

POLS 4700: Constitutional Law: Powers

Spring 2023

Baldwin Hall Room 301: 9:35-10:50am TR

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Office Hours: by appointment

Course Description: This course is designed to introduce students to cases decided by the U.S. Supreme Court that have shaped the powers exercised by our three branches of government over time. By the end of the semester, students will have a better understanding of how certain powers have evolved in the United States. We will be focused on powers given to each branch of government by the Constitution as well as how those branches use these powers on an international level. We will spend much of class discussing cases and their implications and impacts on the powers of the government. There is a great deal of writing in this course. By the end of this class, I hope students have a greater understanding of the role the Supreme Court plays in the establishment and protection of certain constitutional powers.

Course Objectives: By the end of this course, you should be able to do the following:

- To build a foundational knowledge of how case law has impacted the development of government power over time.
- To gain a greater understanding of the Court's role in government powers development.
- To be able to brief a case in its entirety, including concurring and dissenting opinions.
- To cultivate a greater understanding of the legal reasoning behind constitutional government powers that have developed by case law over time.
- To apply case precedent to hypothetical and actual cases, explaining how cases could be decided using legal reasoning.

Required Text:

Rossum, Ralph and Alan Tarr. 2014. *American Constitutional Law: The Structure of Government, Volume I*. 9th edition. Westview Press. (print copies are available on Amazon. eBook is available free through the UGA Library.)

Class Expectations:

1. Show up to class prepared.
2. Read the assigned readings prior to class.
3. Turn in assignments on time.
4. Be respectful of your other classmates and instructor.
5. Ask questions.

Appropriate Language:

In this course, you will be expected to use respectful and appropriate language when referring to race, gender, ethnicity, sexual orientation, and gender identity. If you do not know what language to use, ask the instructor. Below are some guidelines for writing and speaking about race, gender, ethnicity, and sexuality. These guidelines are not exhaustive.

- **Gender:** Avoid using the terms “male” and “female” as nouns; rather, use them as modifiers (e.g., “female judges” or “male senator”) or refer to individuals as men, women, etc. (e.g., “the first woman elected as Vice President”).
- **Race:** Avoid using the words “minority” or “Black” as a noun; rather, consider referring to members of minority groups or using more specific terminology including: “people of color” or references to specific racial groups (e.g., “nominees of color” or “Black Americans”).
 - **Per APA Style Guide:** ““Minority” is usually equated with being less than, oppressed, and deficient in comparison with the majority. When it is necessary to compare a dominant racial group with a nondominant racial group, use a modifier like “racial,” “ethnic,” or “racial-ethnic.” Otherwise, other terms may be preferred, such as “people of color” to refer to non-White racial and ethnic groups or “underrepresented people.”
- **Ethnicity:** ““Hispanic” generally refers to people of Spanish-speaking origin, whereas “Latina” and “Latino” refer to people of Latin American origin. The terms are not interchangeable, although there is some overlap. For example, people from Brazil who do not speak Spanish may identify as Latino, not Hispanic. And people from Spain may identify as Hispanic, not Latino. Several gender-neutral terms for “Latino” have arisen,” including “Latinx” and “Latine.”
- **Sexuality:** Gender and sexuality are different and should not be thought of as the same. Gender identity is a person’s internal perception of their gender and how they label themselves. Sexuality is the type of sexual, romantic, emotional/spiritual attraction a person has the capacity to feel for other people. Avoid using the word “homosexual”. When someone is transitioning or has transitioned from one gender to another, refer to them as “transgender”.

For more information about what terms to use and what these different terms mean, visit: <https://www.usca.edu/diversity-initiatives/training-resources/guide-to-inclusive-language/inclusive-language-guide/file>.

Course Requirements:

This is a course with a heavy writing requirement. In this class, you will be graded on case briefs, class participation, attendance, some response essays, and a few projects. Each assignment should be submitted to the instructor in physical form. These assignments should be typed unless otherwise indicated. Rubrics and assignment descriptions will be provided for most assignments and posted on eLc. Each assignment will be graded and turned back to students within two weeks of submission.

Grade Breakdown:

Attendance and Participation	10%
Case Presentation	10%
Case Briefs	40%
Final Project	40%

Case Presentation: This class barely scratches the surface of the government powers case law. As a result, you will be asked to sign up for one day in class where you and up to three other

people. You and your group will select a case, ideally related to what we are covering that day in class, decided by the U.S. Supreme Court, in the last decade. This will allow you to relate course content to current case law. Once you have signed up for a day to present, there will be one group presenting per available class meeting. These up to three people will act as a group, selecting the case they prefer and presenting it in class. Additional information will be provided in class. If a member of your group is unable to attend to present due to unforeseen circumstances, that member is to let the instructor know immediately and reschedule the presentation within two weeks of the original presentation date. Rescheduling the presentation will not result in a grade penalty.

