

Constitutional Law

Vanguard University of Southern California

<u>Class</u> Semester: Spring 2017 Room: NMC 201A Time: Mondays and Wednesdays, 2:30-3:45	<u>Instructor</u> Kevin Walker, Ph.D. Office Hours: Mondays and Wednesdays, 11-12:50 Email: kevin.walker@vanguard.edu
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Course Description

The United States Supreme Court is entrusted with deciding “all cases, in law and equity arising under this Constitution” according to Article III. In practice, this has become the basis for Judicial Review, or the Court’s power of deciding whether or not a federal or state law is constitutional. But the Court does not simply hand down rulings: of all the institutions of government, only the Judiciary is expected to publicly explain its decisions – to allow reason and persuasion to be its determining force, rather than political or financial power. The Court only aims to speak truth about the nature of law, government, and the rights and liberties of individual citizens; the effectiveness of its decisions depend on the willingness of the government and the people to accept them. In this course, students will examine the structure and reasoning those major opinions, and understand how the various judicial theories determine the outcome of cases. We will consider the personalities that have occupied the Court since its creation, and their unique contributions to the judicial craft; we will see how the Judiciary has evolved through the course of its history, both in its understanding of the law and its own power to judge. Overall, students will gain a strong understanding of the evolving and conflicting meanings of constitutionalism, learn to exercise logic and textual analysis, and experience what the federal judiciary means for American political life as the interpreter of the document belonging to “We the People.”

Required Text

Students are required to own the following text:

Fruchtman, Jack. *The Supreme Court: Rulings on American Government and Society*. Second Edition. Baltimore: Lanahan Publishers, Inc., 2015.

Course Requirements and Grading

Grades for the course will be based on the following:

- **Participation (10%).** Be prepared to answer the reading questions. Inability to answer questions about the text will result in the loss of *one* percentage point; not having the book will result in the loss of *all* participation points.
- **Constitution Quiz (5%).** This is a brief quiz on relevant parts of the U.S. Constitution.
- **Minor Research Presentations (5%).** These are short presentations on various historical aspects of the Supreme Court.
- **Simulation (5%).** This is a simulation of an upcoming Supreme Court case. There will be a prompt.
- **Midterm Exam (25%).** This is an exam on the terms, basic concepts, and readings on the first half of the course.
- **Final Exam (25%).** This is an exam on the terms, basic concepts, and readings on the second half of the course.
- **Research Essay (25%, Phase I 5%, Phase II 5%).** This is a 12-14+ page research essay on a topic of your choice related to the Supreme Court and constitutional law. There will be a prompt, and it will be due in two phases.

Academic Integrity

Plagiarism, or the use of someone else’s text without quotes and proper citation, is considered a violation of the university’s standards of academic integrity and will be grounds for serious disciplinary action. A first offense will be an F on the assignment; a second offence will be an F in the class and a referral to the Dean.

Disabilities

The Disability Services Office (DSO) offers resources and coordinates reasonable accommodations for students with disabilities. Reasonable accommodations are established through an interactive process between you, your instructor and the DSO. If you have not yet established services through the DSO, but have a temporary or permanent disability that requires accommodations (this can include, but is not limited to, mental health, attention-related, learning, vision, hearing, physical or health impairments), you are welcome to contact the DSO at 714-619-6550 or disabilityservices@vanguard.edu.

Class Schedule

I. The Supreme Court and the Government

Week 1 – The Judiciary as an Institution

January 9

Introduction: The U.S. Constitution (in class)

January 11

The Supreme Court, Chapter 1 (pp. 1-17)

Week 2 – Judicial Power

January 16

Martin Luther King Day – No Class

January 18

The Supreme Court, Chapter 1 – *Marbury v. Madison* (1803); *Griswold v. Connecticut* (1965); *Shelby County v. Holder* (2013)

Week 3 – Federalism

January 23

The Supreme Court, Chapter 2 – Introduction

January 25

The Supreme Court, Chapter 2 – *McCulloch v. Maryland* (1819); *Gibbons v. Ogden* (1824)

