**Political Science 4710H – Civil Liberties**

**University of Georgia - Fall 2019**

**Monday, Wednesday, Friday: 12:20-1:10, Baldwin Hall 301**

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**Office: Baldwin 378**

1. **OFFICE HOURS**

Tuesday 9:30-10:30, Thursday 2-3, and by appointment. These are the official office hours and I shall make every attempt to be in my office during these times. If these times do not work, I will be happy to make appointments at other times. I am also available by email to answer brief questions and inquiries.

1. **REQUIRED TEXTS AND READINGS**

Please purchase the following textbook. You should read the appropriate assigned material before attending the corresponding class. While part of the class will be lecture, much of it will be a discussion of the assigned readings. The text also contains a list of recommended readings to learn more about a certain topic.

1. *Constitutional Law for a Changing America: Rights, Liberties & Justice.* Lee Epstein and Thomas G. Walker. Publisher: CQ Press
2. **INTRODUCTION**

This course is designed to introduce students to the basics of constitutional law, relating to civil rights and civil liberties in the United States. Specifically, we will examine cases based on decisions of the United States Supreme Court in areas such as: religion, speech, expression, privacy, rights of the criminally accused, and discrimination. 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.

1. **GRADING & GRADING POLICIES**

I will base the grades on your scores from exams, case briefs, and class participation. The breakdown is as follows:

2 Exams - 60% (30% each)

Moot Court Exercise 15%

Case Briefs 15%  
Participation 10%

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. \*\*\***

My policy for disputing points from exams and papers is to wait 24 hours after receiving the grade.

**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 the class prior to the test. The material covered on each exam will come from assigned readings, lectures and discussion. You are expected to take the exams on the dates listed.

Make-up exams are rarely permitted and **only under extreme situations.**

**Moot Court Exercise**

Students will be divided into teams to examine a case (or two) 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 exercise will be made available later in the semester. You will be required to meet with your groups outside of class.

**Case Briefs**

The primary method of learning constitutional law is through the case study method. The cases that need to be briefed are listed in the assigned readings and can easily be found online. Email me if you cannot find a full text of the Court’s opinion. At the most basic level, this entails reading opinions from previously decided court cases and distilling the point(s) of law from the decision. While reading cases, you are required to take notes on each case in the form of case briefs. To help understand what exactly a case brief entails, I have provided some notes at the end of this syllabus, and the Epstein and Walker text also has a similar, but slightly different example in the appendix. I will also give more details early in the semester on exactly what is needed for a case brief. Throughout the semester, I will on occasion ask you to hand-in briefs from various cases. I may not announce these occasions in advance. Thus, it is vitally important that you come to class prepared. This means that you must be prepared to hand in a hard copy of the brief(s). Emailed briefs will NOT be accepted. If you have an excused absence that is known in advance, you are responsible for contacting the instructor about handling case briefs that might be handed in while you are gone. Over the course of the semester, you can expect to hand in approximately 6-10 case briefs, which will count for 15% of your grade.

**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. You will be expected to express ideas and analyze the readings during class discussion. In this class, the instructor will regularly 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.

Some of the readings for this class will be more difficult than for other classes you have had. You might have to read some of it twice. Thus, I expect that some of our class discussions will be focused on clarifying confusing things in the readings. To facilitate these discussions, please email me any questions the night before class. The questions may be on specific aspects of the readings or on general themes found in multiple readings.

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.

**Cheating and Academic Misconduct:**

Academic dishonesty will not be tolerated. Those found guilty of misconduct will be given a zero on the corresponding part and punished to the fullest extent possible. Misconduct includes, but is not limited to, cheating on assignments or examinations, plagiarizing (misrepresenting one’s own work done by another), submitting identical papers for more than one course (unless instructor approved), depriving another of course materials, and sabotaging another’s work. Some examples of plagiarism include, but are not limited to: failure to properly document sources, and copying verbatim from another source without properly citing the source. 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.

**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.

**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 (with page numbers) you should complete. In order to fully participate in class, you should read the material before class. The dates listed are approximate, and we will try to stay on schedule. In any event, if there is confusion about what is to be covered for the next class, please ask. Readings will come from the two texts, unless otherwise announced. You will be responsible for the cases that are listed for each week (this means having them “briefed”).

**DATE TOPIC & ASSIGNED READINGS**

**Aug 14 Wed** - 1st day of class distribute syllabus, introduction

**Aug 16 Fri** U.S. Constitution & Overview of U.S. Court System

Read: Epstein and Walker pg. 1-9

U.S. Constitution (Epstein and Walker pg. 722-732)

Federalist paper #78 (Google)

**Aug 19 Mon** Supreme Court overview

Read: Epstein and Walker pg. 9-43

**Aug 21 Wed** Supreme Court overview & opinions

Read: How to Read a Judicial Opinion (Kerr)

How to Read a U.S. Supreme Court Opinion (ABA)

**Aug 23 Fri** Judicial Decision Making  
 Read: Brisbin – “Slaying the Dragon” – (Will provide)

**Aug 26 Mon** Institutional Authority and the Judiciary

Read: Epstein and Walker pg. 43-65

Cases: *Marbury v. Madison*

*Ex parte McCardle*

**Aug 28 Wed** Incorporation Doctrine

Read: Epstein and Walker pg. 65-86.