Class Attendance: This class will be held entirely face to face. As a result, class attendance is required. Your attendance will be part of your grade in this class. You will be allowed **two unexcused absences** during this semester, without penalty. After missing more than three classes, your attendance/participation grade will be impacted unless you have a legitimate reason for missing class. **The attendance policy will begin Tuesday, January 17th.** If you need to miss class for an extended period of time due to injury or any other unforeseen circumstance, contact Student Care and Outreach in addition to contacting the instructor. Excused absences will be given at the instructor's discretion. If you miss class because of illness, you can receive an excused absence if you submit a doctor's note to the instructor. You must do the same if you need to miss class for a medical appointment of any kind (dentist, etc.). If you need to miss class for a university activity, please submit a note to the instructor within a week of the absence to have the absence excused. Any other absence will not be excused.

Participation: Every day in class, you are expected to arrive having read the material prior to that class meeting. Usually, students will not be assigned more than 4 cases per class meeting. Since this is a class taught using the Socratic method, you will be expected to answer questions about each of the cases if called upon. Participation also includes engaging in class activities. For each class, you should know the following about each case assigned:

- Case Facts
- Questions Raised
- Holding
- Majority Opinion Legal Reasoning
- Concurring and Dissenting Opinion Reasoning
- Implications of the decision

Case Briefs: Since this is a constitutional law class, centered around case law, I will be asking each of you to turn in case briefs on select cases assigned for class, throughout the semester. These briefs will be submitted, in physical form, to the instructor on the day we discuss the case. When turned in, this assignment will be graded within two weeks. I encourage you to start briefing each case we cover in class to get in the habit of doing so, but also to gain a better understanding of each case. For more information about what a case brief should include, see Guidelines for Case Brief on eLc. If you have questions about case briefs, please contact the instructor.

Final Project: In this class, I ask you to become familiar with legal arguments typically used in judicial decision-making. For this project, you will be asked to write a majority and dissenting opinion for a case currently before the Court, as though you are the justice charged with authoring these opinions. I will include more details about this assignment later in the semester. A physical copy of the assignment will be due at the end of the semester. This deadline is a hard deadline. Any work submitted after the stated deadline will receive an automatic zero.

Late Assignment Submission Policy: All assignments should be submitted to the instructor at the beginning of class in physical form. Since there are a limited number of assignments, there is a late submission penalty for your assignments. For each day an assignment is late, there will be a 10% deduction in your assignment grade. Those assignments submitted after 11:00am on the day it is due will automatically receive a 10% deduction. Students who have an excused absence on the day they present the group project need to reschedule the presentation as soon as they are able. For the final project, the late submission policy is a zero for the assignment. This is the only hard deadline in this course.

Disability Accommodation Policy: Students requiring disability accommodations should consult the [Disability Resource Center](#) and should notify the instructor as soon as possible. If a student needs accommodation at some point during the semester, they should contact the DRC to obtain accommodation.

Academic Integrity Policy: As a University of Georgia student, you have agreed to abide by the University's academic honesty policy, "A Culture of Honesty," and the Student Honor Code. All academic work must meet the standards described in "A Culture of Honesty" found at www.uga.edu/honesty. Lack of knowledge of the academic honesty policy is not a reasonable explanation for a violation. **Any violations of the academic integrity policy will result in a zero on the assignment and a report to the Academic Honesty Office.** Questions related to course assignments and the academic honesty policy should be directed to the instructor.

Well-being, Mental Health, and Student Support

If you or someone you know needs assistance, you are encouraged to contact Student Care & 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.

Counseling and Psychiatric Services (CAPS) is your go-to, on-campus resource for emotional, social and behavioral-health support: <https://caps.uga.edu/>, TAO Online Support (<https://caps.uga.edu/tao/>), 24/7 support at 706-542-2273. For crisis support: <https://healthcenter.uga.edu/emergencies/>.

