**Political Science 4700– Constitutional Law: Institutional Powers**

**University of Georgia - Fall 2019**

**Monday, Wednesday, Friday: 11:15-12:05 Baldwin Hall 101D**

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Office: 378 Baldwin Hall**

1. **OFFICE HOURS**

I am always available via email, but in-person office hours are available on Monday, 2-3 p.m., or Wednesday 1:30-3. If these times do not work, I will be happy to make appointments at other times.

1. **REQUIRED TEXTS AND READINGS**

*Constitutional Law for a Changing America: Institutional Powers and Constraints, 10th edition.* Lee Epstein and Thomas G. Walker. Publisher: Sage/CQ Press.

1. **COURSE DESCRIPTION AND INTRODUCTION**

This is a non-chronological study of major Supreme Court decisions and recent issues relating to separation of powers, federalism, the commerce clause, taxes, criminal justice and other non-civil liberties areas.

This course is designed to introduce students to the basics of constitutional law in the United States. Specifically, we will examine cases based largely on the United States Supreme Court in areas of governmental powers and authority, separation of powers, and federalism, etc. In order to accomplish this, students will learn the context surrounding the cases and controversies that shaped our law and legal system, as well as develop an understanding of how the Supreme Court operates when it reviews questions of constitutionality. In addition, we will analyze issues currently being litigated and their potential impact on constitutional law in the U.S.

1. **GRADING & GRADING POLICIES**

2 Exams 60% (30% each)

Class participation 20%

Moot Court Simulation 20%

Letter grades are assigned based on the following scale:

A = 90-100

B = 80-89

C = 70-79

D = 60-69

E = 0-59

**\*\*\* Due to privacy restrictions, I will not reveal or discuss grades by phone or email. \*\*\***.

**Examinations**

The exam schedule is listed below on the syllabus and there are **2 scheduled exams**. Exams may consist of a mixture of multiple choice questions, short answer, and essay questions. The format and exact material to be covered on each exam will be **announced** in class prior to the exam during the review session. The material to be covered on each exam will come from assigned readings and class lectures/discussion.

**Class Participation**

It is extremely important that students come to class having done the assigned readings in advance. This significantly increases the likelihood that you will benefit from the class and that you will not need to cover so much material the night before an exam. Students will be reminded of what to focus on for the next course. You will be expected to express ideas and analyze the readings during class discussion. If needed, the instructor will call on members of the class to discuss assigned reading material. The performance on these occasions will help or hinder your overall grade. Students will be graded according to their willingness to participate and their responses. As part of the class participation component, short quizzes **may** be given at the beginning or end of class regarding the substance of the assigned readings or lecture. Additionally, to make sure you are following along with material, I may require case briefs to be turned in on particular cases throughout the semester. See details on briefing a case at the end of this syllabus.

**Moot Court Simulation**

Students will be divided into teams to examine a case currently before the Supreme Court. Students will serve as justices or attorneys. Students serving as attorneys will read lower court rulings and relevant briefs in order to prepare the case for the appellants or appellees, as well as writing their parties brief and participating in oral argument. Students serving as justices will be responsible for reading the appropriate materials, participating in oral argument, and holding conference to issue a ruling or opinion. More detailed instructions for this simulation will be made available later in the semester. **You will be required to meet with your groups outside of class.** (You don’t have to *physically* meet, [though I highly encourage it], and with the number of group-chat applications out there, this shouldn’t be an issue.)

1. **GENERAL EXPECTATIONS**

I expect all students to behave professionally in this class. You will be held responsible for all material covered in the texts 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) texting, using cell phones, and insulting classmates. Additionally, I expect all students to attend class prepared and to show up on time. It is extremely disruptive and damaging to our learning environment to be interrupted by individuals who show up late or are not prepared.

**Absences**:

Come to class! Attendance is critical for the successful completion of this course and it will be necessary for many of your participation points. It’s also the easiest way to gauge effort in a course.

**Makeup Exams:**

If you miss an exam, you will receive a zero. If you are late to an exam, you must take it in the time that remains when you arrive. Make-up exams are only given to students with legitimate and documented excuses. You need to communicate with the instructor to organize a makeup exam time.

**Missed/Late Assignments:**

Missed assignments are awarded a grade of zero. Late assignments will be accepted with a penalty of five points for each calendar day late.   
  
**Cheating and Academic Misconduct:**

Violations of the academic dishonesty rules are grounds for receiving an “F” in the course as well as possible expulsion from the university. If you have any questions about what constitutes cheating, academic misconduct, or plagiarism, examine the university policy and /or ask the instructor.

**Problems and Emergencies:**

If a problem or emergency arises that prevents you from attending an exam or coming to class, you should contact me as soon as possible.

**Disability Disclosure Statement:**

Please advise the instructor if you have a documented disability that needs to be accommodated. Students with disabilities requiring accommodations must be registered with the Office of Disability Services before an instructor can modify instruction or expectations.

**Policy on Disruptive Behavior:**

1) Turn communication devices to silent. 2) Be polite during class discussion. If I see you texting or goofing around in class, I will call you out.

**Withdraw Policy:**

Be advised that the last day to withdraw from a course without failing is October 21. All students who withdraw after this date will receive a “WF”.