Constitution Quiz – January 25

Week 4 – Federalism and Separation of Powers

January 30

The Supreme Court, Chapter 2 – *NLRB v. Jones & Laughlin Steel Company* (1937); *U.S. v. Darby Lumber Co.* (1941); *Heart of Atlanta Motel v. U.S.* and *Katzenbach v. McClung* (1964)

February 1

The Supreme Court, Chapter 2 – *U.S. v. Lopez* (1995); *National Federation of Independent Business v. Sebelius* (2012)

II. Civil Liberties, Civil Rights, and Privacy

Week 5 – Free Speech

February 6

The Supreme Court, Chapter 3 – *Schenck v. U.S.* (1919); *Brandenburg v. Ohio* (1969); *Texas v. Johnson* (1989); *Citizens United v. Federal Election Commission* (2010)

February 8

The Supreme Court, Chapter 3 – *New York Times v. Sullivan* (1964); *New York Times Co. v. U.S.* (1971)

Week 6 – Freedom of Religion

February 13

Handout: *U.S. v. Ballard* (1944); *U.S. v. Seeger* (1966); *The Supreme Court*, Chapter 3 – *Employment Division v. Smith* (1990)

February 15

The Supreme Court, Chapter 3 – *Everson v. Board of Education* (1947); *McCreary v. ACLU* (2005)

Week 7 – Civil Rights

February 20

President's Day – No Class

February 22

Exam

Midterm Exam – February 22

Week 8 – Civil Rights and Affirmative Action

February 27

The Supreme Court, Chapter 4 – *Plessy v. Ferguson* (1896); *Brown v. Board of Education* (1954); *Parents Involved in Community Schools v. Seattle School District No. 1* (2007)

March 1

The Supreme Court, Chapter 4 – *Regents of the University of California v. Bakke* (1978); *Adarand Constructors Inc. v. Pena* (1995); *Grutter v. Bollinger* (2003)

Week 9 – Individual Rights: Criminal Procedure

March 6

The Supreme Court, Chapter 5 – Introduction; *Lochner v. New York* (1905); Handout: *Munn v. Illinois* (1877)

March 8

The Supreme Court, Chapter 5 – *Gideon v. Wainwright* (1963); *Miranda v. Arizona* (1966); *Kyllo v. U.S.* (2001)

Week 10 – Individual Rights: The Death Penalty and Guns

March 20

The Supreme Court, Chapter 5 – *Atkins v. Virginia* (2002); *Roper v. Simmons* (2005)

March 22

Handout: *D.C. v. Heller* (2008); *The Supreme Court*, Chapter 5 – *McDonald v. City of Chicago* (2010)

Week 11 – Privacy and Abortion Rights

March 27

The Supreme Court, Chapter 6 – Introduction; *Roe v. Wade* (1973)

March 29

The Supreme Court, Chapter 6 – *Planned Parenthood v. Casey* (1992); *Gonzales v. Carhart* (2007)

Week 12 – Privacy and Sexuality

April 3

The Supreme Court, Chapter 6 – *Lawrence v. Texas* (2003)

April 5

Handout: *Obergefell v. Hodges* (2015)

III. Theories of Constitutional Interpretation

Week 13 – Social Evolution and the Living Constitution

April 10

Oliver Wendell Holmes, "The Path of Law," *Harvard Law Review* (1897); Louis Brandeis, "The Living Law," *Illinois Law Review* (1916)

April 12

William J. Brennan, Speech at the Text and Teaching Symposium (1985); Thurgood Marshall, "Reflection on the Bicentennial," *Harvard Law Review* (1987)

Week 14 – Progressive Doubt and Original Intent

April 17

Ruth Bader Ginsburg, "'A Decent Respect to the Opinions of [Human]Kind': The Value of a Comparative Perspective in Constitutional Adjudication," *Cambridge Law Journal* (2005); Stephen Breyer, "Serving America's Best Interests," *Daedalus* (2008)

April 19

Antonin Scalia, Judicial Adherence to the Text of our Basic Law: A Theory of Constitutional Interpretation (2005); Constitutional Interpretation the Old Fashioned Way (2005)

Week 15 – Simulations and Case Predictions

April 24

Simulation

April 26

Simulation

Final Exam – Wednesday, May 3, 3:30-5:30pm
