AMERICAN CONSTITUTIONAL LAW II
POS 4604
FALL 2016

ADJUNCT PROFESSOR JONATHAN SUH, ESQ.

GENERAL INFORMATION

(1) Office Location & Office Hours:

I do not maintain a UCF-office location. All messages should be referred either through the Political Science Department; via email to jonathan.suh@ucf.edu. Appointments can be scheduled via email. Please, no need for any formalities, as I am not a professor – feel free to address me by Jon or Jonathan.

Class time and location: CB1 O120 – 6:00 p.m. – 8:50 p.m., Tuesdays

(2) Required Texts:

Constitutional Law for a Changing America: Rights, Liberties, and Justice, by Lee Epstein & Thomas G. Walker (9th Edition) – including any supplemental card that allows for online access for recent case law. If any cases cannot be found in-text, they are either easily found via the interwebs or their locations are mentioned herein.

Constitution of the United States of America

(3) Optional Texts:

Additional readings will be announced and/or distributed in class. In particular, these readings will focus on rulings from the most recent Supreme Court term(s), and articles regarding civil rights and liberties.

(4) Grading System:

Mini-Exam: 10%
Mid-Term Essay Examination: 30%
Final Examination: 40%
Case Briefs: 5%
Class Participation and Attendance: 15%

Please note the potential significance of classroom attendance and participation. I will randomly take attendance a few times throughout the semester. Ultimately, 20% of the overall course grade will rely upon these factors. Therefore, it is highly recommended that serious effort be dedicated to participating in any and all interactive review of reading assignments, and in-class discussion topics. I am serious – your final grade will be impacted by your class participation or lack thereof.

It is expected that every assigned case will be properly briefed prior to class. Students will be properly briefed prior to class. Students may be ***randomly*** selected to discuss various cases, or may be given advance notice to present a case to the rest of the class. This class is not meant to replicate the exact trauma depicted in Scott Turow's classic "1L," but a small dosage of uncertainty may be healthy. You may choose to complete such on large index cards, divided into the following sections:

(a) *Case Name and Year;*
(b) *Name of the Supreme Court Justice authoring the Opinion of the Court;*
(c) *Facts;*
(d) *Issues;*
(e) *Holding(s);*
(f) *Rationale;*
(g) *Significant Concurrences and/or Dissents.*

Trust me: your case brief should not exceed the space provided on the large index care.

There will be three (3) examinations: a mini-exam (multiple choice); a mid-term exam; and a final exam. It is anticipated that this method is consistent with a scheme adopted by law school professors. Similarly, the mid-term and final exams will likely be entirely essay. The final exam will incorporate not only subjects from the second half of the course, but potentially earlier course principles. Critical thinking skills are key to success in this course.

I do award grades based upon a +/- scale. However, I do so in a way that I believe will benefit the individual student. I will generally award plus (+) grades (e.g., B+, C+), when students meet those particular averages. I will only give minus (-) grades when a student falls (by perhaps a few-tenths of a percentage point) to the next lower grade but perhaps merits consideration for something more. For example, if a student averages 79.8 for his/her course grade, I am willing to consider 'bumping' the grade up from a C+ to a B-. Grades during the semester will be given in class. Your final grade will be posted through traditional means.

(5) Make-up Exam Policy:

Students will not be allowed to make-up any exams without my prior permission.

COURSE DESCRIPTION

Constitutional law addresses the contents of the U.S. Constitution and the interpretation of those contents. We will look at civil rights and liberties, including issues pertaining to incorporation doctrine, freedom of speech, civil rights practices and voting rights. Over the past 225 years, the constitutional doctrines encompassing these fundamental rights and protections have evolved dramatically. We will be discussing the underlying principles of these doctrines, and the paths taken to their current incarnations.

This course is primarily for the beginning or intermediate student in constitutional law.

How does constitutional law relate to the study of political science? You will tell me, and the student shall become the teacher.

> Alexis de Tocqueville: "Scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question." *Democracy in America*, Phillips Bradley ed. (New York: Vintage 1945), V. 1: 290.

COURSE OBJECTIVES

The objective of this course is to introduce you to the important role that the United States Constitution has in orienting American politics and governance. With this end in mind, we will explore the Constitution, particularly under the First, Ninth, Fourteenth and Fifteenth Amendments, the various interpretations of the rights and liberties subsumed under these Amendments, and the continuing role of the judiciary in constitutional application. The focus of this course is more than the memorization of cases and constitutional principles. Hopefully, this class will contribute to the development of your analytical and reasoning skills; the strengthening of your reading comprehension; the expansion of your vocabulary and verbal expression; the improvement of your writing skills; and the heightening of your personal expectations and discipline.

