

CIVIL LIBERTIES/RIGHTS – PSCI 4220
DEPARTMENT OF POLITICAL SCIENCE
WESTERN MICHIGAN UNIVERSITY
T/TH – 9:30-10:45AM; 3214 DUNBAR HALL
SYLLABUS – SPRING 2009

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Office Hours: Tuesday, 12:30-3:00pm; Thursday, 8:00-9:30am

Course Overview and Objectives:

This course focuses on the development of constitutional interpretation of certain types of civil liberties by the U.S. Supreme Court from both a legal and nonlegal perspective. We will utilize a case book approach commonly used in a constitutional law/civil liberties class in law school, although we will make use of additional readings as well. In addition to learning about civil liberties in general and whether or not the judiciary protects them, this approach is designed to expose students to judicial cases so they can understand the legal analyses employed within particular contexts by the Supreme Court.

Course Web Site:

The course web site, which includes course information and links to various sources, including this Syllabus, can be found at: http://homepages.wmich.edu/~mhurwitz/psci4220_civlib_sp09

Communicating Information:

Information will be communicated from the professor to students in three ways: 1) in class; 2) the course web page; 3) email. You must activate and check your 'wmich.edu' email account to receive messages. Consequently, "I did not receive notice" is not a sufficient excuse.

Required Books: available at the WMU Bookstore, <http://www.wmubookstore.com/>, the University Bookstore, <http://www.wmubooks.com/>, and other sources:

- 1) Louis Fisher and David Gray Adler, *American Constitutional Law*, Seventh Edition (Carolina Academic Press 2007)
- 2) Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?*, Second Edition (University of Chicago Press 2008)
- 3) David M. O'Brien, editor, *The Lanahan Readings in Civil Rights and Civil Liberties*, Second Edition (Lanahan Publishers 2003)

Recommended Books:

- 1) Richard L. Pacelle, Jr., *The Role of the Supreme Court in American Politics: The Least Dangerous Branch?* (Westview Press 2002)
- 2) Lawrence Baum, *The Supreme Court*, Ninth Edition (CQ Press 2007)
- 3) Kevin T. McGuire, *Understanding the U.S. Supreme Court: Cases and Controversies* (McGraw Hill 2002)

NOTE: Chapter 7 of the Pacelle book is an Assigned Reading that is available on-line through the course reserve section of the WMU Library system.

Assigned Readings:

Readings on course reserve are available on-line through the WMU Libraries system, <http://www.wmich.edu/library/reserves/>

Assigned Cases:

There are a number of required cases not provided in the Fisher “casebook.” The citation for each such case is provided in the Schedule of Assignments, if the student wants to find them in the library. As well, a URL is provided for each, if the student wants to find them on the internet. Either is acceptable, so long as the student understands that these Assigned Cases are required reading. When reading an Assigned Case, the student must read the majority opinion and all concurring and dissenting opinions.

The following web sites house nearly all of the Supreme Court’s cases:

<http://supct.law.cornell.edu/supct/>
<http://www.findlaw.com/cascode/supreme.html>
<http://web.lexis-nexis.com.libproxy.library.wmich.edu/universe> (accessible through WMU Library system with Bronco NetID)

The source of these cases is irrelevant. Nevertheless, cases from these internet sites are not edited, which means that they are much longer than those in the casebook; indeed, many unedited Supreme Court cases are well over 100 pages in length. Thus, it is strongly advised that students purchase the Fisher casebook, as opposed to obtaining all of the cases from the internet, not only because the cases are edited in the casebook, but also because there are readings in the casebook that are unavailable elsewhere.

Class Schedule:

We meet every Tuesday and Thursday from 9:30 - 10:45am during the semester, with the exception of the following dates during which ***class is cancelled:***

January 8 – Professor attending the Southern Political Science Association Conference
March 2-6 – Spring Break

Exams:

There are three (3) exams in this class. All of the exams consist of a variety of question types (*e.g.*, multiple choice, short answer, essay). While the exams are not cumulative, concepts in the latter part of the semester build upon that previously presented. The exams are based on the entire body of material presented in class and in the assigned readings. Much of the material on these exams is delivered in class and not necessarily in the readings; however, some material from the readings that is not covered in class is tested on the exams as well. The exam schedule follows:

Exam #1: Thursday, February 5 (during class)
Exam #2: Thursday, March 12 (during class)
Exam #3: Tuesday, April 21, 8-10am (during final exam period)

Case Briefs:

Each student is responsible for two (2) case briefs. When each of your cases is discussed in class, you must answer questions about the case you have briefed. Case briefs not handed in the day they are due or discussed in class will be assigned a grade of zero (0). A list of cases available for briefing, instructions and requirements for the briefs, due dates, and a sample case brief, follow this Syllabus.

