POS4603 – Fall, 2011

Constitutional Law I: Institutional Powers and Constraints

M, W 10:30-11:20 A.M.

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Office Hours: M,W 1:30-4:00 P.M., or by appointment

"The Supreme Court is better understood as a catalyst of change rather than as a singular effector of change."

James Levine

Course Description

In this course we study the major opinions of the United States Supreme Court that define the powers of each branch of government given by the Constitution as well as the limits on those powers. Our class discussion will cover a wide range of issues such as separation of powers, federalism, and economic substantive due process. The course goal is for you to develop an appreciation of the legal doctrines developed by the Supreme Court, which you can apply to the analysis of legal issues. It is essential for you to complete the reading assignment and come to class prepared, which is the only way that you can do well in this course. The reading load is substantial. Please carefully look over the syllabus and decide if you can devote the time necessary for this class.

Required Texts

Epstein, Lee, and Thomas G. Walker. 2010. *Constitutional Law for a Changing America: Institutional Powers and Constraints.* 7th ed. Washington, D.C.: CQ Press.

Class Rules and Regulations

Attendance Policy

Attendance is not mandatory for this class. When you come to class I expect you to at least appear to be paying attention. There will be no reading the newspaper, magazines or other material, listening to a CD player or talking to other students. All material, other than the class material, should be out of sight when class starts and all personal conversations will stop. I will ask you to leave if you cannot follow the rules.

Examinations and Homework

In-Class Exams

There will be 3 in-class exams for this course, including the final exam. They may contain multiple choice and short answer questions. I will provide further details when we approach the first exam.

Make-up exams will ONLY be given for EXCUSED ABSENCE. If the absence occurs the same day as a scheduled exam or other graded procedure, you need to notify me or the department by the end of the FIRST WORKING DAY of your return to ensure full rights. You are responsible for providing satisfactory evidence to me within ONE WEEK of your return to substantiate the reason for the absence. I do not accept photocopies of documents. All make-up exams must be completed by the end of the SECOND WORKING DAY of your return. I may give entirely essay exams as necessary.

Class Presentation

Each one of you will present ONE case from the reading assignment. The presentation needs to cover: (a) pertinent facts of the case, and (b) legal questions involved. Power-Point is REQUIRED.

Weekly Assignments

Each week you are required to answer one short essay question. Each essay is at most one page long and submitted through the assignment drop box. They are 10% of your final grade.

DO NOT MISS THE DEADLINE. I DO NOT ACCEPT LATE HOMEWORK!

Academic Dishonesty

Students who plagiarize or cheat will receive an "F." A clear definition of academic dishonesty and university procedures for responding to such misconduct can be found in the Golden Rule (see http://www.osc.sdes.ucf.edu/).

Americans with Disabilities Act (ADA) Policy Statement

The University of Central Florida is committed to providing reasonable accommodations for all persons with disabilities. This syllabus is available in alternate formats upon request. Students with disabilities who need accommodations in this course must contact the professor at the beginning of the semester to discuss needed accommodations. No accommodations will be provided until the student has met with the professor to request accommodations. Students who need accommodations must be registered with Student Disability Services, Student Resource Center Room 132, phone (407) 823-2371, TTY/TDD only phone (407) 823-2116, before requesting accommodations from the professor.

Copyright

The handouts used in this course are copyrighted. By "handouts," I mean all materials generated for this class, which include but are not limited to syllabi, power-point, quizzes, exams, lab problems, in-class materials review sheets, and additional problem sets. Because these are copyrighted, you do not have the right to copy or distribute the handouts, unless I expressly grant permission.

Controversial Content

Please be advised that some of the class material is controversial and may be offensive to you. If you do not feel comfortable with this, please let me know beforehand and I will make reasonable accommodations.

Extra Credit

You can earn extra credit by writing up to **3** additional legal briefs covering the Supreme Court decisions from its 2009 term. For each additional brief, you can get **1** extra point for your final grade.

DO NOT COPY LEGAL BRIEFS FROM YOUR CLASSMATES. THAT IS CHEATING!

Grading Criteria

Your final course grade will consist of five components:

Homework	10%
Presentation	10%
First Exam	20%
Second Exam	20%
Final Exam	40%

Letter grades assigned at final time will reflect the following numeric grades:

Numerical Grade	*University Standard*	*Letter Grade*
89.5-100	Excellent	A
79.5-89.4	Good	B
69.5-79.4	Satisfactory	C
59.5-69.4	Passing	D
Below 59.4	Failing	F

Calculation of the final course grade will use the following procedure:

Grade of homework	*x .10* =	weighted grade
Grade of presentation	*x .10* =	weighted grade
Grade of first exam	*x .20* =	weighted grade
Grade of second exam	*x .20* =	weighted grade
Grade of final exam	*x .40* =	weighted grade
Preliminary course grade	=	total of weighted grades

Adjustment for extra credit

Final Course Grade = Preliminary grade after adjustment

Grade Distribution

Grades for this class are available only through Webcourses. For instruction of accessing Webcourses, see https://myucfgrades.ucf.edu/help/.

DO NOT NEGOTIATE YOUR GRADES. If you are concerned about your grades after the first exam, schedule an appointment with me immediately following the first exam- not a week before the final exam. I may be able to help you to do better for the rest of the class. Remember, the longer you wait, the less I can do to help you.

Disclaimer

This syllabus is subject to change at the instructor's discretion when necessary.

Reading and Assignment Schedule

I expect reading assignments to be completed before the class in which they will be discussed.

The schedule is posted on Webcourses

Name:
Student ID:
Assignment #:

Marbury v. Madison
1 CR. 137 (5 U.S.) 137 (1803)

Vote: 4:0 (Chase, Marshall, Paterson, Washington)
Opinion of the Court: Marshall
Not participating: Cushing, Moore

Facts: James Madison, the new secretary of state after the presidential election of 1800, did not deliver Marbury's commission for the District of Columbia. Marbury asked the Supreme Court for a writ of mandamus ordering Madison to deliver the commission.

Statute or Provision of Constitution: Section 13 of the Judiciary Act of 1789

Legal Questions:

1. Does Marbury have a right to his commission?
2. If he has such a right, is he entitled to a remedy?
3. Can the Supreme Court grant the remedy?

Holding:

1. Yes
2. Yes
3. No

Legal reasoning: Even though Marbury had a right to his commission and Section 13 of the Judiciary Act of 1789 granted the Supreme Court the power to issue a writ of mandamus, Marshall ruled that Section 13 had expanded the Court's original jurisdiction and was repugnant to the Constitution. The Court's original jurisdiction can only be changed through constitutional amendment. Section 13 of the Judiciary Act of 1789 was unconstitutional.

Legal doctrine: Marshall established the doctrine of judicial review.

Other points of view: None-unanimous decision