

**CIVIL RIGHTS & LIBERTIES – POLS 3321**  
**Department of Political Science**  
**University of Texas at El Paso**  
**Spring 2023**

Dr. Todd A. Curry  
Office: Benedict 107  
Lecture: - M/W 3 - 4:20pm – UGLC 342  
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***Land Acknowledgement***

We, the UTEP Department of Political Science, acknowledge that we are in the unceded territories of the Indigenous Peoples who, along with countless generations of ancestors, are the guardians and keepers of this land, both throughout history and more contemporary times: the Tigua, Mansos, Sumas, Ndé, the Piros, Mescalero Apache, Chiricahua Apache, Tarahumara, Yaqui, Jumano, Comanche, Kiowa, Rarámuri, Tohono O’odham, Yaqui, Kickapoo, Diné, Hopi, Zapotec, Mixtec, Aztec-Nahua-Mexica, Huichol, Tepehuan, Coahuilteco, Chichimeca, and the other Native communities who comprise our multinational region. As scholars and people who reside and work in these lands, we respect and honor the millennia-long history of Native peoples on this land and their ongoing presence today.

***COVID-19 Precaution Statement***

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 that 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, 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.

***Course Description (from Undergraduate Catalog):***

A study of the limitations on governmental power in the United States, with primary emphasis on civil and political rights. Prerequisites: POLS 2310, POLS 2311, and POLS 3315; and either POLS 2312 or junior standing.

***Course Overview and Objectives:***

This course focuses on the development of constitutional interpretation in certain areas of case law relating to civil rights and liberties. We will utilize a case book approach commonly used in a constitutional law class in law school, although we will make use of additional readings as well. This portion of the class will use the Socratic Method. In addition to learning about constitutional law in general, this approach is designed to expose students to judicial cases in

order to understand the legal analyses employed by the Supreme Court within different political contexts.

### ***Course Learning Objectives:***

This course is hard, as it is taught fairly similarly to law school. However, with appropriate levels of effort and willingness, students can excel. If you do so, by the end of this course you will be able to:

- discuss the broader political climate of the Supreme Court's decision-making, past and present
- explain important legal concepts utilized by the Supreme Court
- discuss current trends in constitutional case law
- understand the legal foundations and parameters of the Constitution
- brief court decisions
- engage in appellate research
- argue legal principles involved in Constitutional cases
- Learn some stuff. Help each other out. Be good colleagues. Get through this.

### ***UTEP Edge***

The UTEP Edge is our philosophy that acknowledges the many assets our students bring to the University. We provide a variety of high-impact experiences both in and out of the classroom through work of our faculty, staff, alumni, and community partners that build on these assets and talents. Many of the assignments and discussions in this class will further develop the talents you bring to this class such as developing your communication skills, teamwork, critical thinking, and problem solving.

- Communicate information clearly and effectively (Written & Orally)
- Demonstrate strategic and on-the-fly thinking patterns while learning
- Apply analysis and synthesis through legal reasoning

### ***Texts:***

Louis Fisher and Katy J. Harriger, *American Constitutional Law: Volume 2, Constitutional Rights*, Twelfth Edition (Carolina Academic Press 2019, ISBN 978-1-5310-0954-0) **NOT Required**

### ***Grading:***

The final course grade is based entirely upon performance on the exams and case brief as stated below:

- Student's highest exam grade: 20%
- Student's next-highest exam grade: 20%
- Student's lowest exam grade: 15%

Socratic Method/Class Participation: 15%  
Case Briefs: 10%  
Moot Court: 20%

***Policies:***

The student who chooses not to attend class does so at their own peril. While attendance will not be formally recorded, your grade will most certainly drop if you do not attend. If you are not in attendance when I call on you in class, you will receive a zero for the day. This will be explained in depth in class.

