# Criminal Sentencing SeminarLAW 6936 2 Credit Hours

Tuesdays 1:00-2:40 PM – 355D HOL
Spring 2018 Course Syllabus

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Office Hours: Tuesday 10:00 a.m.-12:00 p.m., Friday 1:00-3:00 p.m. or by appointment. Please email me to schedule an appointment.

**About This Course**

This course will examine both the doctrine and the rapidly developing debates over the purposes, justifications, and impact of the law of criminal sentencing. We will delve into the nature of legal discretion as it is shared among legislatures, courts, and prosecutors in developing and implementing sentencing schemes. We will discuss recent state and federal cases dealing with sentencing issues including juvenile sentencing, sentencing guidelines, recidivist sentencing, innovative punishments, and the death penalty.

**Course Materials**

The course syllabus and other information, such as cases assigned, will be posted on TWEN at lawschool.westlaw.com.

The Encyclopedia of Crime and Punishment 2nd Edition is available through the college of law library in hardcover and electronically.

**Course Objectives**

1. To expose students to current sentencing issues. Students will be required to find current sentencing issues to share with the class each week. Issues can be found at: <http://sentencing.typepad.com/>.
2. To learn how the traditional theories of punishment impact criminal sentencing.
3. To help students improve oral presentation skills.
4. To help students improve written communication skills.
5. To allow students the opportunity to practice reflecting on experiences.

**Student Learning Outcomes**

1. Students will learn about a variety of sentencing issues including disproportionate sentencing, capital punishment, alternative sentencing, and juvenile sentencing.

2. Students will be able to apply the traditional theories of punishment to current sentencing issues to include disproportionate sentencing, capital punishment, alternative sentencing, and juvenile sentencing.

3. Students will know the current Supreme Court approach to evaluating a punishment and determining whether a punishment is cruel and unusual under the 8th amendment to the U.S. Constitution.

4. Students will be able to evaluate a punishment using the current Supreme Court approach to determine whether it meets the requirements of the 8th amendment to the U.S. Constitution.

5. Students will be able to communicate effectively orally and in writing regarding a sentencing matter.

6. Students will be able use research skills to conduct in depth legal research into a current sentencing issue.

**Expectations**

It is anticipated that you will spend approximately 2-3 hours out of class reading and/or preparing for in-class assignments. The reading material consists of Supreme Court opinions. These can be very challenging to read and digest. Students are expected to be prepared to discuss the assigned cases and other reading material each week. Students are expected to actively participate in class discussions. No one gets to exclusively sit quietly and listen. Active participation is expected. I will try to structure the class so that it is engaging. If it is not engaging, please let me know. I will make an adjustment.

**Attendance and Participation**

Attendance will be taken at each class meeting. Students are allowed 2 absences during the course of the semester. Students are responsible for ensuring that they are not recorded as absent if they come in late. A student who fails to meet the attendance requirement will be dropped from the course. I will not accept or grade the final paper of a student who is dropped from the course.

Excused absences are consistent with university policies in the undergraduate catalog

(<https://catalog.ufl.edu/ugrad/currcnt/regulations/info/attendance.aspx>) and require appropriate documentation.

**Professionalism**Students are expected to be on time for class. Please notify me by email before class if you must leave class early. Cell phones should be turned off during class unless an emergency situation requires that the phone remain available. This is a small class. It is important that students be actively present during class discussions. Computers may serve to distract students from interacting with each other and the instructor. Consequently, computers may not be used during class.

Sentencing issues can be emotional and there may be disagreements during class discussions. Students are expected to listen respectfully to others and to feel free to express their thoughts at appropriate times during class discussions.

**Grades**

Your grade for this course will be based on the areas listed below:

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| --- | --- |
| **Assignment** | **Percent of Grade** |
| Participation | 10% 100 pts |
| Case Presentation | 20% 200 pts |
| Paper Presentation | 20% 200 pts |
| Final Paper | 50% 500 pts |
| Total | 100% 1000 pts |

**Class participation (10%)**

Grades for class participation will be based on weekly presentation of a current sentencing issue, weekly journal entries, and participation in class discussions.