The University Health Center offers FREE workshops, classes, mentoring and health coaching led by licensed clinicians or health educators: <https://healthcenter.uga.edu/bewelluga/>

Grade Scale:

A	95-100
A-	91-94
B+	88-90
B	84-87
B-	80-83
C+	78-79
C	74-77
C-	70-73
D	60-69
F	below 60

Course Outline

These readings and due dates can be changed at any time, during the course, and will be communicated via email or during class¹:

Date	Readings and other Assignments
January 10 th Course Introduction	Syllabus and Course Introduction
January 12 th Choosing Cases and Justices Constitutional Interpretation	Read Chapter 1 and 2 in Rossum and Tarr
January 17 th and 19 th Judicial Power	Read Chapter 3 in Rossum and Tarr <i>Marbury v. Madison</i> <i>Cooper v. Aaron</i> <i>Stuart v. Laird</i> <i>Young v. United States ex rel. Vuitton</i> <i>Lujan v. Defenders of Wildlife</i>
January 24 th and 26 th Judicial Power, cont. and The Legislative Branch	<i>Baker v. Carr</i> <i>Hein v. Freedom From Religion Foundation</i> <i>Ex parte McCordle</i> Read Chapter 4 in Rossum and Tarr <i>Immigration and Naturalization Service v. Chadha</i> <i>McCulloch v. Maryland</i>
January 31 st and February 2 nd The Legislative Branch, cont. and The Executive Branch	<i>Schechter Poultry Corporation v. United States</i> <i>Powell v. McCormack</i> <i>U.S. Term Limits, Inc. v. Thornton</i> <i>Gravel v. United States</i> <i>Watkins v. United States*</i> Read Chapter 5 in Rossum and Tarr

¹ All of the cases in bold and italics are not in your textbook. I will be posting those cases on eLc for you all to read.

February 7 th and 9 th The Executive Branch, cont.	<i>United States v. Nixon</i> <i>Clinton v. Jones</i> <i>Youngstown Sheet and Tube Company v. Sawyer</i> <i>Myers v. U.S.</i> <i>Morrison v. Olson</i> <i>Trump v. Vance</i>
February 21 st and 23 rd War and Foreign Affairs	Read Chapter 6 in Rossum and Tarr <i>Korematsu v. United States</i> <i>The Prize Cases</i> <i>Missouri v. Holland</i> <i>Medellin v. Texas</i> <i>Ex parte Milligan</i> <i>Hamdi v. Rumsfeld*</i>
February 14 th and 16 th Federalism	Read Chapter 7 in Rossum and Tarr <i>Dred Scott v. Sandford</i> <i>Coyle v. Smith</i> <i>Printz v. United States</i> <i>Alden v. Maine</i>
February 21 st and 23 rd Federalism, cont.	<i>Tennessee v. Lane</i> <i>The Civil Rights Cases</i> <i>Jones v. Alfred H. Mayer Company*</i>
February 28 th and March 2 nd The Exercise of National Power	Read Chapter 8 in Rossum and Tarr <i>Gibbons v. Ogden</i> <i>Hammer v. Dagenhart</i> <i>U.S. v. E.C. Knight Company</i> <i>National Labor Relations Board v. Jones</i> <i>Wickard v. Filburn*</i>
March 7 th and 9 th	No Class- Spring Break
March 14 th and 16 th The Exercise of National Power, cont.	<i>Heart of Atlanta Motel v. United States</i> <i>South Dakota v. Dole</i> <i>United States v. Lopez</i> <i>Bond v. United States</i>
March 21 st and 23 rd The Constitution and Native American Tribes	Read Chapter 10 in Rossum and Tarr <i>Cherokee Nation v. Georgia</i> <i>Worcester v. Georgia</i> <i>Carcieri v. Salazar</i> <i>United States v. Lara</i> <i>California v. Cabazon Band of Mission Indians*</i>
March 28 th and 30 th The Contract Clause	Read Chapter 11 in Rossum and Tarr <i>Fletcher v. Peck</i> <i>Dartmouth College v. Woodward</i> <i>Buffalo Teachers Federation v. Tobe</i>

April 4 th and 6 th Economic Due Process and the Takings Clause	Read Chapter 12 in Rossum and Tarr <i>The Slaughterhouse Cases</i> <i>Lochner v. New York</i> <i>Williamson v. Lee Optical Company</i> <i>Caperton v. A.T. Massey Coal Company</i> *
April 11 th and 13 th Economic Due Process and the Takings Clause	April 13th- No Class
April 18 th and 20 th	No Class-Work on Final Project
April 25 th and 27 th	No Class-Work on Final Project April 27th- Rough Draft of Final Project Due by 6pm
May 5 th	Final Project Due by 5pm

* Cases with this mark next to them are the cases to brief.