Information for the students will be communicated in three ways 1. In class; 2. Through email. 3. On Blackboard The only email address I will use to contact you is your official “utep.edu” account. This means as a requirement of this course you will need to regularly check this account if you do not already. “I did not receive notification,” is not a valid excuse.

I used to ban laptops in the classroom. I will not be doing that going forward. I feel that laptops in this class are mostly a distraction and a crutch for students, but I will put the onus on you to utilize them (or not) responsibly. However, when you are called on for the Socratic Method portion of your course, I will ask you to close your laptop. As the purpose of the Socratic Method is to ensure students have read before attending class, there should be no difficulty removing the laptops for a few moments.

***Grading Scale:***

The following numerical averages translate into final course grades:

90: A (4.0)  
80-89: B (3.0)  
70-79: C (2.0)  
60-69: D (1.0)  
–60: F (0.0)

***Exams:***

The three exams will consist of 15 multiple choice questions (worth 30% of the exam) and two of three LONG essays (worth 70% of the exam). The essays will involve large themes covered in class and will be apparent if you are in attendance and pay attention. Much of the material on the exams is delivered in class; however, some material from the readings *not* covered in class is tested on the exams as well. **YOU MUST BRING A BLUE BOOK TO EACH EXAM OR I WILL NOT ALLOW YOU TO TAKE IT. ALSO, IF YOU ARRIVE 15 MINUTES AFTER THE EXAM START TIME YOU WILL NOT BE ABLE TO TAKE THE EXAM AND WILL RECEIVE A 0.**

Test 1: Feb 21  
Test 2: March 28  
Test 3: Monday May 8<sup>th</sup> 1:00-3:45pm

### ***Make-Up Exams:***

It is completely the student's responsibility to take the exams when they are scheduled. As a general rule, make-up exams **will not be** allowed; thus, a missed exam counts as a zero (0) toward the final course grade. Notwithstanding, at the instructor's sole discretion make-ups will be permitted, but only the gravest of reasons will be accepted, **if** documented in writing by the proper authority. Even if there is an acceptable reason for missing the regularly scheduled exam, permission to take a make-up will be granted **only** if the student provides the professor with prompt and proper notification; that is, the student **must** inform the professor of the reason for missing the exam with proper documentation **before** the exam takes place, **and** the reason must be acceptable to the instructor. If a make-up is permitted, both the format and questions can, and likely will, be different from the regularly scheduled exam.

Do your best to not miss exams. I fully expect anything and everything to happen, and I am ready to deal with it in a way that does not penalize the student. Missed exams will be made up orally over Zoom in a 1 on 1 session.

### ***Classroom Allies:***

You will find that your best allies are your classmates in this course. If you are interested in studying with other members, I can help to facilitate this process by passing around a signup sheet for names/phone numbers/email addresses or by making a post on the blackboard for study groups. Experience has shown in this course that students with similar energy levels, who have similar study habits, and whom live close to each other make the best study partners. It is, however, entirely up to you to make these events happen.

### ***Moot Court:***

The last portion of your grade (worth as much as an exam) is a simulation of a Supreme Court oral argument, hence a moot court. The assignment features a team of student attorneys presenting an oral argument before a panel of student justices. The topic (**Students for Fair Admissions v. University of North Carolina** - <https://www.scotusblog.com/case-files/cases/students-for-fair-admissions-inc-v-university-of-north-carolina/> ) will be drawn from a current case scheduled for oral argument before the United States Supreme Court. This assignment is designed to facilitate many different skills that are important for professions (especially attorneys), but, at the end of the day, I want you all to enjoy this assignment. Please send requests to be an attorney or justice by February 6<sup>th</sup>, and which justice you would prefer to play. Moot Courts will take place the week of May 1<sup>st</sup>.