A blog managed by law professors, Sentencing Law and Policy at: http://sentencing.typepad.com/ contains discussions of lots of current sentencing issues. A link to this blog will be posted on TWEN. There are also other sources for sentencing issues (newspapers, google). Each student must pick a current sentencing issue and come to class prepared to brief the class on that issue (5 minutes max). The Law Professors Blog is also a good source for paper topics.

Following the presentation of current issues, students will spend 10 minutes thinking about the issue and writing a journal entry about it. Journal entries should include your thoughts about that issue and how you might change things.

**Presentation of Cases (20%)**

 Students will be assigned a case to read and present to the class each week. At least two students will be assigned to each case. In addition to discussing the facts of the case, the issues, and the ultimate holding, students will be expected to explain why the case is important in the big picture of sentencing law. Students may include sources other than the actual case.

**Presentation of Paper Topic (20 %)**

Each student will be required to do a 20 minute presentation for the class regarding his/her research project. Be creative! You may use whatever media you decide is appropriate.

**Final Paper (50%)**

**Requirements for Paper**:

1. No plagiarism. Anyone who plagiarizes in preparing their paper will be referred to the honor council. Plagiarism is where you use someone else’s ideas or words without proper attribution and quotation marks (if a direct quote). IF YOU ARE DIRECTLY QUOTING A SOURCE, YOU MUST NOT ONLY CITE TO THAT SOURCE, BUT ALSO PLACE QUOTATION MARKS AROUND THE EXACT QUOTE.

2. You must cite **at least 7 law review articles or books** that are relevant to your topic. This does not include statutes, cases or regulations that are relevant to your topic. If you cite less than these total 10 sources, I will lower your grade one step for each source less than the required 7.

3. The paper must be **at least 30 pages long, excluding endnotes**. You must use one inch margins on the top, bottom and sides of the paper as well as 12 pt. Times New Roman type. You may write the paper using footnotes, but they must be converted to endnotes before you turn your final paper in. If your paper falls below 30 pages, I will not accept it and it will not be graded. You will receive 0 points for this part of the course.

**Grading Policy**

I will adhere to College of Law’s grading policy posted on the College’s website.

|  |  |
| --- | --- |
| **Grade** | **Grade Points** |
| A (Excellent)  | 4.00 |
| A- | 3.67 |
| B+ | 3.33 |
| B- | 3.00 |
| B- | 2.67 |
| C+ | 2.33 |
| C(Satisfactory)  | 2.00 |
| C- | 1.67 |
| D+ | 1.33 |
| D (Poor) | 1.00 |
| D- | 0.67 |
| E (Failure)  | 0.00 |

For more details, see this information at

<https://catalog.ufl.edu/ugrad/current/regulations/info/grades.aspx>

**Course Evaluations**
Students are expected to provide feedback on the quality of instruction in this course by completing online evaluations at <https://evaluations.ufl.edu>. Evaluations are typically open during the last two or three weeks of the semester, but students will be given specific times when they are open. Summary results of these assessments are available to students at <https://evaluations.ufl.edu/results/>.

**Requesting Accommodations**

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, [www.dso.ufl.edu/drc/](http://www.dso.ufl.edu/drc/)) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the instructor when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

**University Honesty Policy**

UF students are bound by The Honor Pledge which states, "We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: "On my honor, I have neither given nor received unauthorized aid in doing this assignment." The Honor Code (https://www.dso.ufl.edu/sccr/process/student-conduct­honor-code/) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor or TAs in this class.

**Counseling and Wellness Center**

Contact information for the Counseling and Wellness Center:

http://www.counseling.ufl.edu/cwc/Default.aspx, 392-1575; and the University Police Department: 392-1111 or 9-1-1 for emergencies.

