

# Constitutional Law: Civil Rights and Liberties

POLS 4600-1195-0 (2019 Fall Term)  
Auburn University at Montgomery  
College of Liberal Arts and Social Sciences  
Department of Political Science and Public Administration

Professor: David A. Hughes, Ph.D.  
Meeting Times: T/TH, 6:20 to 7:35 pm (Goodwyn 204)  
Office: Goodwyn Hall 209G  
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**Course Description:** Using a traditional case-law approach, this course explores the role of the United States Supreme Court as a civil liberties policymaker. The purpose of this course is to introduce students to the philosophical bases and historical development of constitutional civil rights and liberties. We will place a substantial emphasis on rights embedded within the First Amendment (speech, religion, press, etc.), privacy rights, rights of the criminally accused, and equal protection and due process rights. In addition to examining Supreme Court cases in these areas, we will also examine the expressly political factors that helped to shape these decisions. In the end, students should not only gain a deeper understanding of constitutional doctrine, but also of the crucial role politics plays in the legal process. Quite simply, the United States Supreme Court is an institution at the center of political struggles for power and authority, and, as a result, Supreme Court justices are political actors. POLS 2020 is a prerequisite for enrolling in this course.

**Student Learning Objectives:** A major goal of this course is for you to be able to analyze the U.S. Supreme Court's modern and historical treatments of civil rights and liberties claims through a detailed analysis of their written opinions and the United States Constitution. To do so fully, you should be able to explain the role of the federal judiciary in affecting public policy in the United States and how the Supreme Court, in particular, does so through its legal and political interactions with its coequal branches. You should have a thorough understanding of the origins, strengths, and weaknesses of the norm of judicial review in American constitutional law and how that norm operates as the primary vehicle through which the courts move their agenda.

**Required Text:** The following text is required for this course:

Epstein, Lee and Thomas G. Walker. *Constitutional Law for a Changing America: Rights, Liberties, and Justice*, 10<sup>th</sup> Edition. ISBN: 9781506380308.

**Academic Integrity and Professionalism:** Every student is responsible for understanding and adhering to AUM's standards of Academic Integrity as defined in the Student Handbook. Penalties for academic dishonesty will be addressed on a case-by-case basis

and may include, but are not limited to, failure on a course component or failure in the course altogether. Furthermore, students should behave in a professional manner at all times. It is essential that the environment in this classroom be conducive to learning and tolerant of everyone's race, ethnicity, nationality, gender identity, sexual orientation, religion, etc. Any student behaving in a manner that is in any way disruptive or inappropriate to the professor or to other students in the class will be referred to the appropriate authority.

**Disability Accommodations:** Students who need accommodations are asked to arrange a meeting during office hours to discuss your accommodations. If you have a conflict with my office hours, an alternate time can be arranged. To set up this meeting, please contact me by e-mail. If you have not registered for accommodation services through the Center for Disability Services (CDS), but need accommodations, make an appointment with CDS, 147 Taylor Center, or call 334-244-3631 or e-mail CDS at [cgs@aum.edu](mailto:cds@aum.edu). Accommodations cannot be made retroactively.

**Free Academic Support:** All students have the opportunity to receive free academic support at AUM. Visit the Learning Center (LC) in the WASC on second floor Library or the Instructional Support Lab (ISL) in 203 Goodwyn Hall. The LC/ISL offers writing consulting as well as tutoring in almost every class through graduate school. The LC may be reached at 244-3470 (call or walk-in for a session), and the ISL may be reached at 244-3265. ISL tutoring is first-come-first served. Current operating hours can be found at [www.aum.edu/learningcenter](http://www.aum.edu/learningcenter).

**Electronic Services:** Students may seek technology assistance from the ITS Help Desk located in the computer lab on the first floor of the Taylor Center. You may also call 334-244-3500 or email [helpdesk@aum.edu](mailto:helpdesk@aum.edu).

