

Constitutional Law
Section 3B, Law 5501, Sec. 17811
Fall 2018
Room 355C
Prof. Wright
352 Holland
273-0946
Office Hours: Weds 2:00-4:00
WRIGHTDC@LAW.UFL.EDU

SYLLABUS

This is a course in Constitutional Law as it has been developed by the U.S. Supreme Court. We will cover basic principles in the law of judicial review, separation of powers, federalism, civil rights and civil liberties, economic rights, and equal protection. This course lies at the confluence of two important legal sources – the rights and limitations expressed in the U.S. Constitution and the power of the Supreme Court to have the final say in matters involving federal questions and individual rights. This course is unlike the other courses you will take. Because it deals with a single court, it is important you learn the quirks and quibbles of the different justices. Different justices approach questions differently and you need to be able to identify their different analytical frameworks. Because it deals with a single court you can give up right now any hope for consistency or principled logic. These nine men and women have to come to some agreement at the end of the day and, as a result, the addition of a comma, a footnote, or a subheading may mean the difference between getting a majority of votes and writing the opinion or being in the minority and writing a dissent. Dissents are incredibly important not only because they may be the majority in the next case, but because they help clarify the logical terrain upon which the decision is founded.

There are at least two important reasons for studying constitutional law: you may be arguing a case before the Court, or you might be a judge having to apply their rulings someday. But also, you need to understand some of the most fundamental legal rules that undergird all other laws. As the bedrock of our legal system, constitutional principles function in complex ways in other areas of law. At some point most legal questions come back to constitutional principles. But the complexity and the fundamentality of this area of law mean that we will approach it differently from the way you approach most of your other classes. We will focus extensively on logic and arguments and legal reasoning, splitting hairs, critiquing decisions from a variety of theoretical positions, as well as exploring their placement in their political and historical context. This is not an easy course, but it should be a rewarding one if you put in the work necessary to understand the issues, the logic, and the context.

Class meets on Tuesdays, Wednesdays, and Thursdays from 1:00-2:10 Room 355C.

The required textbook is: Erwin Chemerinsky, Constitutional Law, 5th edition, 2017. I will supplement the readings with some of the newer cases from this year and last year.

You are expected to prepare thoroughly for discussion of all materials assigned. Brief all cases. If you are not prepared, please leave your name on the podium before class begins. I do not penalize students who are occasionally unprepared, so long as they follow this procedure and do not avail themselves of the opportunity too often.

Attendance is required. I reserve the right to dismiss from class any student who misses more than 10% of regularly scheduled classes. This policy reflects bar requirements that you actually be physically present in the classroom for a significant amount of scheduled class meetings – obviously done under the perhaps mistaken assumption that you might learn

something in class. I will pass around an attendance sheet each day so be sure to initial your name daily. My policy is to make the final exam draw heavily on the discussions in class. And besides, coming to class certainly won't kill you (though please let me know if I am putting you in immediate peril of life or limb by requiring your attendance). Let me also add that signing the attendance sheet for another, signing after the fact, or otherwise lying on the attendance chart is a conduct code violation and will not be tolerated.

Laptops: I realize that many of you rely heavily on laptops for taking notes, briefing cases, and doing research and that you may feel banning laptops is using a sledge hammer to swat a fly. However, laptops may not be used in class for note-taking because I have found that they seriously detract from the classroom experience. Every class is different, and every set of students creates a unique personality in the room. I have found that our interaction and the experience for all students have deteriorated greatly with the widespread use of laptops. Please continue to use your laptops for briefing cases and outlining and doing research. In class, however, please bring print-outs of your briefs and note paper on which to take notes.

Outlines from prior years: Many of you may have already obtained outlines for this course from prior years. Although I will not prohibit use of those outlines, I will caution you. The reason most A students receive A grades is that they actually wrote their own outlines. It is the process of writing your own outline that helps you make sense of the vast array of material we will have covered in class. Other outlines are worth consulting, but if they are not your own work, they are more likely to give you a false sense of security than actually provide answers for the exams. I would ask that you not bring those outlines to class, or use them when answering questions or participating in discussions, because the point of class is to reach the appropriate discussion topics through a procedure of talking and analyzing. It is the working through the problems that teaches you, not always getting to the final answer.

Office Hours: I will generally be available after class for as long as you have questions or comments on the class. I will also schedule office hours on when we can discuss the most convenient time when you all are available. You may also reach me via email or through the support staff to arrange a specific time to meet with me if you cannot make my regularly scheduled office hours. I will most likely be here most late mornings and early afternoons and you may drop in if you like. But I do ask that you not disturb me during the hour immediately preceding class; I need that uninterrupted time for my most intensive preparations for class. Otherwise, I encourage you to stop in and discuss issues and questions arising out of the class. However, I am less inclined to spend lots of time going over issues from the beginning of the semester when you finally get around to doing your outline a week before the exam. If you have problems or questions, please come in when they arise and don't wait until the end to bury me with questions.

