.” For example,
  - (a) Is it legitimate for a state to ban all abortions in public hospitals?
  - (b) Does the President of the United States, have absolute immunity from all civil suits?
3. *Why:* Why did the Court decide the case this way? Here you should note the reasons given by the majority for their decision. Take careful note to make sure the opinion is a majority opinion and not a plurality opinion. A majority opinion is one agreed to by a majority of the Court, whereas a plurality opinion is one agreed to by more justices than agree with another opinion. You should note which justices join the majority (or plurality) opinion.
4. *Other Opinions:* Is there a concurring opinion (or more than one) or a dissenting opinion (or more than one)? A concurring opinion is one where a justice agrees with the outcome of a particular case but disagrees with the reasons given by the Court. A dissenting opinion is one where the justice disagrees with the outcome of the case and writes to express this disagreement. You should note what these opinions say. You should also note if other justices join a concurring opinion or dissenting opinion.
5. *Principles of Law:* You should try to summarize the principles of law in the case in one statement. For example, in (b): The President of the United States is absolutely immune from civil suits concerning his activities as President.
6. *Put the Case in Perspective:* Put the case in context: How is it similar to previous cases on the issue? How does it differ? Did the Court overrule a previous decision (precedent) or did it just not extend a previous ruling? What are the implications of the Courts decision? That is, how will this case affect future rulings?