**Course Requirements:** The following assignments are intended to provide students with multiple opportunities to demonstrate achievement of the course objectives. Specific requirements are as follows:

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| 1. Exams (4 in total)                              | 60 percent   |
| 2. Moot Court                                      | 25 percent   |
| a. <i>Amici</i> Syntheses/Biography                | (10 percent) |
| b. Attorney Briefs/Opinions/Moot Court Performance | (15 percent) |
| 3. Discussion Leadership                           | 15 percent   |

**Description of Course Requirements:** This section provides further details of the three primary requirements for student excellence in this course.

*Exams:* There will be four total exams throughout the course of the semester. Each exam is worth 15 percent of your final grade. Therefore, the exams total 60 percent of your grade in this class. Students are responsible for all background and related materials offered in the readings, lectures, and classroom discussions. Please bring a blue book with you for each exam. The final exam is *not* cumulative.

*Moot Court:* Students will be assigned a case to simulate the process of oral argument and decision-making at the U.S. Supreme Court. As such, each student will act as either an attorney or a justice in one of these cases. Students will have an opportunity to sign up for their preferred case and role at the beginning of the term. Anyone who misses the deadline for sign-ups will be assigned a case and role by the professor.

- A. Students who participate as justices will act as a justice during oral argument, conference, and the decision on the merits. I will randomly assign each justice to embody one of the current members of the U.S. Supreme Court. Each justice will participate in oral arguments, conference, and the decision on the merits as if he or she were that assigned individual. You will want to delve into this person's judicial idiosyncrasies and constitutional philosophy. To help you do so, you will prepare a short (about 4 pages) analysis of your justice's constitutional philosophy in the area of the assigned case, which will give me an opportunity to give you feedback before moot court begins. This is due on October 24<sup>th</sup> and will contribute 10 of the total 25 percentage points of your grade on this component. Regardless of the Court's final vote on the merits, every "justice" will write his or her own separate opinion to be turned in at the end of Moot Court. These written opinions—and your performance during moot court—will contribute the remaining 15 percentage points of this component. Justices will be evaluated based upon their embodiment of their assigned individual during every phase of the case, upon the effectiveness of their questions during oral arguments, and the persuasiveness of their written opinions. These written opinions are due December 3<sup>rd</sup>. I will provide a handout at a later date with more details on the roles and responsibilities of the justices in moot court.
  
- B. Students who participate as attorneys will research the relevant case law, develop written briefs to assist presentation, and participate in oral argument before the court. I will randomly assign each attorney to represent one of the parties to the case. You will be responsible for writing briefs that attempt to sway the justices toward your party's preferred outcome and for defending those positions during oral arguments. To help you do so, you will turn in a paper (about 4 pages) that synthesizes the legal arguments of the *amicus curiae* that have filed briefs in support of your position. This is due on October 24<sup>th</sup>. This assignment will count for 10 of the total 25 percentage points of this component. On the day of moot court (December 3<sup>rd</sup>), attorneys will turn in their briefs (one copy for me and enough copies for the justices) before they deliver their oral arguments. Each attorney will be evaluated upon the quality of their written and oral performances. I will provide a handout at a later date with more details on the roles and responsibilities of the attorneys in moot court.

*Discussion Leadership:* Fifteen percent of your grade derives from your role as a "discussion leader." Beginning with the third week of class, one student will be responsible for serving as a "discussion leader" for each day on which we analyze court cases. The discussion leader should prepare thoughtful comments about the cases assigned for that

day that cut to the key constitutional issues at stake and how the Court addressed them. They should also be prepared to answer questions from the rest of the class. Finally, discussion leaders should carefully brief the cases assigned for their meeting and turn those briefs in to me after class. You should expect to serve as discussion leader twice during the course of the semester. Your effectiveness as a discussion leader and the quality of your brief determines your grade on this portion.

