LOYOLA UNIVERSITY NEW ORLEANS

1. Seminar on Constitutional Law

CRJU C345-Z51

Spring 2009 Second Eight-Week Session

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Class Room: TBA (Please check LORA 2 weeks prior to class date for class location)

Class Dates/Times: Thursdays 6:15 pm-10:15 pm

Class Meetings: Week 1: March 5, 2009 Week 5: April 2, 2009
Week 2: March 12, 2009 Week 6: April 16, 2009
Week 3: March 19, 2009 Week 7: April 23, 2009
Week 4: March 26, 2009 Week 8: April 30, 2009

Course Description and Objectives:

This seminar focuses on major constitutional opinions of the United States Supreme Court and the impact those opinions have upon our daily life. Our course work begins with the genesis of the Supreme Court’s power and how the federal court system is structured. We’ll examine how only certain cases advance to the Supreme Court and the method the Court employs to decide its docket.

We will discuss how the Court’s decisions have shaped our lives, especially our individual rights, with particular focus on the extensive body of case law on First Amendment rights; gun control controversies; the variety and extent of searches and seizures by law enforcement agencies which provide the evidence in criminal cases.

We will discuss the evolution of interrogation techniques—the form of questioning by law enforcement—and how that evolution continues to impact what we commonly refer to as “our 5th Amendment rights”. The timeliness of this subject matter is evident in the national conversation of what constitutes “torture”.

We will explore the meaning of “legal representation” and on what occasions the Court believes the right to an attorney is constitutionally required.

Everyone charged with a crime wants a “fair trial”. Is that an artful term or is that a real and fundamental process, with objective measurements? Most individuals who are convicted of a crime urge in their appeal that the trial process was tainted. How do we determine if they are correct in that assessment?

The United States Supreme Court currently permits individual States to impose the death penalty, but only under certain and specific guidelines, guidelines that
continue to change. What facts have guided the Court to allow the “ultimate penalty” imposed by the people upon the people?
The right to bail (“to be bonded out of jail”) is written into the United States Constitution through the 8th Amendment. Is that important to you other than the occasional stop and search by the police on your way home after a late night?

With emphasis on how and why the Court decides these most important issues, we conclude our course by learning how to dissect a case by preparing what attorneys refer to as a “brief” - a formulary for learning the issues of the case and the holdings of the Court’s opinion. The course concludes with a briefing assignment for each student and the student’s presentation of that position in a major case.

Briefing and Arguing your Position:
The essence of Constitutional law is understanding how and why competing public interests are decided by the Supreme Court. Knowing the various “tests” the Court employs to balance those interests will provide insight into how the Court will likely determine the outcome of the case before it.

As you study the cases this semester, you will note that a key fact or a central public policy in each case will be given great weight by the Supreme Court and therefore may sway the Court to deviate from its previous reasoning (opinion).

As a major determination in your final grade (30%), your prepared brief and presentation of your position against your opponent’s position will provide you the experience that will sharpen your reasoning skills and equip you with the keys to understanding the Court’s rulings.

Grading will be based on the extent of the research invested in the preparation of the brief and the degree of preparation involved in the presentation, the components of which are as follows:

A=30 points: represents an excellent brief and presentation in terms of overall confidence, persuasion, content, structure, format, grammar and spelling;
B=25 points: represents a good brief and presentation in terms of overall confidence, persuasion, content, structure, format, grammar and spelling;
C=20 points: represents an average brief and presentation in terms of overall confidence, persuasion, content, structure, format and spelling;
D=15 points: represents a minimally acceptable brief and presentation in terms of confidence, persuasion, content, structure, format and spelling;
F= 14 and below: represents an unacceptable brief and presentation in terms of confidence, persuasion, content, structure, format and spelling.

Text:
Constitutional Law and the Criminal Justice System, Fourth Ed.
By J. Scott Harr and Karen M. Hess
Wadsworth, Cengage Learning
Grading:
Mid Term Examination: 30%
Final Examination: 30%
Brief and Presentation: 30%
Attendance/Participation: 10%
Grading Scale:
A = 90- 100
B+ = 85- 89
B = 80- 84
C+ = 75- 79
C = 70- 74
D+ = 65- 69
D = 60- 64
F = <60
Attendance Policy:
In this course students learn by participating in class discussion which, of course, requires attendance, especially in a course such as this which meets only once a week and revolves around somewhat controversial subjects.
An award of up to 10% of the total grade for the course is intended to emphasize this point.
Disability Statement:
Students with disabilities who need accommodations should contact the Office of Disability Services @ 865-2990.
Return of Student Work:
Each student has the right to receive copies of their graded work and, in fact, is encouraged to do so in order to benefit from feedback on the submitted work. Although I have every intention of returning the student’s work back, those who wish to receive copies of graded work should make that fact clear to the lecturer from the very start of the course.
Graded assignments, projects, and papers not returned directly to students while the class is in session will be made available for students for six weeks after the beginning of the next semester (excluding the summer semester). After this period, the work may be destroyed.
Incomplete Grades:
Grades of incomplete (“I”) become an “F” automatically when the course/course work is not completed and the grade changed by the sixth week of the subsequent term, excluding summer terms. The resulting “F” grade remains the permanent grade for the course.
Intellectual Honesty:
Every source relied upon in your work product must be properly documented and acknowledged. Plagiarism is academic fraud and a form of cheating. No form of cheating is tolerated by Loyola University or by this instructor.