**Student Attorneys:** You will be required to write and deliver an oral argument before the moot court. The argument will last approximately 10 minutes, including questions from the panel of justices. The case will be separated into two sections: you will speak for 10 minutes on one issue, while your partner speaks for 10 on their issue. You will grade on the thoroughness (knowledge) of your presentation (10 percent), and the ability with which you answer questions posed to you by the panel of justices and your general demeanor during oral arguments (10 percent). Please remember, your job is not to finish all of your prepared remarks (trust me, you

won't), but to persuade your fellow student justices that your client's position is the one which is correct.

**Student Justices:** Your assignment will be different from the attorneys for obvious reasons. You will be required to write a minimum five-page biography of the real justice whom you are portraying (5 percent). The purpose of this requirement is so that you will become familiar with not only whom you are portraying as an individual, but also (indeed, more importantly) their case history and approach to deciding cases. This will be quite important for the next assignments. **Sources:** There is a wealth of information written on each of these individuals. Finding sources should not be difficult. I do not like giving students a minimum number of sources for obvious reasons, but I will state more is always better. Newspapers and magazine articles are not the appropriate sources to be used for this type of paper. Any website which has "pedia" at the end is not acceptable in any type of paper including this one. Use multiple SCHOLARLY sources. If you have questions as to the validity of a source, ask me before using it, as I will deduct points for inappropriate sources. I expect in-text citation using MLA style guidelines.

In addition, justices will be graded based upon the quality of questions they pose to counsel during the oral arguments (10 percent). These questions should be topical, of general interest to your justice, and to the core of the issues at hand. Finally, justices will be graded upon their deliberations with the other members of the Court as ultimately demonstrated with the written Opinion of the Court's ruling as well as any other dissents and concurrences (5 percent).

### ***Academic Honesty and Integrity:***

Per UTEP policy: 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.

### ***Case Briefs:***

Each student is responsible for writing **two** case briefs. The day your case is discussed in class, you are responsible for uploading the file (as a .docx or .pdf) to the class thread on Blackboard. Case briefs not submitted in a timely manner will be assigned a grade of zero. Please **DO NOT** plagiarize your case brief as I will assign you a 0 and submit you to the Office of Student Conduct. I am very familiar with the cases, and the case briefs available online. It is very easy for me to identify (It happens around 5 times a semester). A list of cases available for briefing, instructions and requirements for the briefs, due dates, and a sample case brief, follow this Syllabus.

### ***University Writing Center:***

The University Writing Center is a useful tool each of you should take advantage of in the course of writing this paper. While I do not require you to go, I can say definitively that your paper will be improved following a consultation with the staff. The staff sees students through appointments or walk-ins, though appointments are preferred. For more information and the registration form go <https://www.utep.edu/uwc/appointments/blackboard-link-page.html>

### ***Counseling and Psychological Services***

The center, located at 202 Union West, offers confidential counseling services in English or in Spanish. They also provide group and individual counseling for currently enrolled UTEP students. For more information, go to: <https://www.utep.edu/student-affairs/counsel/>.

### ***Adelante Child Development Center***

Child care is available for children of all students of the University. The Adelante Child Development Center is located at 314 W. Schuster and is managed and operated by Adelante Childcare, Inc. Children aged three months to 12 years are accepted, depending on space availability (Hourly, daily and weekly care are available and the Center offers a Summer Camp for school-age children). Age-appropriate early childhood developmental programs are offered in the curriculum. The Adelante Child Development Center is licensed by the Texas Department of Protective and Regulatory Services. Financial assistance is available for qualifying parents through Child Care Services. For more information, please call: **915-532-1114** or contact: [studentaffairs.utep.edu/childcare](http://studentaffairs.utep.edu/childcare). If, for any reason, you cannot find a care-taker for your child(ren), you are welcome to bring them to class

### ***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.*

***Class Schedule:***

We meet every Monday and Wednesday from 3:00-4:20pm during the semester, with the exception of the following dates during which ***class is cancelled:***

January 26

February 2

March 13-17 Spring Break

***Schedule of Assignments:***

All references are to the Fisher casebook, unless provided otherwise. A case or reading denoted by \*signifies that it is not found in any of the assigned books, and alternate references are supplied; a reading denoted by \*\* signifies that it can be found on my website.

