

HIS 372 U.S. Constitutional History and Civil Rights Spring 2015

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SBS-S328
TTH 8:30-9:50
Office hrs:
TTH: 10-11, TH:1-2
& by appt.

I. Course Description: This course will chart the long and ongoing debate over the meaning of “citizenship” in U.S. Constitutional history and, more broadly, over who gets to be considered a universal “individual” to whom is promised liberty and equality in liberal political culture. We will trace the constantly changing contours of citizenship and the always contested efforts to fix boundaries around excluded groups. In the process we will closely study the terms and evolving meaning of the U.S. Constitution and analyze some of the leading cases in American legal history. While we will read one scholarly monograph, the bulk of the reading will come from the written decisions of the US Supreme Court. Through close reading and discussion of these documents, you will become conversant in the difficult language of the law and learn to analyze issues of judicial review, federalism, equal protection, due process, and the evolving legal concept of the right to privacy. Since every legal case begins with a real world dispute, you will also get to read and hear dozens of great, true stories. This course is also designed to give students lots of practice speaking and writing.

Please note that a significant portion of the grade for this course is based on fulfillment of participation requirements. It will be impossible to do well in this class if you do not attend regularly and participate in oral discussion of the cases.

II. Learning Outcomes/Course Goals:

- To gain a solid literacy of the U.S. Constitution and the history of its legal interpretation.
- To become familiar with both the history and the doctrinal significance of major cases in U.S. legal history.
- To analyze and debate the political and philosophical issues shaping this history.
- To be able to link contemporary events and issues to U.S. legal history.
- To practice reading complex primary texts.
- To practice speaking in public, including extemporaneous responses to questions and critiques.
- To research, write and present a research paper.

III. Requirements:

A. Participation. This is both a lecture and a discussion course. Its success depends upon the informed, considered and energetic participation of each of its members. Attendance will be taken, and you must arrive on time and remain in the class (conscious, if not alert) to be counted present. Note also that much of the course material for which you will be responsible will be available through class lectures and discussions only, making absences doubly damaging to your course performance. Informed and good faith contributions to the discussions will be expected in class and through an optional

Blackboard discussion site. Everyone will be called upon regularly to discuss the day's case reading, and you will participate each week as a team member either advocating or judging a case. The ability to express yourself orally in public is critical to success in any career; you should take advantage of this risk-free opportunity to practice this skill.

B. Notebook. Each of you will be required to compile over the course of the semester a collection of articles, summaries and terms. The articles should be from the contemporary established press, defined as publications based on professional, research-based journalism. The article (or cite to the web link) must be accompanied by a short (approx. 150 word) summary, including a statement of the article's relevance to one or more of our class topics and themes. In addition, the notebook should contain a running list of terms/words/idioms you have learned in this course, along with their definitions. The terms need not be "legal", but can be any words you come across in the reading for this class that you do not know. You should date all your entries (articles, summaries, definitions), and make them throughout the course, more or less on a biweekly basis. I will check the journals on a regular but unannounced basis. By the end of the semester, there should be no less than 7 articles/summaries, and no less than 30 definitions in your notebook.

C. Case Summaries. Every week that "Court" is in "Session" (i.e., beginning Feb. 17th) you will write short (about 300 word) summaries of the cases to be adjudicated (marked by italics on the Tentative Schedule), and post them on Safe Assign. The format and requirements of the summaries can be found under Assignments on Blackboard. The summaries should reflect your very best writing: grammatical, well-organized, and fully proofed.

D. Final Paper and Presentation. Early in the semester you will choose a Supreme Court case on which to base a 5-7 final paper. The case may not be one that we "adjudicate" in class. There is a list of suggested cases posted on Blackboard under Assignments, though you may choose a different case so long as it is approved by the Instructor. The format and requirements of the final paper can be found under Assignments on Blackboard. As part of this project, you will submit a draft bibliography and outline of the paper. You will also give a short presentation at the end of the class, introducing the case to the class and outlining the argument of your paper. The final paper will be due on the date assigned for the final exam in this class, though it may be submitted earlier.