Extra Credit Case Briefs:

Students may brief cases for extra credit. The cases available for extra credit are those that are required reading but are not in the casebook. To receive extra credit the student must read the unedited version of the case and hand in a written brief the day it is due; no questioning about the case during class is required. Each extra credit brief that is acceptable will receive 1 point toward the final course grade; extra credit briefs are graded on an acceptable/not acceptable basis. Each student can hand in up to three extra credit briefs. A list of extra credit cases available for briefing follows this Syllabus.

Grading:

The final course grade is based entirely upon performance on the exams and case briefs as stated below:

Student's highest exam grade:	35%
Student's next-highest exam grade:	35%
Student's lowest exam grade:	15%
Student's case briefs/discussion:	15%
Extra credit case briefs:	1 additional point for each

Grading Scale:

The following numerical averages translate into final course grades:

90+:	A	(4.0)
85-89:	BA	(3.5)
80-84:	B	(3.0)
75-79:	CB	(2.5)
70-74:	C	(2.0)
65-69:	DC	(1.5)
60-64:	D	(1.0)
-60:	E	(0.0)

Make-up Exams:

It is completely the student's responsibility to take the exams when they are scheduled. As a general rule, make-up exams **will not be** allowed; thus, a missed exam counts as a zero (0) toward the final course grade. Notwithstanding, at the professor's sole discretion make-ups will be permitted, but only the gravest of reasons will be accepted, **if** documented in writing by the proper authority. Even if there is an acceptable reason for missing the regularly scheduled exam, permission to take a make-up will be granted **only** if the student provides the professor with prompt and proper notification; that is, the student **must** inform the professor of the reason for missing the exam with proper documentation **before** the exam takes place, **and** the reason must be acceptable to the professor. If a make-up is permitted, both the format and questions can, and likely will, be different from the regularly scheduled exam

Academic Honesty and Integrity:

Per WMU policy: You are responsible for making yourself aware of and understanding the policies and procedures in the Undergraduate and Graduate Catalogs that pertain to Academic Honesty. These policies include cheating, fabrication, falsification and forgery, multiple submission, plagiarism, complicity and computer misuse. [The policies can be found at <http://catalog.wmich.edu/>, follow links to Academic Policies, Student Rights and Responsibilities.] If there is reason to believe you have been involved in academic dishonesty, you will be referred to the Office of Student Conduct. You will be given the opportunity to review the charge(s). If you believe you are not responsible, you will have the opportunity for a hearing. You should consult with the professor if you are uncertain about an issue of academic honesty prior to the submission of an assignment or test. [The Code of Honor passed by the

Faculty Senate in November 2004 and administration in December 2004, can also be found at <http://catalog.wmich.edu/>].

Incomplete Grades:

Note that the professor **does not** give grades of Incomplete in this class under any circumstance, as a missed exam counts as a zero (0) toward the final course grade.

Special Needs:

Any student with special needs should inform the professor as soon as possible, so that appropriate accommodations can reasonably be made.

Class Procedure:

Class will be conducted in a combination of lecture/discussion and socratic method format. Classes will complement but not regurgitate material from the readings. Students are encouraged to ask questions or raise issues at any time on the readings, the class discussion, or a contemporary issue concerning constitutional law or civil liberties.

Assignments:

The Schedule of Assignments notes the topics to be covered and the dates for lectures and exams. This schedule will be followed as closely as possible; however, the professor reserves the right to change if necessary, and students will be notified appropriately (in class, email, and/or the web page) of any changes. Additionally, there may be material handed out in class or posted on the class web page (such as current news issues on civil liberties) for which students additionally are responsible. Since this schedule is comprehensive, it is imperative that the students keep up with the material.

