

POLS 4770
The Supreme Court: Cases and Controversies
Fall 2020

Dr. Richard L. Vining, Jr.
Office: Baldwin 376
Email: rvining@uga.edu
Office hours: By appointment (Zoom or phone preferred)
Classroom: Baldwin 301
Meetings: Tues & Thurs, 12:30-1:45 (1/5 of class roster per meeting)

The federal judiciary is frequently involved in political disputes with the elected branches. Such events have long taken place, from the vigorous attacks on Justice Chase and the Marshall Court to recent episodes involving campaign finance reform, gun rights, LGBT rights, etc. Several recent nominations of prospective Supreme Court justices have also caused political turmoil. How did the judiciary become such an object of political scrutiny? Is the current situation unique? This course examines the circumstances in which the Supreme Court of the United States and its justices are involved in politics – either as subject, participant, or arena for settlement.

Readings. The following textbook is required:
Michael Comiskey – The Judging of Supreme Court Nominees (2004)

All readings below marked with an asterisk (*) will be available via ELC. Examinations. There will be a midterm examination and a final examination. No exceptions will be made for the scheduled examination times except in the case of a documented medical emergency. If you have additional needs or have permission from the Disability Resource Center for extra time on exams, please contact me privately and arrangements will be made.

Paper. An 8-10 page research paper is due **November 12**. Write a well-research paper about a single political conflict or series of related conflicts involving the Supreme Court. A list of possible paper topics will be distributed. Additional topics may be pursued if they are approved by the instructor. A proposal and tentative bibliography are due on **September 10**.

Exams will be taken without notes or outside sources.

Grading. Midterm examination 30%; paper 30%; final examination 40%

Grades will be assigned based on the following scale:

100-94	A	89-86	B+	79-76	C+	69-66	D+
93-90	A-	85-83	B	75-73	C	65-60	D
		82-80	B-	72-70	C-	59-00	F

Academic Integrity. Neither plagiarism nor cheating will be tolerated. Appropriate citations are expected and encouraged. All students are expected to behave in accordance with the guidelines of the UGA Honor Code. If you are unsure whether certain actions are acceptable, consult your instructor.

Mental Health and Wellness Resources.

- If you or someone you know needs assistance, you are encouraged to contact Student Care and Outreach in the Division of Student Affairs at 706-542-7774 or visit <https://sco.uga.edu>. They will help you navigate any difficult circumstances you may be facing by connecting you with the appropriate resources or services.
- UGA has several resources for a student seeking mental health services (<https://www.uhs.uga.edu/bewelluga/bewelluga>) or crisis support (<https://www.uhs.uga.edu/info/emergencies>).
- If you need help managing stress anxiety, relationships, etc., please visit BeWellUGA (<https://www.uhs.uga.edu/bewelluga/bewelluga>) for a list of FREE workshops, classes, mentoring, and health coaching led by licensed clinicians and health educators in the University Health Center.
- Additional resources can be accessed through the UGA App.

Attendance. This course will not have a graded attendance or participation requirement for Fall 2020. UGA social distancing guidelines permit only 1/5 of students on the course roster to attend each class meeting in Baldwin 301. Each student is assigned 1 of 5 “Team” designations, with that group allowed to attend specific course meetings. Course meetings will function as discussion groups rather than lectures. All lectures will be posted on ELC as YouTube videos for viewing at your convenience. You are welcome to bring questions to class meetings related to any material during the prior two weeks of lectures. No class meetings will be held after the Thanksgiving holiday break.

Team A – Last names **A-C**

Team B – Last names **D-J**

Team C – Last names **K-M**

Team D – Last names **N-R**

Team E – Last names **S-Z**

Coronavirus Information for Students (per UGA Office of Instruction)

Face Coverings:

Effective July 15, 2020, the University of Georgia—along with all University System of Georgia (USG) institutions—requires all faculty, staff, students and visitors to wear an appropriate face covering while inside campus facilities/buildings. Face covering use is in addition to and is not a substitute for social distancing. Anyone not using a face covering when required will be asked to wear one or must leave the area. Reasonable accommodations may be made for those who are unable to wear a face covering for documented health reasons. Students seeking an accommodation related to face coverings should contact Disability Services at <https://drc.uga.edu/>.

DawgCheck:

Please perform a quick symptom check each weekday on DawgCheck—on the UGA app or website—whether you feel sick or not. It will help health providers monitor the health situation on campus: <https://dawgcheck.uga.edu/>

What do I do if I have symptoms?