To prevent the inevitable deluge of students and identical questions at the end of the semester, I will hold strictly to my office hours the last two weeks of class. I will not be available outside of those times, and you all will have to share me with your classmates. The goal is to try to get you to work on your outlines as we go along and, for the last couple of weeks, to have you hold off on your questions until the review session. That way I don't have to answer the same question 100 times. I am always amenable to entire study groups meeting with me to go over certain topics.

Accommodations: Students requesting classroom or examination accommodations must first register with the Dean of Students' Office, which will provide documentation to you and me about the type of accommodation to be provided.

Honor Code: As you no doubt realize, you are bound by the College of Law Honor Code and Conduct Code while in this class. Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>. Outside of class, I believe you should cooperate with each other as much as possible. You should form a study group and take practice exams together. In class, you may share notes, books, and outlines and feel free to come to a colleague's aid if he/she is stumbling over a question. But ultimately you will need to master this material if you are to competently represent a client. I encourage you to ask questions during office hours and get involved in the issues we will discuss. I ask that you not interrupt your classmates, disparage their questions or answers, or imply (either inside or outside of class) that their questions are not worthy of our attention. I also ask that if you are not going to pay attention in class that you not distract your classmates, but rather sit quietly and do other work.

Grading Policy: The Levin College of Law's mean and mandatory distributions are posted on the College's website and this class adheres to that posted grading policy. The following chart describes the specific letter grade/grade point equivalent in place:

Letter Grade	Point Equivalent
A (Excellent)	4.0
A-	3.67
B+	3.33
B	3.0
B-	2.67
C+	2.33
C (Satisfactory)	2.0
C-	1.67
D+	1.33
D (Poor)	1.0
D-	0.67
E (Failure)	0.0

The law school grading policy is available at: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

Examination: There will be a four-hour written essay examination at the end of the semester. It will be open book, open notes, open outlines, open treatises and open any other written sources you think might help (except your neighbor's answer). You will be responsible for all material assigned, whether specifically discussed in class or not.

Because this is a small section class, there will also be numerous (10+) small assignments, some of which will be mandatory and some of which will be optional. These assignments are designed to help you master the critical analysis and test-taking skills to succeed in law school. You will find that all your professors and peers will talk about legal analysis but few will take the time to examine what the skill entails and how one accomplishes it. These assignments will be aimed at helping you to practice this essential skill. Each assignment will be given between 1 and 10 points, and those points will be added to your final course grade. I expect the total of all small assignment points will comprise roughly 20% of your final course grade.

I also expect students to participate in class, both by being prepared and performing competently when called upon, and by engaging in the discussion each day. I reserve the right to

adjust grades up or down by .3 based on participation. Unfortunately, with the mandatory curve I am unable to make sizable adjustments, but you may feel confident that my goal is to help you succeed in understanding Constitutional Law, regardless of the grade you earn.

Learning Outcomes: Because this is a first semester course, and because it is a particularly complex course, my focus will be on teaching you to engage in critical legal analysis. We will read cases and discuss the language and theories of the opinions, majority and dissenting, and we will discuss the public policies and constitutional theories behind the opinions. At the end of the course, you should have a substantial (though not complete) knowledge of how constitutional law operates, and you should be able to analyze constitutional law cases. This analytical skills you acquire in this class should enable you to succeed on the exam, which will ask you to evaluate a number of hypothetical laws and state actions, and it should translate well to your other classes and the rest of law school. This is a foundational class and will serve as an important basis for the rest of your law school career. You should be able to distinguish between different judicial philosophies, different legal theories, and understand how the constitution and constitutional law is evolving, as well as its place in civil society.

Reading Assignments: We will begin at the beginning of the book and proceed to the end, omitting the 400 pages on free speech and some sections that are not absolutely critical. We will generally cover about 20 pages per hour, which may mean 2 cases and it may mean 12 cases. Every case is important, even if it is only given a brief note. If you don't understand why a case is given, then look up the entire case online and glance through it. You should begin to see patterns that are very important to understanding this very difficult area of law. Instead of giving you a day-by-day page assignment, I have indicated the number of pages and approximate time we will spend in class on each topic. Each day I will try to tell you how far you need to read for the next day, but if I don't, be sure you read at least the next 15-20 pages for each class period and prepare a minimum of two major cases for each class. Even if I don't tell you how far to read, you are responsible for being adequately prepared each day. So please stay well ahead in the readings. We will discuss the readings in the order assigned below.

ABA Standard 310 requires that students devote 120 minutes to out-of-class preparation for every "classroom hour" of in-class instruction. This class has 4 "classroom hours" of in-class instruction each week, requiring at least 8 hours of preparation outside of class. Accordingly, you will have about 60-80 pages of reading each week. You should spend at least one hour on every 5-10 pages of reading. Reading in this class needs to be very close and critical, with a focus on the legal theories of the different justices.

First Class: Read the Constitution pp. xli-lvii

I will distribute to you a detailed syllabus of the reading assignments after the first day of class. This will provide all the pages we will cover this semester and for which you will be responsible on the exam. I do not break the assignments down by class period as conversations often require that we extend certain discussions or shorten others.

I am looking forward to our class and I hope you are too!