Schedule of Assignments:

All references are to the Fisher casebook, unless provided otherwise. A case or reading denoted by * signifies that it is not found in any of the assigned books, and alternate references are supplied; a reading denoted by ** signifies that it is in the Assigned Readings on Course Reserve.

I. The Supreme Court, Judicial Power, and the Role of the Supreme Court in Social Policy

(January 6 - 20)

The Constitution of the United States of America, Appendix 1

Rosenberg: Prefaces, p. xi, xiii; Introduction (pp. 1-8), Chapter 1 (p. 9-36)

**Pacelle, Richard L, Jr. 2002. *The Role of the Supreme Court in American Politics*. Boulder:

Westview Press, Chapter 7, pp. 157-169

Constitutional Politics, p. 3

Mechanical Jurisprudence, pp. 3-4

Litigation as a Political Process, pp. 4-7

Judge as Lawmaker, pp. 17-19

School Desegregation, p. 20

Independent State Action, pp. 20-22

Who Has the Last Word?, pp. 22-24

Walter F. Murphy, Who Shall Interpret?, pp. 30-32

The Doctrine of Judicial Review, p. 35

Sources of Judicial Review Authority, pp. 35-38

Federalist No. 78, pp. 40-41

The Road to *Marbury*, pp. 41-45

Marbury v. Madison (1803) pp. 46
Jurisdiction: Original and Appellate, p. 148-149
Constraints on Judicial Review, pp. 57-60
The *Carolene* Footnote, p. 776 (box)

Note: The following [bracketed] readings are not required for this course; however, it is expected that the student understand the content therein which stems from other courses, such as PSCI 3200 and 4200.

[Framers' Intent, p. 38]
[Threshold Requirements, p. 79]
[Cases and Controversies, pp. 79-83]
[Standing to Sue, pp. 84-86]
[Mootness, pp. 100-101]
[Ripeness, pp. 103-105]
[Political Questions, pp. 107-110]
[The Writ of Certiorari, pp. 149-151]
[From Oral Argument to Decision, pp. 152-158]
[Unanimity and Dissent, pp. 160-164]

II. Incorporation of the Bill of Rights (January 20 - 22)

Nationalization of the Bill of Rights, p. 389
The Incorporation Doctrine, pp. 389-392
**Barron v. Baltimore*, 32 U.S. 242 (1833)
http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0032_0243_ZO.html
Slaughter-House Cases (1873), pp. 428
Adamson v. California (1947), pp. 392
Duncan v. Louisiana (1968), pp. 654
Table 8.3: Incorporation of Bill of Rights, pp. 390-391
The Incorporation Doctrine: Testimony by Justice Rehnquist, pp. 394-396
O'Brien (Lanahan) Readings: No. 3, Cortner

III. Freedom of Speech (January 27 - February 3)

Free Speech in a Democratic Society, p. 451
Free Speech and National Security, pp. 451-455
Schenck v. United States (1919), pp. 455
Abrams v. United States (1919), pp. 456
Gitlow v. New York (1925), pp. 458
Dennis v. United States (1951), pp. 463
Yates v. United States (1957), pp. 465
Associational Rights, pp. 467-471
Regulation of Speech, pp. 471-78
Edwards v. South Carolina (1963), pp. 478
Adderley v. Florida (1966), pp. 480
Brandenburg v. Ohio (1969), pp. 482
Cohen v. California (1971), pp. 484
R.A.V. v. St. Paul (1992), pp. 486
**Boy Scouts of America v. Dale*, 120 S. Ct. 2446 (2000)
<http://supct.law.cornell.edu/supct/html/99-699.ZO.html>
Forms of Speech, pp. 489-492

**United States v. O'Brien* (1968)

http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0391_0367_ZO.html

Texas v. Johnson (1989), pp. 492

Conclusions, pp. 505-506

O'Brien (Lanahan) Readings: No. 10, (Greenawalt)

***The Chronicle of Higher Education*: "Mexican Court Says Professor May Be Prosecuted for Poem That Offends National Symbols." October 12, 2005

***The Chronicle of Higher Education*: "Stopping the Presses." March 3, 2006

Exam #1: Thursday, February 5 (during class)

IV. *Racial Discrimination* (February 10 - March 10)

Rosenberg: Civil Rights, Introduction, Chapters 2-4 (pp. 39-156)

