

## **Civil Rights and Civil Liberties GVPT 432**

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(This conducted in conjunction with a writing lab (GVPT 319G).)

This is an introductory course to the study of constitutional rights and liberties. We will explore the constitutional status of such matters as subversive advocacy, school prayer, religion in the public square, abortion, gay rights/marriage and gender and racial equality. By necessity, this is a survey course. We could spend a semester on each and every one of the subjects listed above.

In this course, we will discuss historical and recent Supreme Court holdings with respect to these subjects, but most of our time will be spent applying Supreme Court precedents. Through discussion of a series of hypothetical cases, I hope that you will come to an appreciation of the complexity of civil rights and liberties issues facing us in the 21<sup>st</sup> century.

Because a specialized writing and analysis are the cornerstones of the legal profession, this course is supported by a writing lab (GVPT 319G). In the lab, Professor Earnest will provide you with the instruction and practice necessary to best enable you to write responses to the hypothetical-based assignments in the shared courses.

### **Course Requirements:**

1. **Class participation:** You should come prepared to discuss the readings in each and every class. You will be evaluated on your participation. Insufficient participation will result in your final grade being reduced by one grade (*i.e.* B+ to B) and outstanding participation will be rewarded by a similar increase in your grade.
2. **Supreme Court Case Simulation:** Over the course of the semester, everyone will have the opportunity to be an attorney (for a day) and a Supreme Court Justice (for a day). As we discuss cases, you will each assume the role of lawyer for the petitioner or the respondent in one of our hypothetical Supreme Court cases. You (and your lawyer colleagues) will present the facts and key arguments for your client in the case in a mock Supreme Court argument. You will also assume the role of a Supreme

Court Justice in another case. You will decide the case and share your judicial analysis with the class.

3. **Hypothetical Bench Brief (2pp):** All justices, on the day they are seated to hear argument at the bench, will turn in a typed **outline** of their perception of the issues and arguments the hypothetical presents for that day's case. By creating a bench brief, both counsel and the class will be assured of informed arguments before the court.
  
4. **Hypothetical Case Opinion:** Everyone will also prepare a 5-7-page opinion for the case in which you serve as a Justice. Each opinion is due one week from the day the case is argued.
  
5. **Surveys, Short Papers and Quizzes (SSPQ):**
  - We will have a weekly online survey regarding the week's hypothetical. You must complete the survey no later than midnight, the day before we discuss the hypothetical. Each survey is worth 2 points.
  - In addition, you must submit four (4) one-page discussion papers explaining how you would resolve the legal dispute in four of our hypothetical cases. Each paper is worth 5 points. Each paper is due at the beginning of class on the day we discuss the hypothetical. No late papers will be accepted.
  - Finally, on case discussion days, there will be a short, one-question quiz regarding the key case for that day. Each quiz is worth 2 points. Absence on the day of a quiz will result in a loss of points unless you have a pre-approved absence for a religious holiday or were sick and have a doctor's note.
  
6. **Exams:** There will be a "short" mid-term exam and a final exam. The final exam is cumulative.

## Grading Criteria:

Final Grades will be computed as follows:

SSPQ	10%
Bench Brief Outline	10%
Mid-Term "Short" Exam	20%
Case Opinion:	25%
Final Exam	35%

## Books--Recommended:

Epstein: *Constitutional Law for a Changing America: Rights, Liberties and Justice*, 9<sup>th</sup> Edition. (Older additions work too!)

## Great Web Sites:

- **For transcripts of Supreme Court oral Cases and audio recordings, visit:**

[www.oyez.org](http://www.oyez.org)

- **For copies of case opinions, visit:**

[www.law.cornell.edu](http://www.law.cornell.edu)

## Students with Disabilities:

Students with disabilities who are registered with Disability Support Services (301-314-7682) are encouraged to meet with me early in the semester to arrange appropriate academic accommodations.

## Inclement Weather:

Exams will be rescheduled for the next class meeting if the university is officially closed because of inclement weather. Similarly, any assignments due should be turned in at the next class meeting. Official closures and delays are announced on the campus website and snow phone line (301-405-SNOW) as well as local radio and TV stations.

## Religious Holidays:

For any assignment due on a religious holiday, you must make arrangements to submit the assignment **before** your absence.

## Late Assignments:

Brief outlines and opinions are due at the **beginning** of the appropriate class. LATE ARGUMENT OUTLINES OR OPINIONS WILL BE reduced by one letter grade for each day they are late. **DON'T BE LATE.** Argument Outlines and opinions will only be accepted in hard copy. No emails.