***I. The Supreme Court, Judicial Power & Review, and the Role of the Supreme Court in Social Policy (Jan 19)***

The Constitution of the United States,  
Constitutional Politics,  
Mechanical Jurisprudence,  
Litigation as a Political Process,  
Judge as Lawmaker,  
Judge as Administrator,  
Independent State Action,  
Who Has the Last Word?,  
The Doctrine of Judicial Review,  
Framers' Intent,  
Threshold Requirements,  
Cases and Controversies,  
Standing to Sue,  
Mootness,  
Ripeness,  
Political Questions,  
The Writ of Certiorari,  
From Oral Argument to Decision,  
Unanimity and Dissent,  
Sources of Judicial Review Authority,  
Federalist No. 78,  
The Road to *Marbury*,  
*Marbury v. Madison* (1803)  
Jurisdiction: Original and Appellate,  
Constraints on Judicial Review,  
The *Carolene* Footnote,

***II. Incorporation of the Bill of Rights (Jan 24 – Jan 31)***

Nationalization of the Bill of Rights

The Incorporation Doctrine

\**Barron v. Baltimore*, 32 U.S. 242 (1833)

[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0032\\_0243\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0032_0243_ZO.html)

\**Slaughter-House Cases*, 83 U.S. 36 (1873)

<https://www.law.cornell.edu/supremecourt/text/83/36>

\**Adamson v. California*, 332 U.S. 46 (1947)

<http://www.law.cornell.edu/supremecourt/text/332/46>

*Duncan v. Louisiana*, 391 U.S. 145 (1968)

<https://www.law.cornell.edu/supremecourt/text/391/145>

Table 8.2: Incorporation of Bill of Rights

The Incorporation Doctrine: Testimony by Justice Rehnquist

### **III. Freedom of Speech (Feb 7 – 16)**

Free Speech in a Democratic Society

Free Speech and National Security

*Schenck v. United States* (1919)

<https://www.law.cornell.edu/supremecourt/text/249/47>

*Abrams v. United States* (1919)

<https://www.law.cornell.edu/supremecourt/text/250/616>

*Gitlow v. New York* (1925)

<https://supreme.justia.com/cases/federal/us/268/652/>

*Dennis v. United States* (1951)

<https://www.law.cornell.edu/supremecourt/text/341/494>

*Brandenburg v. Ohio* (1969)

<https://www.law.cornell.edu/supremecourt/text/395/444>

*Holder v. Humanitarian Law Project* (2010)

<https://www.law.cornell.edu/supremecourt/text/08-1498>

Associational Rights

*Boy Scouts of America v. Dale*, 120 S. Ct. 2446 (2000)

<http://supct.law.cornell.edu/supct/html/99-699.ZO.html>

Regulation of Speech, pp. 467-476

*Walker v. Texas Div., Sons of Confederate Veterans, Inc.* (2015)

<https://www.law.cornell.edu/supremecourt/text/14-144>

*Cohen v. California* (1971)

<https://www.law.cornell.edu/supremecourt/text/403/15>

*R.A.V. v. St. Paul* (1992)

<https://www.law.cornell.edu/supremecourt/text/505/377>

*Tinker v. Des Moines School Dist.* (1969)

<https://www.law.cornell.edu/supremecourt/text/393/503>

*Morse v. Frederick* (2007)

<https://www.law.cornell.edu/supct/html/06-278.ZS.html>

Forms of Speech

*Texas v. Johnson* (1989)

<https://www.law.cornell.edu/supremecourt/text/491/397>

*Snyder v. Phelps* (2011)



<https://www.law.cornell.edu/supct/html/09-751.ZS.html>

*Matal v. Tam* (2017)