Weekly Topics & Reading Assignments

**CLASS WILL NOT MEET TUESDAY, JANUARY 9. A MAKE-UP CLASS WILL BE SCHEDULED LATER IN THE SEMESTER.**

**Class # 1 – January 16**

 Encyclopedia of Crime and Justice 2nd Edition (2002):

 Deterrence 507-514

Incapacitation 809-817

 Rehabilitation 1314-1325

 Retribution 1338-1342

 Utilitarianism 1282-1293

 *Queen v. Dudley and Stevens*, 14 Q.B.D. 273 (1884). posted on TWEN

 *People v. Superior Court*, 5 Cal. App. 4th 822, 7 Cal. Rptr 2d 177 (1992).

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**Class # 2 – January 23**

 Encyclopedia of Crime and Justice 2nd Edition (2002)

Cruel and Unusual Punishment 494-497

 8th amendment to the United States Constitution

 *Weems v. Unites States*, 217 U.S. 349 (1910).

 *Trop v. Dulles*, 356 U.S. 86 (1958).

**Class # 3 – January 30**

Encyclopedia of Crime and Justice 2nd Edition (2002)

Shaming Punishments 1483-1489

*Shame, Culture, and American Criminal Law*, 89 Mich. L. Rev. 1880 (1991)

*United States v. Gementera*, 379 F.3d 596 (2004).

Every student must find an example of a shaming sentence imposed. Come prepared to discuss the pros/cons of the sentence and whether it complies with the approach in the *Gementera* case.

**Paper topics must be emailed to Professor Epps by Friday, February 2**

**Class # 4 – February 6 -- Disproportionate Sentencing**

*Rummel v. Estelle*, 445 U.S. 263 (1980).

 *Harmelin v. Michigan*, 501 U.S. 957 (1991).

 *Ewing v. California,* 538 U.S. 11 (2003).

 Humphrey v. Wilson, 652 S.E. 2d 501 (2007).

**Class # 5 – February 13 - The Death Penalty**

 *Furman v. Georgia*, 408 U.S. 238 (1972).

 *Gregg v. Georgia*, 428 U.S. 153 (1976).

Students will be prepared to present the opinion and argue the position of the assigned Justice.

**Class # 6 – February 20**

 Death Penalty Part II

*McClesky v. Kemp*, 481 U.S. 279 (1987).

 *Coker v. Georgia*, 433 U.S. 97 (1977).

 *Kennedy v. Louisiana*, 554 U.S. 407 (2008).

**Outline must be emailed to Professor Epps by Friday, February 23**

**Week #7- February 27 Student Meetings (all week)**

**March 7 – Spring Break – No Class**

**Week # 8 – March 13 – Juvenile Sentencing Issues**

Encyclopedia of Crime and Justice 2nd Edition (2002)

 Juvenile Sentencing 911-916, 937-947

 Roper v. Simmons, 543 U.S. 551 (2005).

 *Graham v. Florida*, 130 S. Ct. 2011 (2012).

*Miller v. Alabama*, 132 S. Ct. 2455 (2012).

**Week # 9 Federal Sentencing Issues March 20**

Federal Sentencing Issues - Reading Assignment TBD

**Draft Must be emailed to Professor Epps Monday, March 26**

**Week # 10 Mental Health Issues – March 27**

Encyclopedia of Crime and Justice 2nd Edition (2002)

Mentally Disordered Offenders 1066-1014

*Atkins v. Virginia*, 536 U.S. 304 (2002).

 Additional Reading Assignment TBD

**Week # 11- April 3**

 4 student presentations (students will read and provide feedback on 1 other student paper)

 **Week # 12 -April 10**

3 student presentations (students will read and provide feedback on 1 other student paper)

**Week # 13- April 17**

4 student presentations (students will read and provide feedback on 1 other student paper)

**Week # 14 – Date TBD**

3 student presentations (students will read and provide feedback on 1 other student paper)

**Final Paper Due – Friday, May 4 by 5:00 p.m.**