IV. Evaluation:

A. Participation:		35%
Attendance:	10%	
General Class Discussion:	15%	
Team Participation:	10%	
B. Notebook:		5%
C. Case Summaries:		30%
D. Final Paper and Presentation:		30%
Draft Bibliography:	2.5%	
Draft Outline:	2.5%	
Oral Presentation:	5%	
Final Paper:	20 %	

V. Policy on Excuses: Dead car batteries, sick kids, computer crashes, and, yes, even real tragedies happen to all of us in life. Learning how to cope with and carry on in spite of unexpected problems and bad luck is a basic skill we all must learn. Class time amounts to less than three hours a week, and it will be impossible to do well with multiple absences, whatever the cause. All students are granted two excused absences for attendance purposes, and two “passes” on class discussion. The case summaries and final paper outlines and bibliographies will lose one letter grade for every class day that they are late. If you fail to turn in the final paper on time, you will receive an incomplete for the course and a letter grade reduction for the paper once it's turned in. These policies are firm regardless of the reason for the delay or absence.

VI. Readings:

A. Peggy Pascoe, Doing What Comes Naturally: Miscegenation Law and the Making of Race in America. Oxford Univ. Press: 2009. [Available at University Bookstore and on 4 hour reserve at the Main Library.]

B. Additional assigned readings will be posted on Blackboard.

VII. Electronic Communication:

Email and especially email sent via Blackboard (<http://blackboard.stonybrook.edu>) is one of the ways we will officially communicate with you for this course. It is your responsibility to make sure that you read your email in your official University email account. For most students that is Google Apps for Education (<http://www.stonybrook.edu/mycloud>) but you may verify your official Electronic Post Office (EPO) address at: <http://it.stonybrook.edu/help/kb/checking-or-changing-your-mail-forwarding-address-in-the-epo>. If you choose to forward your official University email to another off campus account, we are not responsible for any undeliverable messages to your alternative personal accounts. You can set up email forwarding using these DoIT-provided instructions found at: <http://it.stonybrook.edu/help/kb/setting-up-mail-forwarding-in-google-mail>. If you need technical assistance, please contact Client Support at (631) 632-9800 or supportteam@stonybrook.edu.

VIII. Blackboard Accounts: This course is set up with a Blackboard site, and you will need to use it to access course materials, internet links and other basic information about the course. We will also have an optional Discussion Board going throughout the semester through which we can continue class discussion and through which you can communicate with each other. It is important, therefore, for each of you to access the Blackboard site at <http://blackboard.sunysb.edu>. For help or more information see: <http://www.sinc.sunysb.edu/helpdesk/docs/blackboard/bbstudent.php>. For problems logging in, go to the helpdesk in the Main Library SINC Site or the Union SINC Site. You can also call: 631-632-9602 or e-mail: helpme@ic.sunysb.edu.

IX. Academic Integrity: Each student must pursue his or her academic goals honestly and be personally accountable for all submitted work. Representing another person's work as your own is always wrong. Any suspected instance of academic dishonesty will

be reported to the Academic Judiciary. For more comprehensive information on academic integrity, including categories of academic dishonesty, please refer to the academic judiciary website at <http://www.stonybrook.edu/uaa/academicjudiciary/>.

X. Disabilities: If you have a physical, psychological, medical or learning disability that may impact your course work, please contact Disability Support Services, ECC (Educational Communications Center) Building, room 128, (631) 632-6748. They will determine with you what accommodations are necessary and appropriate. All information and documentation is confidential. Students requiring emergency evacuation are encouraged to discuss their needs with their professors and Disability Support Services. For procedures and information, go to the following web site: <http://www.ehs.sunysb.edu/fire/disabilities/asp>

XI. Tentative Course Schedule: Readings should be completed by the beginning of the week in which they're assigned. Other than the Pascoe book, all readings can be found as pdfs or links under "Documents" on Blackboard. Most readings are excerpted passages and not the entire text. Italicized cases will be "adjudicated" in our Court Sessions.