<https://supreme.justia.com/cases/federal/us/582/15-1293/>

Conclusions, pp. 506

### Exam 1 (Feb 21)

#### IV. Racial Discrimination (Feb 23 – Mar 23)

##### Spring Break – March 13-17

Racial Discrimination; Slavery

*Dred Scott v. Sandford* (1857)

<https://www.law.cornell.edu/supremecourt/text/60/393>

\*\**Mississippi Historical Society*: “A Declaration Of The Immediate Causes Which Induce And Justify The Secession Of The State Of Mississippi From The Federal Union.”  
January 1861

[http://avalon.law.yale.edu/19th\\_century/csa\\_missec.asp](http://avalon.law.yale.edu/19th_century/csa_missec.asp)

Civil War Amendments

*Slaughter-House Cases*, 83 U.S. 36, (1873)

<https://www.law.cornell.edu/supremecourt/text/83/36>

*Civil Rights Cases* (1883)

<https://www.law.cornell.edu/supremecourt/text/109/3>

*Plessy v. Ferguson* (1896)

<https://www.law.cornell.edu/supremecourt/text/163/537>

*Strauder v. West Virginia*, 100 U.S. 303 (1880)

[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0100\\_0303\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0100_0303_ZO.html)

*Yick Wo v. Hopkins*, 118 U.S. 356 (1886)

<https://www.law.cornell.edu/supremecourt/text/118/356>

School Desegregation

*Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938)

[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0305\\_0337\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0305_0337_ZO.html)

*Sweatt v. Painter*, 339 U.S. 629 (1950)

[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0339\\_0629\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0339_0629_ZO.html)

*McLaurin v. Oklahoma State Regents*, 339 U.S. 637 (1950)

[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0339\\_0637\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0339_0637_ZO.html)

*Brown v. Board of Education I* (1954)

<https://www.law.cornell.edu/supremecourt/text/347/483>

*Bolling v. Sharpe* (1954)

<https://www.law.cornell.edu/supremecourt/text/347/497>

*Brown v. Board of Education II* (1955)

<https://www.law.cornell.edu/supremecourt/text/349/294>

*Cooper v. Aaron* (1958)

<https://www.law.cornell.edu/supremecourt/text/358/1>

*Griffin v. School Board of Prince Edward Co.*, 377 U.S. 218 (1964)

<http://www.law.cornell.edu/supremecourt/text/375/391>

*Green v. County School Board of New Kent County*, 391 U.S. 430 (1968)

[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0391\\_0430\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0391_0430_ZO.html)

*Swann v. Charlotte-Mecklenburg Board of Education* (1971)  
<https://www.law.cornell.edu/supremecourt/text/402/1>

*Milliken v. Bradley* (1974)  
<https://www.law.cornell.edu/supremecourt/text/418/717>

*Freeman v. Pitts*, 503 U.S. 467 (1992)  
[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0503\\_0467\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0503_0467_ZO.html)

*Parents Involved in Community Schools v. Seattle School District No. 1*, (2007)  
<https://www.law.cornell.edu/supct/html/05-908.ZS.html>

*Bob Jones University v. U.S.*, 461 U.S. 574 (1983)  
[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0461\\_0574\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0461_0574_ZO.html)

Desegregating Other Activities

*Shelley v. Kraemer* (1948)  
<https://www.law.cornell.edu/supremecourt/text/334/1>

Congress Interprets the Commerce Clause

*Heart of Atlanta Motel v. United States* (1964)  
<https://www.law.cornell.edu/supremecourt/text/379/241>

Employment and Affirmative Action

*Griggs v. Duke Power Co.*, 401 U.S. 424 (1971)  
[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0401\\_0424\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0401_0424_ZO.html)

*Regents of the University of California v. Bakke* (1978)  
<https://www.law.cornell.edu/supremecourt/text/438/265>

*Gratz v. Bollinger* (2003)  
<https://www.law.cornell.edu/supct/html/02-516.ZO.html>