Cases: *Barron v. Baltimore*

*Hurtado v. California*

*Palko v. Connecticut*

*Duncan v. Louisiana*

**Aug 30 – Sep 11**  **Religion (September 2 – NO CLASS – Labor Day)**

Exercise:

Read: Epstein and Walker 91-126

SCOTUS Blog: <https://www.scotusblog.com/2019/07/symposium-the-calm-before-the-storm-for-religious-liberty-cases/>

Cases: *Cantwell v. Connecticut*

*Sherbert v. Verner*

*Wisconsin v. Yoder*

*Employment Division v. Smith*

*City of Boerne v. Flores*

Establishment:

Read: Epstein and Walker 126-182  
 Cases: *Everson v. Board of Education*

*Lemon v. Kurtzman*

*Agostini v. Felton*

*Zelman v. Simmons-Harris*

*Edwards v. Aguillard*

*School District of Abington Township v. Schempp*

*Town of Greece v. Galloway*

**Sep 13-Sep 23 1st Amendment**

Freedom of Speech, Assembly, and Association

Read: Epstein and Walker 183-261

Cases: *Schenck v. US*

*Gitlow v. New York*

*Brandenburg v. Ohio*

*Texas v. Johnson*

*Tinker v. Des Moines Independent Community School District*

*Morse v. Frederick*

*Walker v. Texas Division, Sons of Confederate Veterans*

*Matal v. Tam*

*Wisconsin v. Mitchell*

*Boy Scouts of America v. Dale*

Freedom of the Press

Read: Epstein and Walker 280-353

Cases: *Near v. Minnesota*

*New York Times v. US*

*Hazelwood School District v. Kuhlmeier*

*Branzburg v. Hayes*

*New York Times v. Sullivan*

*Hustler Magazine v. Falwell*

*Roth v. US*

*Miller v. California*

**Sep 25-27** **2nd Amendment and New Media**

Read: Epstein and Walker 346-363

Cases: *Reno v. ACLU*

*Brown v. Entertainment Merchants Association*

*D.C. v. Heller*

*` Caetaro v. Massachusetts*

**Sep 30** **Privacy and Personal Liberty 1**

Read: Epstein and Walker 365-389

Cases: *Griswold v. Connecticut*

*Roe v. Wade*

*Planned Parenthood v. Casey*

**Oct 2** Wed Catch Up/ **Review for Exam 1**

**Oct 4** Fri \*\***EXAM 1\*\***   
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**Oct 7 Privacy and Personal Liberty 2**

Read: Epstein and Walker 397-426

Cases: *Lawrence v Texas*

*Obergefell v. Hodges*

**Oct 7-18** **Rights of Criminally Accused**

4th and 5th Amendments

Read: Epstein and Walker 427-495

Cases: *Katz v. US*

*Illinois v. Gates*

*Terry v. Ohio*

*Mapp v. Ohio*

*Miranda v. Arizona*

Trial and Punishment

Read: Epstein and Walker 497-526  
Cases: *Powell v. Alabama*

*Gideon v. Wainwright*

*Batson v. Kentucky*

Eighth Amendment

Read: Epstein and Walker 527-552

Additional readings to be announced

Cases: *Gregg v. Georgia*

*Atkins v. Virginia*

**Oct 21-30** **Discrimination**

Race

Read: Epstein and Walker 555-600

Cases: *Plessy v. Ferguson*

*Sweatt v. Painter*

*Brown v. Board of Education (I)*

*Brown v. Board of Education (II)*

*Swann v. Charlotte-Mecklenburg BED*

*Loving v. Virginia*

*Shelley v. Kraemer*

*Moose Lodge No. 107 v. Irvis*

Sex and Sexual Orientation

Read: Epstein and Walker 607-667

Cases: *Reed v. Reed*

*Craig v. Boren*

*US v. Virginia*

*Romer v. Evans*

*Regents of U of C v. Bakke*

*Adarand Constructors v. Pena*

*Grutter v. Bollinger*

**Nov 1** Fri **\*\*NO CLASS\*\***

**Nov 4-11 Voting and Representation**

Elections and Campaigns

Read: Epstein and Walker 669-676; 693-705

Cases: *Bush v. Gore*

*Citizens United v. FEC*

*McCutcheon v. FEC*

*Rucho v. Common Cause*

Voting Rights and Representation

Read: Epstein and Walker 676-693; 705-719

Cases: *Shelby County v. Holder*

*Crawford v. Marion County Election Board*

*Reynolds v. Sims*

*Miller v. Johnson*

**Nov 13-22 Moot Court Simulations /Current Caseload**

**Nov 25** Mon **TBD**

**Nov 27-29 \*\*NO CLASS\*\***

**Dec 2** MonEvolution of Civil Rights and Liberties Through History/Wrap Up

**Dec 4** Wed **Review**

**Dec 11 Wed \*\*FINAL EXAM\*\* 12-3 p.m.**

**NOTES ON HOW TO “BRIEF” A CASE**

When reading cases, all students (as part of the course requirements) are to take notes on each case in the form of a “brief.” Taking notes following the outline below or the outline in the Epstein and Walker text (appendix 8, pg. 717) 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 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. *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.”

4. *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 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 which justices join 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. *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 extend a previous ruling? What are the implications from the decision? That

is, how will this case affect future rulings?