Racial Discrimination; Slavery, pp. 759-762

Dred Scott v. Sandford (1857), pp. 763

Lincoln's Critique of *Dred Scott*, pp. 28-29

***Mississippi Historical Society*: "A Declaration Of The Immediate Causes Which Induce And Justify The Secession Of The State Of Mississippi From The Federal Union." January 1861

Civil War Amendments, pp. 766-770

Slaughter-House Cases (1873), pp. 424-427

Civil Rights Cases (1883), pp. 428

Plessy v. Ferguson (1896), pp. 772

**Strauder v. West Virginia*, 100 U.S. 303 (1880)

http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0100_0303_ZO.html

**Yick Wo v. Hopkins*, 118 U.S. 356 (1886)

http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0118_0356_ZO.html

School Desegregation, pp. 775-783

Review: The *Carolene* Footnote, p. 776 (box)

**Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938)

http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0305_0337_ZO.html

**Sweatt v. Painter*, 339 U.S. 629 (1950)

http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0339_0629_ZO.html

**McLaurin v. Oklahoma State Regents*, 339 U.S. 637 (1950)

http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0339_0637_ZO.html

Government's Brief in *Brown*, 783-784

Brown v. Board of Education I (1954), pp. 784

Bolling v. Sharpe (1954), pp. 787

O'Brien (Lanahan) Readings: No. 28, Kluger

Brown v. Board of Education II (1955), pp. 787

Cooper v. Aaron (1958), pp. 789

**Griffin v. School Board of Prince Edward Co.*, 377 U.S. 218 (1964)

<http://caselaw.findlaw.com/scripts/getcase.pl?navby=search&linkurl=<%LINKURL%>&graphurl=<%GRAPHURL%>&court=US&case=/us/377/218.html>

**Green v. County School Board of New Kent County*, 391 U.S. 430 (1968)

http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0391_0430_ZO.html

Swann v. Charlotte-Mecklenburg Board of Education (1971), pp. 791

**Keyes v. School District No. 1, Denver, Colorado*, 413 U.S. 189 (1973)

http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0413_0189_ZO.html

Milliken v. Bradley (1974), pp. 792
 **Freeman v. Pitts*, 503 U.S. 467 (1992)
http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0503_0467_ZO.html
 **Bob Jones University v. U.S.*, 461 U.S. 574 (1983)
http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0461_0574_ZO.html
 O'Brien (Lanahan) Readings: No. 29, Orfield
 Desegregating Other Activities, pp. 794-797
 Congress Interprets the Commerce Clause, pp. 801-802
 Employment Discrimination and Affirmative Action, pp. 804-813
 **Griggs v. Duke Power Co.*, 401 U.S. 424 (1971)
http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0401_0424_ZO.html
Regents of the University of California v. Bakke (1978), pp. 813
 **Grutter v. Bollinger* 539 U.S. 306 (2003)
<http://supct.law.cornell.edu/supct/html/02-241.ZO.html>
 **Gratz v. Bollinger* 539 U.S. 244 (2003)
<http://supct.law.cornell.edu/supct/html/02-516.ZO.html>
 ***Salon.com*: "The Campus Crusade for Guys." February 15, 2006
 ***The Chronicle of Higher Education*: "Bar Association Moves to Strengthen Diversity Requirements for Accreditation of Law Schools." February 14, 2006
 ***The Chronicle of Higher Education*: "Opponents of Affirmative Action Seek Revocation of ABA's Accrediting Power." March 9, 2006
 O'Brien (Lanahan) Readings: No. 30, Shaw
 O'Brien (Lanahan) Readings: No. 31, Jones
 Conclusions, pp. 823-824

Exam #2: Thursday, March 12 (during class)