1. **OTHER CLASS RULES and POLICIES**

* **CHANGES TO THIS SYLLABUS SCHEDULE CAN AND WILL PROBABLY BE MADE IN CLASS – It is very likely that topics and readings will shift as the class progresses. I will notify students of these changes.**
* Video and audio recordings are not permitted during the class unless the student has received prior permission from the Professors. If permission is granted, recording of other students is prohibited. Any distribution of recordings is also prohibited. Students with specific recording accommodations approved by the Disability Resource Center should present their official documentation to the professor. All content for this course, including handouts, assignments, and powerpoint lectures are the intellectual property of the instructors and cannot be reproduced, sold, or used for any purpose other than educational work in this class without prior permission from the professor.
* Computer use: Using a computer will be allowed provided it is not abused. However, note that research supports the conclusion that knowledge retention is significantly improved with notetaking by hand (versus computers), and that multitasking on the computer actually decreases productivity. It is also difficult to draw diagrams with computers. Computers can also be distracting for other individuals. If computer use is abused, the professor reserves the right to restrict computer use in class.
* Do not “text” in class. “Texting” is sending electronic messages or reading electronic messages on an electronic device, typically on a phone or computer. Texting is disruptive to students around you (as well as the professor ). If you have to deliver a message that cannot wait, please leave the classroom. If I observe you “texting” in class (and as an “FYI” professors generally see even the best attempts at hiding texting), I will ask you to put away your phone. If it happens more than once, I will ask you to leave class and you cannot return to class until you agree to put away your phone during all remaining class periods.
* All other University of Georgia policies also apply in this course.

1. **COURSE OUTLINE**

The following list contains the topics to be covered in class and the readings you should complete before class. All page numbers reference the class text, unless otherwise noted. The dates listed are approximate, and we will try to stay on schedule.

|  |  |  |
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| **Date** | **Topic** | **Readings** |
| Aug 14 – Wednesday | 1st day of class | Introduction |
| Aug 16 – Friday | U.S. Constitution and the Supreme Court | Pages 1-45 |
| Aug 19 – Monday |
| Aug 21 – Wednesday |
| Aug 23 – Friday | Supreme Court Opinions | *Van Geel pages 41-51* |
| Aug 26 – Monday | Institutional Authority and the Judiciary | Pages 47-53; Additional reading to be assigned |
| Aug 28 – Wednesday |
| Aug 30 – Friday |
| Sep 2 – Monday | **NO CLASS – Labor Day** | |
| Sep 4 – Wednesday | Judiciary | Pages 54-118 |
| Sep 6 – Friday | Judiciary |
| Sep 9 – Monday | Judiciary |
| Sep 11 – Wednesday | Legislature | Pages 119-180 |
| Sep 13 – Friday | Legislature |
| Sep 16 – Monday | Legislature |
| Sep 18 – Wednesday | Legislature |
| Sep 20 – Friday | Legislature |
| Sep 23 – Monday | Legislature |
| Sep 25 – Wednesday | Executive | Pages 181-237 |
| Sep 27 – Friday | Executive |
| Sep 30 – Monday | Executive |
| Oct 2 – Wednesday | Executive/**Review** |
| Oct 4 – Friday | **Exam 1** COVERS MATERIAL THROUGH OCT 2 | |
| Oct 7 – Monday | Executive/Modern | Pages 237 (*U.S. v. Nixon)*-263 |
| Oct 9 - Wednesday | Separation of Powers | Pages 265-333 |
| Oct 11 – Friday | Separation of Powers |
| Oct 14 – Monday | Separation of Powers |
| Oct 16 – Wednesday | Federalism | Pages 335-341 |
| Oct 18 – Friday | Federalism | Pages 341-400 |
| Oct 21 – Monday | Commerce Power | Pages 405-425 |
| Oct 23 – Wednesday | Commerce Power | Pages 428-454; 463-485 |
| Oct 25 – Friday | Tax and Spending | TBD |
| Oct 28 – Monday | Contract Clause | Pages 587-616 |
| Oct 30 - Wednesday | Contract Clause |
| Nov 1 - Friday | **Fall Break** | |
| Nov 4 – Monday | Moot Court Simulation- case 1 | Moot Court materials- case 1 |
| Nov 6 – Wednesday | Moot Court Simulation- case 2 | Moot Court materials- case 2 |
| Nov 8– Friday | Moot Court Simulation- case 3 | Moot Court materials- case 3 |
| Nov 11 – Monday | Modern Case Discussion/Debrief | Assigned Outside Reading |
| Nov 13 – Wednesday | Economic Substantive Due Process | Pages 617-647; 662-675 |
| Nov 15 – Friday | Economic Substantive Due Process |
| Nov 18 – Monday | Takings Clause | Pages 676-695 |
| Nov 20 – Wednesday | Takings Clause | Pages 705-706, 711-719 |
| Nov 22 – Friday |  |  |
| Nov 25 - Monday | **TBD – Thanksgiving Break - Nov 26-Dec 1** | |
| Dec 2 - Monday | Historical Evolution of Powers/Catch up | Assigned Outside Reading |
| Dec 4 - Wednesday | **Review** | |
| Dec 6 - Friday | **FINAL EXAM – 12-3 p.m.** | |

**NOTES ON HOW TO “BRIEF” A CASE**

When reading cases, all students should 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. Importantly, a case brief should be “brief”- in that you should be able to summarize a case in 1 page or less.

1. *Background Information, Case Facts, Procedural History*: 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. Also include how the lower court rule, if relevant.

2. *Central Issue(s)*: 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. *Answer the Questions*: If the questions are stated properly, this can be done quite simply. So, for (a) above, the answer is “no,” and for (b), the answer is “yes.” Should also include the vote of the court (e.g., 6-3 or 5-4) and the judgment (i.e., was it affirmed or reversed).

4. *Majority* *Reasoning:* Why did the Court decide the case this way? Here you should note the reasons given

by the majority for their decision. Take careful notes 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 who wrote the opinion and which justices joined the majority (or plurality) opinion.

5. *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.

6. *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.

7. *Implications*. Put the Case in Perspective and 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 extend a previous ruling? What are the implications from the decision? That is, how will this case affect future rulings? Did it leave other legal questions unresolved?