*Grutter v. Bollinger* (2003)  
<https://www.law.cornell.edu/supct/html/02-241.ZO.html>

## **Exam 2 - March 28**

### **V. Gender Issues (March 30 – Apr 6)**

The Struggle for Women's Rights

*Goeseart v. Cleary*, 335 U.S. 464 (1948)  
<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=335&invol=464>

*Reed v. Reed*, 404 U.S. 71 (1971)  
[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0404\\_0071\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0404_0071_ZO.html)

*Frontiero v. Richardson* (1973)  
<https://www.law.cornell.edu/supremecourt/text/411/677>

*Craig v. Boren* (1976)  
<https://www.law.cornell.edu/supremecourt/text/429/190>

*Personnel Administrator of Massachusetts v. Feeney* (1979)  
<https://www.law.cornell.edu/supremecourt/text/442/256>

*Michael M. v. Sonoma County Superior Court* (1981)  
<https://supreme.justia.com/cases/federal/us/450/464/>

*Cleveland Board of Education v. LaFleur*, 414 U.S. 632 (1974)  
[http://www.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0414\\_0632\\_ZO.html](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0414_0632_ZO.html)

*Geduldig v. Aiello*, 417 U.S. 484 (1974)  
<http://caselaw.findlaw.com/scripts/getcase.pl?court=us&vol=417&invol=484>

*General Electric Co. v. Gilbert*, 429 U.S. 125 (1976)  
<http://caselaw.findlaw.com/scripts/getcase.pl?court=us&vol=429&invol=125>

*Automobile Workers v. Johnson Controls* (1991)  
<https://www.law.cornell.edu/supct/html/89-1215.ZO.html>  
*Rostker v. Goldberg* (1981)  
<https://www.law.cornell.edu/supremecourt/text/453/57>  
*U.S. v. Virginia* (1996)  
<https://www.law.cornell.edu/supct/html/94-1941.ZS.html>  
*U.S. v. Morrison*, 528 U.S. 598 (2000)  
<http://www.law.cornell.edu/supct/html/99-5.ZS.html>

## **VI. Privacy Rights (Apr 11 – Apr 27)**

Dimensions of Privacy  
*Buck v. Bell* (1927)  
<https://www.law.cornell.edu/supremecourt/text/274/200>  
*Skinner v. Oklahoma*, 316 U.S. 535 (1942)  
[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0316\\_0535\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0316_0535_ZO.html)  
*Loving v. Virginia*, 388 U.S. 1 (1967)  
[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0388\\_0001\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0388_0001_ZO.html)  
*Stanley v. Georgia* (1969)  
<https://www.law.cornell.edu/supremecourt/text/394/557>  
Substantive Due Process  
*Lochner v. New York* (1905)  
<https://www.law.cornell.edu/supremecourt/text/198/45>  
*West Coast Hotel Co. v. Parrish* (1937)  
<https://www.law.cornell.edu/supremecourt/text/300/379>  
Use of Contraceptives  
*Griswold v. Connecticut* (1965)  
<https://www.law.cornell.edu/supremecourt/text/381/479>  
*Carey v. Population Services*, 431 U.S. 678 (1977)  
[http://supct.law.cornell.edu/supct/html/historics/USSC\\_CR\\_0431\\_0678\\_ZO.html](http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0431_0678_ZO.html)  
Reproductive Freedom  
*Roe v. Wade* (1973)  
<https://www.law.cornell.edu/supremecourt/text/410/113>  
*Akron v. Akron Center for Reproductive Health* (1983)  
<https://www.law.cornell.edu/supremecourt/text/462/416>  
*Planned Parenthood v. Casey* (1992)  
<https://www.law.cornell.edu/supremecourt/text/505/833>  
*Stenberg v. Carhart* (2000)  
<https://www.law.cornell.edu/supct/html/99-830.ZS.html>  
*Gonzales v. Carhart* (2007)  
<https://www.law.cornell.edu/supremecourt/text/05-380>  
*McCullen v. Coakley*, 573 U.S. \_\_\_\_ (2014)  
<https://supreme.justia.com/cases/federal/us/573/12-1168/>  
*Whole Woman's Health v. Hellerstedt*, 576 U.S. \_\_\_\_ (2016)  
<https://supreme.justia.com/cases/federal/us/579/15-274/Do>  
*Dobbs v. Jackson Women's Health Organization*, 597 U.S. \_\_\_\_ (2021)  
[https://www.supremecourt.gov/opinions/21pdf/19-1392\\_6j37.pdf](https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf)  
Gay Rights  
*Bowers v. Hardwick* (1986)  
<https://www.law.cornell.edu/supremecourt/text/478/186>  
*Lawrence v. Texas* (2003)