V. Rights of Privacy (March 17 - 31)

Rosenberg: Chapter 6, pp. 175-201
 O'Brien (Lanahan) Readings: No. 1, Hamilton
 O'Brien (Lanahan) Readings: No. 2, McCloskey
 Dimensions of Privacy, pp. 891-895
Buck v. Bell (1927), pp. 895
 **Skinner v. Oklahoma*, 316 U.S. 535 (1942)
http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0316_0535_ZO.html
 **Loving v. Virginia*, 388 U.S. 1 (1967)
http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0388_0001_ZO.html
Stanley v. Georgia (1969), pp. 896
 ***The New York Times*, "After Subpoenas, Internet Searches Give Some Pause" (Jan. 25, 2006)
 Substantive Due Process, pp. 434-437
Lochner v. New York (1905), pp. 437
West Coast Hotel Co. v. Parrish (1937), pp. 443
 Review: The *Carolene* Footnote, p. 776 (box)
 Use of Contraceptives, pp. 898-900
Griswold v. Connecticut (1965), pp. 900
 **Carey v. Population Services*, 431 U.S. 678 (1977)
http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0431_0678_ZO.html
 Reproductive Freedom, pp. 902-911
Roe v. Wade (1973), pp. 912

Planned Parenthood v. Casey (1992), pp. 922
Stenberg v. Carhart (2000), pp. 925
 **Gonzales v. Carhart*, 550 U.S. 124 (2007)
<http://www.law.cornell.edu/supct/html/05-380.ZO.html>
 O'Brien (Lanahan) Readings: No. 33, Ginsburg
 Ruth Bader Ginsburg on Abortion, p. 131 (box)
 Gay Rights, pp. 935-939
Bowers v. Hardwick (1986), pp. 940
 **Romer v. Evans*, 517 U.S. 620, 116 S.Ct. 1620 (1996)
<http://supct.law.cornell.edu/supct/html/94-1039.ZO.html>
Lawrence v. Texas (2003), pp. 942
 Rosenberg: Same-Sex Marriage, Introduction, pp. 339-341, Chapter 12, pp. 339-354; Chapter 13,
 pp. 355-356, 415-419.
 Defining the Limits of Privacy, pp. 946-948
 Financial Privacy Act of 1978: Congressional Debate, pp. 948-950
 The Right to Privacy: The Bork Hearings, pp. 950-952
 The Right to Die, pp. 928-930
Cruzan v. Director, Missouri Dept of Health (1990), pp. 930
Vacco v. Quill (1997), pp. 933
 Conclusions, pp. 953

VI. *Gender Issues* (April 2 - 14)

Rosenberg: Abortion and Women's Rights, Introduction, pp. 173-174; Chapters 7-8, pp. 202-246
 The Struggle for Women's Rights, pp. 827-832
Bradwell v. State (1873), pp. 832
 Congress Responds to *Bradwell*; Equal Pay Act of 1963; Civil Rights Act of 1964, pp. 834-838
 Review: The *Carolene* Footnote, p. 776 (box)
 Contemporary Gender Issues, pp. 838-843
 **Goeseart v. Cleary*, 335 U.S. 464 (1948)
<http://caselaw.findlaw.com/cgi-bin/getcase.pl?navby=case&court=us&vol=335&invol=464>
 Debate on Equal Rights Amendment, p. 1031 (box)
 **Reed v. Reed*, 404 U.S. 71 (1971)
http://supct.law.cornell.edu/supct/html/historics/USSC_CR_0404_0071_ZO.html
Frontiero v. Richardson (1973), pp. 846
Craig v. Boren (1976), pp. 8448
Personnel Administrator of Massachusetts v. Feeney (1979), pp. 852
Michael M. v. Sonoma County Superior Court (1981), pp. 850
 Pregnancy, pp. 843-844
 **Cleveland Board of Education v. LaFleur*, 414 U.S. 632 (1974)
http://www.law.cornell.edu/supct/html/historics/USSC_CR_0414_0632_ZO.html
 **Geduldig v. Aiello*, 417 U.S. 484 (1974)
<http://caselaw.findlaw.com/scripts/getcase.pl?court=us&vol=417&invol=484>
 **General Electric Co. v. Gilbert*, 429 U.S. 125 (1976)
<http://caselaw.findlaw.com/scripts/getcase.pl?court=us&vol=429&invol=125>
Automobile Workers v. Johnson Controls (1991), pp. 855
 Women in the Military, Combat Roles for Women, Women at Military Academies, pp. 845-846
 Senate Debates Women in Combat, pp. 859-860
Rostker v. Goldberg (1981), pp. 857