- A. “Briefing” requires that you note key facts and legal nuances to court cases. This includes (but isn’t limited to): (1) noting the parties in the case (court cases are inherently adversarial); (2) the conflict that precipitated the case (what do the parties disagree over); (3) the legal postures the parties have assumed (what outcomes would the parties prefer, and what legal rationales have they advanced for that outcome); (4) the conclusion the court has reached along with the legal rationale supporting that outcome; (5) and the disagreements among the justices (majority, concurring, and dissenting opinions) if there are any at all. For more on case briefing, LexisNexis provides a valuable guide: <http://www.lexisnexis.com/en-us/lawschool/pre-law/how-to-brief-a-case.page>. We’ll practice briefing in class together to get you accustomed to it, and we’ll continue to practice this skill throughout the term. If you are interested in attending law school, learning to brief cases will pay dividends.

**Make-Up and Late Assignments:** If you miss an assignment, it can be made-up if and only if your absence from class is accompanied by a doctor’s note or for some properly documented, University-sanctioned event, religious observance, or family emergency. Because our moot court will take place in “real time,” it is absolutely critical that you attend these meetings. Obviously, we cannot re-create what transpired during moot court if you missed it. The same goes for your discussion leadership opportunities. Permitted make-up assignments must be completed within one week of their scheduled date, and the nature of this assignment is at the discretion of the professor. Make-ups will be scheduled on a case-by-case basis. Late papers will be penalized one letter grade for every business day they are late.

**Grading:** Final grades will be assessed according to the following scale:

A	90 to 100
B	80 to 89
C	70 to 79
D	60 to 69
F	Below 60

**Key Semester Dates:** Please keep the following important AUM dates in mind:

Last day to add classes:	August 22, 2019
Registration cancellation:	August 23, 2019
Last day for 100% refund:	August 26, 2019
Last day to apply for fall graduation:	August 30, 2019

Labor Day holidays (no classes):	September 2-3, 2019
Last day for 50% refund:	September 11, 2019
Last day to drop classes:	October 25, 2019
Thanksgiving holidays (no classes):	November 25-29
Complete course evaluations:	December 3, 2019
Classes end:	December 3, 2019
Final exam:	December 10, 2019 (5:00 to 7:30 pm)

**Readings:** Readings and case briefings must be completed *before* the class date to which they are assigned. In general, we'll cover around 5 cases per meeting (sometimes more, sometimes fewer, depending on time), but I'll let you know which cases you're responsible for before our next gathering.

**Course Outline:** Note that this course outline is a tentative schedule and is subject to change. I will inform you ahead of time should a scheduling change occur.

Aug. 20-22	Course Overview Introduction to the American Legal System Read pp. 1-41
Aug. 27-29	Bill of Rights and Judicial Review Incorporation of the Bill of Rights Read: 43-86
Sep. 3	Labor Day Holiday (No Class)
Sep. 5	Religious Exercise Read pp. 91-126
Sep. 10-12	Religious Establishment Read pp. 126-182
Sep. 17	<b>Exam 1</b>
Sep. 19-26	Freedom of Speech, Assembly, and Association Read pp. 183-277
Oct. 1-3	Freedom of the Press Read pp. 280-305
Oct. 8-10	Boundaries of Free Expression Read pp. 307-353
Oct. 15	<b>Exam 2</b>
Oct. 17	The Right to Keep and Bear Arms

	Read pp. 354-363
Oct. 22-24	Privacy and Personal Liberty Read pp. 365-426 <b>Amici Syntheses and Justice Biographies Due</b>
Oct. 29-Nov. 5	Rights of the Criminally Accused Read pp. 427-552
Nov. 7	<b>Exam 3</b>
Nov. 12-14	Race and Sex Discrimination Read pp. 555-668
Nov. 19-21	Voting and Representation 669-719
Nov. 26-28	Thanksgiving Holiday (No Class)
Dec. 3	<b>Moot Court</b> <b>Briefs and Opinions Due</b>
Dec. 10	<b>Final Exam</b> (5:00 to 7:30 pm)