TENTATIVE COURSE OUTLINE

** Cases Listed Are Not All-Inclusive **

** Scheduling is Subject to Change at Professor's Sole Discretion **

Tuesday, August 23

- Introduction to Civil Rights & Liberties U.S. Constitution
- Chapter 3 - Incorporation of the Bill of Rights p. 66-87
    - *Barron v. Baltimore*
    - *Hurtado v. California*
    - *Palko v. Connecticut*
    - *Duncan v. Louisiana*

Tuesday, August 30

Civil Rights p. 603-610

Chapter 13 - Discrimination

- RACE DISCRIMINATION p. 601-631
    - *Plessy v. Ferguson*
    - *Sweatt v. Painter*
    - *Brown v. Board of Education (I)*
    - *Brown v. Board of Education (II)*
    - *Swann v. Charlotte-Mecklenburg Board of Education*

Tuesday, September 6

- RACE DISCRIMINATION 631-668
    - *Parents Involved in Community Schools v. Seattle School District No. 1*
    - *Cleburne v. Cleburne Living Center*
    - *Loving v. Virginia*
    - *Regents of the University of California v. Bakke*
    - *Grutter v. Bollinger*

Tuesday, September 13

- SEX/SEX ORIENTATION DISCRIMINATION p. 669-694
    - *Reed v. Reed*
    - *Craig v. Boren*
    - *United States v. Virginia*
    - *United States v. Windsor*
    - *Romer v. Evans*

The 'Am I Getting It' Mini-Exam

Tuesday, September 20

- OTHER FORMS OF DISCRIMINATION p.694-706
    - *San Antonio Independent School District v. Rodriguez*
    - *Plyler v. Doe*

- STATE ACTION p.706-716
    - *Shelley v. Kraemer*
    - *Burton v. Wilmington Parking Authority*
    - *Moose Lodge No. 107 v. Irvis*

Tuesday, September 27

Chapter 4 - Free Exercise of Religion p. 95-131

- *Cantwell v. Connecticut*
- *Sherbert v. Verner*
- *Wisconsin v. Yoder*
- *Employment Division, Department of Human Resources of Oregon v. Smith*
- *City of Boerne v. Flores*

Tuesday, October 4

- RELIGIOUS ESTABLISHMENT p.131-182
    - *Everson v. Board of Education*
    - *School District of Abington Township v. Schempp*
    - *Lemon v. Kurtzman*
    - *Zelman v. Simmons-Harris*
    - *Edwards v. Aguillard*
    - *Town of Greece v. Galloway*
    - *Van Orden v. Perry*

Tuesday, October 11

Mid-Term Essay Examination (Due Date: Via Email October 27, 2015, by 6PM)

REVIEW SESSION

Chapter 5 - Freedom of Speech, Assembly & Association (cont.) p. 234-267

- *Texas v. Johnson*
- *Chaplinsky v. New Hampshire*

- *Cohen v. California*
- *Hill v. Colorado*
- *R.A.V. v. City of St. Paul*
- *Snyder v. Phelps*
- *Tinker v. Des Moines Independent Community School District*

Tuesday, October 18

Chapter 10 - Right to Privacy p. 390-456

- *Griswold v. Connecticut*
- *Roe v. Wade*
- *Planned Parenthood of Southeastern Pennsylvania v. Casey*
- *Lawrence v. Texas*
- *Obergefell v. Hodges*
- *Cruzan v. Director, Missouri Department of Health*

Tuesday, October 25

Chapter 9 – The Right to Keep and Bear Arms p. 379-388

- *District of Columbia v. Heller*

Chapter 14 – Voting and Representation p. 717-741

- *Bush v. Gore*
- *South Carolina v. Katzenbach*
- *Shelby Country, Alabama v. Holder*
- *Crawford v. Marion County Election Board*

Tuesday, November 1

- REGULATION OF ELECTION CAMPAIGNS p.741-768
    - *Citizens United v. Federal Election Commission*
    - *McCutcheon, et al. v. Federal Election Commission*
    - *Reynolds v. Sims*
    - *Miller v. Johnson*

Tuesday, November 8

ELECTION DAY! WILL THERE BE CLASS? I MEAN, WHO GIVES A CRAP, RIGHT? IN THE WORDS OF SAMUEL L. JACKSON, HOLD ONTO YOUR BUTTS