<https://www.law.cornell.edu/supct/html/02-102.ZO.html>

*United States v. Windsor* (2013)

<https://www.law.cornell.edu/supremecourt/text/12-307>

*Obergefell v. Hodges*, (2015)

<https://www.law.cornell.edu/supremecourt/text/14-556>

**Week of May 2<sup>nd</sup> is Moot Court Week**

**Final Exam Monday May 8<sup>th</sup> 1:00-3:45pm**

## Case Brief Information

As mentioned earlier, each student is responsible for two case briefs during the semester. The assignment in its entirety entails writing said brief, turning it in on the day the case is discussed, and leading the discussion of the case, as well as answering questions based upon the brief. Do **NOT** use any additional sources for your case brief. All the information you need is in the case itself. I have included a sample brief at the end of this document and that format should be adopted without modification. Your case brief is due uploaded to Blackboard when the case is discussed in class. Since this class is fluid, I cannot put a hard date on when it is due. The only way to know is to come to class daily and rely upon friends in the course.

You will have until Wednesday the 26<sup>th</sup> of January to email me your top three choices for cases to brief. You may choose no more than one case from any section. I will then assign the cases formally. If you do not email me preferences I will assign you cases. It will be unchangeable.

### Cases:

#### Incorporation of the Bill of Rights

*Barron v. Baltimore* (1833)  
*Slaughter-House Cases* (1873)  
*Adamson v. California* (1947)  
*Duncan v. Louisiana* (1968)

#### Freedom of Speech

*Schenck v. United States* (1919)  
*Abrams v. United States* (1919)  
*Gitlow v. New York* (1925)  
*Dennis v. United States* (1951)  
*Brandenburg v. Ohio* (1969)  
*Holder v. Humanitarian Law Project* (2010)  
*Boy Scouts of America V. Dale* (2000)  
*Cohen v. California* (1971)  
*R.A.V. v. St. Paul* (1992)  
*Tinker v. Des Moines School Dist.* (1969)  
*Morse v. Frederick* (2007)  
*Texas v. Johnson* (1989)  
*Snyder v. Phelps* (2011)  
*Matal v. Tam* (2017)

#### Racial Discrimination

*Dred Scott v. Sandford* (1857)  
*Civil Rights Cases* (1883)  
*Plessy v. Ferguson* (1896)

*Strauder v. West Virginia* (1880)  
*Yick Wo v. West Virginia* (1886)  
*Missouri ex rel. Gaines v. Canada* (1938)  
*Sweatt v. Painter* (1950)  
*McLaurin v. Oklahoma State Regents* (1950)  
*Brown v. Board of Education I* (1954)  
*Bolling v. Sharpe* (1954)  
*Brown v. Board of Education II* (1955)  
*Cooper v. Aaron* (1958)  
*Griffin v. School Board of Prince Edward Co.* (1964)  
*Green v. County School Board of New Kent County* (1968)  
*Swann v. Charlotte-Mecklenburg Board of Education* (1971)  
*Milliken v. Bradley* (1974)  
*Freeman v. Pitts* (1992)  
*Parents Involved in Community Schools v. Seattle School District No. 1* (2007)  
*Shelley v. Kraemer* (1948)  
*Heart of Atlanta Motel v. United States* (1964)  
*Regents of the University of California v. Bakke* (1978)  
*Gratz v. Bollinger* (2003)  
*Grutter v. Bollinger* (2003)