## Academic Honesty and Honor Code Pledge:

The University of Maryland, College Park has a nationally recognized Code of Academic Integrity, administered by the Student Honor Council. This Code sets standards for academic integrity at Maryland for all undergraduate and graduate students. As a student you are responsible for upholding these standards for the course. It is very important for you to be aware of the consequences of cheating, fabrication, facilitation and plagiarism. For more information on the Code of Academic Integrity or the Student Honor Council, see <http://www.studenthonorcouncil.umd.edu/whatis.html>.

Academic honesty is taken very seriously in this course. Plagiarism and any other infractions will be referred for appropriate university judicial proceedings.

Students should write and sign the following statement on the cover page of each paper they submit in this course, "I pledge on my honor that I have not given or received any unauthorized assistance on this assignment."

# Course Schedule

(Note: I reserve to revise the schedule or assignments as the semester progresses. It is your responsibility to be aware of any and all schedule changes.)

## Introduction

**January 28:** Introduction

**January 30:** Law, Morality, the Constitution and the Supreme Court  
Reading: *Buck v. Bell*; *Brown v. Bd. of Education* (on ELMS)

**February 4:** “Incorporation” and Interpretation of the Bill of Rights  
Reading: *Palko v. Connecticut*; *Lochner v. NY*;  
*U.S. v. Carolene Products* (fn 4) (on ELMS)

## Subversive Speech/Fighting Words

**February 6:** Discussion of Cases  
**Background cases:** *Chaplinsky v. New Hampshire* (Epstein, p. 452);  
*Cohen v. California*  
**Key Case:** *Hill v. Colorado*

**February 11:** Discussion of Hypothetical 1

## Symbolic Speech (and Conduct)

**February 13:** Discussion of Cases  
**Background cases:** *Tinker v. Des Moines*; *Texas v. Johnson*  
**Key Case:** *Morse v. Frederick*

**February 18:** Discussion of Hypothetical 2

## **RIGHT TO BEAR ARMS**

**February 20:** Discussion of Cases  
**Key Case:** *D.C. v. Heller*

**February 25:** Discussion of Hypothetical 3

## **Free Exercise of Religion**

**February 27:** Discussion of Cases  
**Background Cases:** *Wisconsin v. Yoder; Employment Div. v. Smith; Church of the Lukumi Babalu Aye v. City of Hialeah*  
**Key Case:** *Burwell v. Hobby Lobby*

**March 4:** Discussion of Hypothetical 4

## **Establishment of Religion**

**March 6:** Discussion of Establishment Cases  
**Background Cases:** *Engel v. Vitale; Lemon v. Kurtzman; Lynch v. Donnelly*  
**Key Case:** *Van Orden v. Perry*

**March 11:** Discussion of Hypothetical 5

**March 13:** "Short" Exam

## **Spring Break (March 17-March 24)**

## **Due Process and Criminal Justice**

**March 25:** Discussion of Cases  
**Background Cases:** *Miranda v. Arizona; Katz v. U.S.; California v. Ciraolo; Kyllo v. U.S.*  
**Key Case:** *U.S. v. Jones*

**March 27:** Hypothetical 6

## Reproductive Rights

**April 1:** Discussion of Cases  
**Background Cases:** *Griswold v. Connecticut*; *Roe v. Wade*  
**Key Case:** *Planned Parenthood v. Casey*

**April 3:** Discussion of Hypothetical 7

## Sex and Marriage

**April 8:** Discussion of Cases  
**Background Cases:** *Bowers v. Hardwick*; *Texas v. Laurence*  
**Key Case:** *Obergefell v. Hodges*

**April 10:** Discussion of Hypothetical 8

## Equal Protection: Race

**April 15:** Discussion of Cases  
**Background Cases:** *Plessy v. Ferguson* (excerpts on ELMS); *Brown v. Bd. of Education*  
**Key Case:** *Bakke v. California*

**April 17:** Discussion of Hypothetical 9

## Equal Protection: Gender

**April 22:** Discussion of Cases  
**Background Cases:** *Craig v. Boren*  
**Key Case:** *US v. Virginia*

**April 24:** Discussion of Hypothetical 10

## Civil Rights and Liberties in the 21<sup>st</sup> Century

**April 29:** Civil Rights in the 2018-9 Term  
Each “Court” should identify one civil rights/liberty case pending before the Supreme Court

- May 1:** The Most Dangerous Branch?  
**Reading:** Spivey, “Culture Warriors Go to Court” (on ELMS)
- May 6:** “Deciding:” How to Think About Constitutional Law (and How NOT to Think About Constitutional Law)  
**Assignment:** Prepare a Summary of your position in each of the Hypothetical cases from this semester.
- May 8:** Concluding Thoughts
- May ?:** **Final Exam**