Late Assignments/Make-up Exams:
Arrangements must be made in advance for late assignments to receive credit and/or for make-up exams to be taken. The student must contact the instructor by email or cell phone if an emergency prevents the student from submitting an assignment timely or from taking a scheduled examination.

Evacuation Statement:
Students must log on to the College emergency web site (www.loyno.la) and the University Blackboard site (http://loyno.blackboard.com/) within 48 hours of any University evacuation to receive further information regarding contacting course instructors for assignments, etc. Students will be required to do assigned course work for any evacuation of more than 48 hours. Students should also monitor the University site (www.loyno.edu) for general information.

Course Outline
Note: Course content may change or be adjusted at the discretion of the instructor. Students will be given ample advance notice of any changes in class content or requirements.

Week 1: March 5th:
Introductions and Class expectations
. Historical Overview of the Court and the U.S. legal system
. The Supreme Court of the United States as the final word
* Read the Preface, Chapters 1, 2 and 3 and the discussion questions at the end of each chapter, pages 1-75; The Declaration of Independence in Appendix A, pages 369-371 and the Marbury versus Madison decision, Appendix C, pages 384-388

Week 2: March 12th:
. Learning how to research the law; understanding how to read and create legal briefs;
. Involving the Constitution in “due process” through the painful issues of slavery: How the 13th and 14th Amendments served the Court in imposing federal interests above individual state interests;
. “Equal protection” as a leveraging tool for the Court in resolving discrimination issues;
* Read Chapters 4 and 5 and the discussion questions at the end of each chapter, pages 76-119

Week 3: March 19th:
. The First Amendment begins the Bill of Rights and the litany of our basic
freedoms: religion; speech; press; and to peaceably assemble to redress our grievances.

There are only 27 words in the Second Amendment but volumes of cases on the issue of gun control. How does the Court balance our ownership rights against the government’s programs aimed at stemming gun-related violence?

*Read Chapters 6 and 7 and the discussion questions at the end of each chapter, pages 120-169.

Week 4: March 26th:
.Civil rights, civil liberties are terms created by the Court but have been found in the Constitution by the Court. Where are they found and how did the Court find them?
.Is “criminal justice” a definable term found in the Constitution?
.The Court’s rules on search and seizure and the consequential authority given to law enforcement agencies to confront us in the pursuit of criminal justice has been an evolving process. What facts have influenced the Court to change its own rulings?
*Read Chapters 8, 9, and 10 and the discussion questions at the end of each chapter, pages 171-265

Week 5: April 2nd:
MID-TERM EXAMINATION

*****No class the week of April 9th*****

Week 6: April 16th:
."You have the right to remain silent” is a line right out of a movie. When is the police authority allowed to ask you questions and when do you have the right not to answer?
.Anyone charged with a crime wants a “fair trial” and yet that term is not found in the Constitution. Instead, what is a fair trial has been defined by a number of high-profile cases and largely by the increasing desire of the media to inform the people.
.What part of a “fair trial” includes the right to compel someone to show up in court on your behalf by use of a subpoena?
.Is a jury trial a fundamental right? Sometimes. But when?
* Read Chapters 11 and 12 and the discussion questions at the end of each chapter; pages 266-322; read also the Miranda versus Arizona decision, Appendix C, pages 388-401.
.Begin presentation of briefs and arguments

Week 7: April 23rd:
.Following an arrest who gets out of jail and who doesn’t? For those who can not
or who are not permitted to be released, is that “cruel and unusual punishment” per the 8th Amendment?

The words death penalty are not found in the Constitution. When isn’t it “cruel and unusual” for the people to sentence one of their own to death?

A glance at some of the other Amendments included in the Bill of Rights.

Read Chapters 13 and 14 and the discussion questions at the end of each chapters, pages 323-366; read also the Epilogue, pages 367-368; and Appendix B: The United States Constitution and Amendments; pages 372-383.

Conclude presentations of briefs and arguments.

Week 8: April 30th:

FINAL EXAMINATION