Week 1 (1/27 & 29): Introduction. The Construction of the Modern Liberal Individual.

John Locke, Two Treatises of Government (1689); William Blackstone, Commentaries on the Laws of England (1765-69).

Week 2 (2/3 & 5): The Political Theory of Constitutional Democracy. Fundamentals of Law and the Judicial System.

The Declaration of Independence; US Constitution; Federal Court Structure.

Week 3 (2/10 & 12): Liberty, Property, and Conjugal Society.

Fletcher v. Peck (1810); State v. Samuel, a Slave (1836); State v. Hussey (1852); Hair v. Hair (1858); Munn v. Illinois (1877); Lochner v. NY (1905); Muller v. Oregon (1908); Linda Kerber, "The Paradox of Women's Citizenship in the Early Republic," (1992).

Week 4 (2/17 & 19): Race, Gender, and the 14th Amendment.

Dred Scott v. Sanford (1857); Minor v. Happersett (1875); Civil Rights Cases (1883); Yick Wo v. Hopkins (1886); Peggy Pascoe, Doing What Comes Naturally (2009), pp. 1-108.

Week 5 (2/24 & 26): Separate but Equal. The Right to Reproduce.

Plessy v. Ferguson (1896); Buck v. Bell (1927); Gaines v. Canada (1938); Skinner v. Oklahoma (1942); Peggy Pascoe, Doing What Comes Naturally (2009), pp. 109-159.

- Week 6 (3/3 & 5): Freedom of Speech.**
Schenck v. US (1919); Dennis v. US (1951); Brandenburg v. Ohio (1969); Texas v. Johnson (1989); Morse v. Frederick (2007).
- Week 7 (3/10 & 12): Freedom of Religion. Conferences on Final Paper.**
Davis v. Beason (1890); Minersville v. Gobitis (1940); West Virginia v. Barnette (1943); Wisconsin v. Yoder (1972); Employment Division v. Smith (1990).
- Week 8: Spring Break**
- Week 9 (3/24 & 26): Race, Gender, and Freedom to Love.**
Loving v. Virginia (1967); Lawrence v. Texas (2003); Peggy Pascoe, Doing What Comes Naturally (2009), pp. 163-314.
- Week 10 (3/31 & 4/2): Race, Gender, and Education**
Brown v. Board of Education (1954); Hernandez v. Texas (1954); Mississippi Univ. for Women v. Hogan (1982); US v. Virginia (1996).
 Note: Last day to drop or PNC is 4/3.
- Week 11 (4/7 & 9): Reproductive Rights and the Right to Privacy**
Meyer v. Nebraska (1923); Griswold v. Connecticut (1965); Roe v. Wade (1973); Linda Greenhouse and Riva Segal, Before Roe v. Wade (2010).
Final Paper Draft Bibliography due: 4/9.
- Week 12 (4/14 & 16): Gender Exclusion and Distinction.**
Bradwell v. Illinois, (1873); Hoyt v. Florida (1961); Reed v. Reed (1971); Michael M. v. Superior Court (1981).
- Week 13 (4/21 & 23): National Security, Poverty, Race, Gender, and Citizenship.**
Korematsu v. US (1944); Furman v. Georgia (1972); DeShanney v. Winnebago County (1989); Nguyen v. INS (2001); Death Penalty Information Center Fact Sheet (2014).
Final Paper Draft Outline due: 4/23.
- Week 14 (4/28 & 30): Conclusion. Case Presentations.**
 Stanley Fish, "Is There a Constitution in this Text?" (2012);
 William Rubenstein, "Hiding Behind the Constitution" (2004).
- Week 15 (5/5 & 7): Case Presentations.**
Notebook turned in, 12/6.
- Tuesday, May 12, 1:45 pm: Final Paper (including graded outline and bibliography) due, History Dept. Main Office.**