#### Gender Issues

*Goeseart v. Cleary* (1948)  
*Reed v. Reed* (1971)  
*Frontiero v. Richardson* (1973)  
*Craig v. Boren* (1976)  
*Personnel Administrator of Massachusetts v. Feeney* (1979)  
*Michael M. v. Sonoma County Superior Court* (1981)  
*Cleveland Board of Education v. LaFleur* (1974)  
*Geduldig v. Aiello* (1974)  
*General Electric Co. v. Gilbert* (1976)  
*Automobile Workers v. Johnson Controls* (1991)  
*Rostker v. Goldberg* (1981)  
*U.S. v. Virginia* (1996)  
*U.S. v. Morrison* (2000)

#### Privacy Rights

*Buck v. Bell* (1927)  
*Skinner v. Oklahoma* (1942)  
*Loving v. Virginia* (1967)  
*Stanley v. Georgia* (1969)  
*Lochner v. New York* (1905)  
*West Coast Hotel Co. v. Parrish* (1937)  
*Griswold v. Connecticut* (1965)  
*Carey v. Population Services* (1977)  
*Roe v. Wade* (1973)

*Akron v. Akron Center for Reproductive Health* (1983)  
*Planned Parenthood v. Casey* (1992)  
*Stenberg v. Carhart* (2000)  
*Gonzales v. Carhart* (2007)  
*McCullen v. Coakley* (2014)  
*Whole Woman's Health v. Hellerstedt* (2016)  
*Dobbs v. Jackson Women's Health Organization* (2021)  
*Bowers v. Hardwick* (1986)  
*Lawrence v. Texas* (2003)  
*U.S. v. Windsor* (2013)  
*Obergefell v. Hodges* (2015)

***Marbury v. Madison***  
5 U.S. 137 (1803)  
CJ Marshall, majority opinion

Facts: President Adams, following an electoral loss, appointed Marbury, among other, to a federal judicial post called the DC Justice of the Peace. The appointments were approved by the lame duck Senate, signed by the President, sealed, but failed to be delivered, which was the duty of then Sec. of State, John Marshall. After taking office and being sworn in, President Jefferson refused to deliver the appointments. Marbury, whom was denied his appointment, filed suit in the Supreme Court of the United States requesting a writ of mandamus, which would order President Jefferson to deliver the appointments.

Issues: Is Marbury entitled to his appointment? If Marbury is entitled to his post, is there a legal remedy available? If so, is a writ of mandamus from the Supreme Court proper?

Holding: Yes. Yes. No.

Rationale: The judicial office Marbury seeks was correctly appointed, approved, signed and sealed. The neglect of its delivery is simple a ministerial failure, and should not prevent Marbury from his appointment which was conducted as required by law. Furthermore, Marbury does have a legal means to secure his appointment by law, and that is a writ of mandamus. However, the act which gave the Supreme Court the authority to issue writs of mandamus with original jurisdiction (The Judiciary Act of 1789) runs afoul of the US Constitution. The Constitution spells out specifically in what types of case the Supreme Court has original jurisdiction in, and to augment this list, the Constitution would have to be amended. Therefore, Marshall develops a syllogism: 1) The Constitution is the supreme law of the land, 2) § 13 of the Judiciary Act contradicts the Constitution, 3) Thus, § 13 is unconstitutional. Therefore, the method by which Marbury attempted to use is ruled null and void. The important portion of this decision does not concern Marbury and his appointment, but instead that the Supreme Court asserted their power to engage in judicial review over the other branches of government.

Other  
Opinions: None

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