Students showing symptoms should self-isolate and schedule an appointment with the University Health Center by calling 706-542-1162 (Monday-Friday, 8 a.m.-5 p.m.). Please DO NOT walk-in. For emergencies and after-hours care, see <https://www.uhs.uga.edu/info/emergencies>.

What do I do if I am notified that I have been exposed?

Students who learn they have been directly exposed to COVID-19 but are not showing symptoms should self-quarantine for 14 days consistent with Department of Public Health (DPH) and Centers for Disease Control and Prevention (CDC) guidelines. Please correspond with your instructor via email, with a cc: to Student Care & Outreach at sco@uga.edu, to coordinate continuing your coursework while self-quarantined. If you develop symptoms, you should contact the University Health Center to make an appointment to be tested. You should continue to monitor your symptoms daily on DawgCheck.

How do I get a test?

Students who are demonstrating symptoms of COVID-19 should call the University Health Center. UHC is offering testing by appointment for students; appointments may be booked by calling 706-542-1162.

UGA will also be recruiting asymptomatic students to participate in surveillance tests. Students living in residence halls, Greek housing and off-campus apartment complexes are encouraged to participate.

Classroom COVID-19 Information (per Baldwin Hall personnel)

Keeping it clean

Cleaning and disinfecting of public spaces are important to reduce the risk of exposure to COVID-19. Classrooms are only being cleaned once-per-day. There are sanitation wipes/buckets and stands in proximity to your classroom. *Prior to heading in to class*, you should take a wipe from the station and wipe down all high-touch surfaces associated with your seat. You should help further slow the spread of the virus by frequently washing your hands. Bathrooms will be cleaned frequently during the day. On occasions that bathrooms are closed for cleaning, you may need to use those on other floors or in other buildings. Please be conscious of the density of traffic in bathrooms and practice social distancing.

Staying in touch

Office hours and academic advising are encouraged, but should be done by appointment. To ensure safe distancing, faculty and staff are more likely to meet with you online or by phone.

Your health

You have been provided with a digital thermometer and are required to self-monitor for signs or symptoms of COVID-19. By coming to campus, you are acknowledging that you have checked, and do not have, symptoms of COVID-19. UGA is using a notification application to remind you daily to check for symptoms prior to coming to campus and self-report in the event you display COVID-19 symptoms. If you report symptoms, the University follows a confidential process for securely notifying health officials

who can begin contact tracing and provide appropriate support services. If you have an underlying medical condition or, for any reason, believe that you are at a high risk of developing a serious case of COVID-19, you may request an accommodation through the Disability Resource Center (DRC) at drc@uga.edu or 706-542-8719. More information can be found at - https://drc.uga.edu/content_page/student-accommodation-guidelines

Updates

Check your email regularly so you do not miss important information, and also check the University [COVID-19 website](#) for updates and resources, this web site includes links from student affairs with helpful, up-to-date messages for students and parents.

Week 1 (8/20): Discussion and course overview

Week 2 (8/25 A, 8/27 B)

The Federal Judiciary: Structure and Institutional Context

Week 3 (9/1 C, 9/3 D): Theories of Judicial Decision-making

Jeff Segal and Harold Spaeth, *The Supreme Court and the Attitudinal Model Revisited* (2002), p. 44-53, 86-114*

Week 4 (9/8 E, 9/10 A): The Politics of Supreme Court Nominations

Perspectives on the Confirmation Process Michael Comiskey, *The Judging of Supreme Court Nominees*, p. 1-84, 104-133

PAPER PROPOSALS DUE SEPTEMBER 10

Week 5 (9/15 B, 9/17 C): Interbranch Battles over the Bench

FDR's Proposed Reorganization of the Supreme Court, 1937

Jamie Carson and Benjamin Kleinerman, "A Switch in Time Saves Nine: Institutions, Strategic Actors, and FDR's Court-Packing Plan," *Public Choice* (2002)*

Video: Confirmation hearings

Week 6 (9/22 D): Intracourt Battles

Phillip Cooper, *Battles on the Bench*, Ch. 1-2 (1995)*

Week 6 (cont., , 9/24 E): The Supreme Court vs. Congress

Colton Campbell and John Stack, Ch. 1 in *Congress Confronts the Court* (2001)

Louis Fisher, "Congressional Checks on the Judiciary", Ch. 2 in *Congress Confronts the Court* (2001)

Week 7 (9/29 A, 10/1 B): Judicial Impeachment

Mary Volcansek, "Separation of Powers and Judicial Impeachment," Ch. 3 in *Congress Confronts the Court*, Campbell and Stack, eds. (2001)

Impeachment Case Study: Samuel Chase

Adam Perlin, "The Impeachment of Samuel Chase: Redefining Judicial Independence," *Rutgers Law Review* (2010)*