Tuesday, November 15

Chapter 5 - Freedom of Speech, Assembly & Association p. 191-221

- *Schenck v. United States*
- *Abrams v. United States*
- *Gitlow v. New York*
- *Dennis v. United States*
- *Brandenburg v. Ohio*
- *United States v. O'Brien*

Tuesday, November 22

Chapter 5 - Freedom of Speech, Assembly & Association (cont.) p. 228-258

- *Texas v. Johnson*
- *Chaplinsky v. New Hampshire*
- *Cohen v. California*
- *McCullen et al. v. Coakley*
- *Snyder v. Phelps*
- *U.S. v. Alvarez*

Final Essay Examination (Due Via Email December 6, 2016, at 6:00PM)

Tuesday, November 29

LAST DAY OF CLASS

Pre-Final Q&A and In-Class Review

Chapter 5 - Freedom of Speech, Assembly & Association (cont.) p. 258-282

- *Tinker v. Des Moines Independent Community School District*
- *Morse v. Frederick*
- *West Virginia State Board of Education v. Barnette*
- *Rumsfeld v. Forum for Academic & Institutional Rights, Inc.*
- *Bates v. State Bar of Arizona*

FINAL COURSE NOTES:

I AM REASSURING YOU OF MY REASONABLE AVAILABILITY THROUGHOUT THE SEMESTER. PLEASE TAKE THE INTIATIVE TO ASK QUESTIONS AND SEEK ASSISTANCE REGARDING ANY CONCERNS OR ISSUES. THIS COURSE IS ABOUT SELF-RESPONSIBILITY AND LEARNING TO EXERCISE CRITICAL THINKING AND ADVANCED WRITING SKILLS. PLUS, I DO NOT READ MINDS.

THERE IS NO GRADE NEGOTIATION. EACH PAPER IS FAIRLY AND INDEPENDENTLY ASSESSED.

THERE IS EXTRA CREDIT. THE EXTRA CREDIT WILL BE AWARDED FOR ALL EXAMS WITH ME DECLARING TO WHICH EXAM ANY EXTRA CREDIT WILL BE ASSIGNED. ACTUAL PROOF IS REQUIRED IN ORDER TO AWARD SUCH EXTRA CREDIT. THIS SEMESTER, EXTRA CREDIT WILL BE APPLIED AS FOLLOWS:

- *BLOOD DONATION OR FOUR (4) HOURS OF APPROVED, NON-POLITICAL, COMMUNITY SERVICE WORK – 5 POINTS;*
- *POTENTIALLY, ATTENDANCE AT A CAMPUS EVENT(S) TO BE LATER DESIGNATED – 5 POINTS; AND*
- *PROOF OF READING*
    - *Devil in the Grove, by Gilbert King*
    - *The Brethren: Inside the Supreme Court, by Bob Woodward*
    - *The New Jim Crow, by Michelle Alexander*
    - *1L, by Scott Turow*
    - *Capitalism and Freedom, by Milton Friedman*
    - *The Art of the Deal, by Donald Trump*

PROOF MAY BE SUBMITTED BY A SHORT, BUT DETAILED BOOK REPORT. OTHER BOOKS MAY BE ADDED. 10 POINTS. I WILL CHECK ALL SUBMISSIONS AGAINST AMAZON REVIEWS AND WIKIPEDIA PAGES FOR PLAGIARISM (PLEASE DON'T DO THIS – THESE BOOKS ARE RECOMMENDED FOR A REASON.)

I WILL AWARD NO MORE THAN 10 POINTS OF EXTRA CREDIT PER EXAM. EXTRA CREDIT IS PROVIDED IN LIEU OF A GRADE CURVE. I HIGHLY RECOMMEND DOING THE EXTRA CREDIT – IT IS EASY AND IT HELPS. A LOT.

THE SCHEDULE, SYLLABUS, AND DIRECTION OF THE COURSE MAY CHANGE AT ANY TIME. ANY CHANGES TO THE SCHEDULE WILL BE COMMUNICATED TO YOU AS SOON AS POSSIBLE.

LASTLY, I'M GLAD YOU'VE DECIDED TO ENROLL IN THIS CLASS. EVENING CLASSES AREN'T EASY FOR ANYONE, BUT I'LL DO MY BEST TO MAKE SURE YOUR TIME IS WELL-SPENT.