Week 8 (10/6 C) Judicial Departures

Artemus Ward, *Deciding to Leave*, Ch. 1 (2003)*

Week 8 (cont., 10/8 D): The Court in Wartime

Reconstruction and the Civil War

Lee Epstein and Thomas G. Walker, "The Role of the Supreme Court in American Society: Playing the Reconstruction Game," Ch. 14 in *Contemplating Courts*, Lee Epstein, ed. (1995)*

Week 9 (10/13 - E): The Court and Government Powers

Congress vs. the Court: Usurpation of Powers: *INS v. Chadha*

Louis Fisher, "The Legislative Veto: Invalidated, It Survives," *Law and Contemporary Problems* (1993)*

Week 9: Midterm Exam 10/15 (Turn in via ELC)

Week 10 (10/20 A): Congress, Courts, and Judicial Administration

Richard Vining, and Teena Wilhelm, "The Chief Justice as Advocate-in-Chief: Examining the Year-End Report on the Federal Judiciary," *Judicature* (2012)

Week 10 (cont., 10/22 B). The Supreme Court vs. the President

The Court and Executive Power: *U.S. v. Nixon*, *Clinton v. Jones*

Lee Epstein and Thomas G. Walker, *Constitutional Law for a Changing America: Institutional Powers and Constraints* (2007), p. 239-244, 252-257*

Week 11 (10/27 C): The Supreme Court and Race

Lee Epstein and Thomas Walker, *Con Law for a Changing America: Rights, Liberties, and Justice* (2007), p. 626-647*

Barbara Perry, "Splitting the Difference: The Supreme Court's Search for the Middle Ground in Racial Gerrymandering Cases," Ch. 6 in C. Banks and J. Green, *Superintending Democracy* (2001)*

Week 11 (cont., 10/29 D): The Supreme Court and the Public/Press

Public Knowledge of the Courts

Greg Caldeira and Kevin McGuire, "What Americans Know About the Courts and Why It Matters," in *Institutions of American Democracy: The Judiciary* (2005)*

Rorie L. Spill and Zoe M. Oxley, "Philosopher Kings or Political Actors? How the Media Portray the Supreme Court," *Judicature* (2003)*

Week 12 (11/3 E): The Public and Supreme Court Decisions

Anke Grosskopf and Jeffrey Mondak, "Do Attitudes toward Specific Supreme Court Decisions Matter? The Impact of *Webster* and *Texas v. Johnson* on Public Confidence in the Supreme Court" *Political Research Quarterly*, 1998*

Bert Kritzer, "The American Public's Assessment of the Rehnquist Court" *Judicature*, 2005*

Week 12 (cont., 11/5 A): Settling Political Conflicts

The Supreme Court as Arbiter: Privacy and Abortion

Lee Epstein and Thomas G. Walker, *Constitutional Law for a Changing America: Rights, Liberties, and Justice* (2007), p. 412-449*

Week 13 (11/10 B, 11/12 C): The Supreme Court in Elections

The Centennial Crisis

William Rehnquist, "2003 Albritton Lecture: The Supreme Court and the Disputed Election of 1876." *Alabama Law Review* 55 (2003)*

Election 2000: Chaos, Courtrooms, and Counting Ballots

Akhil Reed Amar, "Bush, Gore, Florida, and the Constitution," *Florida Law Review* (2009)*

Research paper due November 12

Week 14 (11/17 D, 11/19 E): Contemporary Issues

The Death Penalty

John D. Bessler, "Tinkering Around the Edges: The Supreme Court's Death Penalty

Jurisprudence." *American Criminal Law Review* (2012)*

Gun Rights

Jon S. Vernick, Lainie Rutkow, Daniel W. Webster, and Stephen P. Teret. "Changing the Constitutional Landscape for Firearms: The US Supreme Court's Recent Second Amendment Decisions," *American Journal of Public Health* (2011)*

Week 15 (11/24 A) Contemporary Issues (cont.)

Gay Rights

Nan D. Hunter, "Reflections on Sexual Liberty and Equality: 'Through Seneca Falls and Selma and Stonewall'," *UCLA Law Review* (2013)*

Thanksgiving break

Week 16 (12/1) Contemporary Issues (cont.)

The Affordable Care Act

Robert J. Muike and David Yerushalmi. "Wearing the Crown of Solomon? Chief Justice Roberts and the Affordable Care Act "Tax"," *Journal of Health Politics, Policy and Law* (2013)*

Remote assignment TBD 12/3

Final Exam Review 12/8

Final exam details TBD