U.S. v. Virginia (1996), pp. 860

***The Chronicle of Higher Education*: “Last All-Male Military College in the U.S. Will Accept Women in 2006.” October 24, 2005

U.S. v. Morrison (2000), pp. 362

O’Brien (Lanahan) Readings: No. 32, Williams

O’Brien (Lanahan) Readings: No. 35, O’Brien

Conclusions, p. 888

VII. Concluding Thoughts: Can, or Should, the Supreme Court Affect Social Change? If so, What Can, or Should, We Do About It? (April 16)

Rosenberg: Chapter 5 (pp. 157-169); Chapter 9 (pp. 247-265); Chapter 14 (pp. 420-429); Epilogue, 430-431

O’Brien (Lanahan) Readings: No. 5, Brennan

O’Brien (Lanahan) Readings: No. 36, Klarman

O’Brien (Lanahan) Readings: No. 16, Posner

**Davis, Darren W. and Brian D. Silver. 2004. “Civil Liberties vs. Security: Public Opinion in the Context of the Terrorist Attacks on America.” *AJPS* 48 (January): 28-46

Efforts to Curb the Court, p. 1029

Constitutional Amendments, pp. 1030-1032

Statutory Reversals, pp. 1032-1036

Court Packing, pp. 1036-1040

Withdrawing Jurisdiction, pp. 1042-1050

Noncompliance, pp. 1052-1056

Constitutional Dialogues, pp. 1056-1064

Conclusions, p. 1064-1054

EXAM #3: Tuesday, April 21, 8-10am (during final exam period)

Case Brief Information and Schedule

As the Syllabus provides, each student is required to brief two (2) cases during the semester. This entails writing a case brief, then discussing the case in class as well as answering questions about the case based upon your case brief. At the end of the class in which the case you have briefed is discussed, you must hand in a hard copy of the brief. Both the written case brief and your discussion of the case in class count toward your final course grade in accordance with the Syllabus.

The following list contains the cases for briefing (which includes only those assigned cases in the Fisher casebook), as well as dates on which the case briefs must be completed. To sign up for a case brief, you must email my teaching assistant at <erik.j.walton@wmich.edu> by Wednesday, January 14, 5pm, with a list of five (5) cases you are interested in briefing, in rank order. Make sure you choose no more than one case per section – this is necessary to ensure that each assigned case has a student assigned to it, and that only one student, or perhaps two if necessary, is responsible for any single case brief. I then will assign students (on a first come, first served basis) the cases for which each is responsible to brief.

Cases:

Due Date:

Incorporation of the Bill of Rights

Adamson v. California (1947)

Jan. 22

Duncan v. Louisiana (1968)

Jan. 22

Freedom of Speech

Schenck v. United States (1919)

Jan. 22

Abrams v. United States (1919)

Jan. 22

Gitlow v. New York (1925)

Jan. 22

Dennis v. United States (1951)

Jan. 22

Yates v. United States (1957)

Jan. 27

Edwards v. South Carolina (1963)

Jan. 27

Adderley v. Florida (1966)

Jan. 27

Brandenburg v. Ohio (1969)

Jan. 27

Cohen v. California (1971)

Jan. 29

R.A.V. v. St. Paul (1992)

Jan. 29

Texas v. Johnson (1989)

Jan. 29

Race

Dred Scott v. Sandford (1857)

Feb. 10

Slaughter-House Cases (1873)

Feb. 10

Civil Rights Cases (1883)

Feb. 12

Plessy v. Ferguson (1896)

Feb. 12

Brown v. Board of Education I (1954)

Feb. 17

Bolling v. Sharpe (1954)

Feb. 17

Brown v. Board of Education II (1955)

Feb. 17

Cooper v. Aaron (1958)

Feb. 17

Swann v. Charlotte-Mecklenburg Bd. of Education (1971)

Feb. 19

Milliken v. Bradley (1974)

Feb. 19

Regents of the University of California v. Bakke (1978)

Feb. 24

Privacy

<i>Buck v. Bell</i> (1927)	March 17
<i>Stanley v. Georgia</i> (1969)	March 17
<i>Lochner v. New York</i> (1905)	March 19
<i>West Coast Hotel Co. v. Parrish</i> (1937)	March 19
<i>Griswold v. Connecticut</i> (1965)	March 19
<i>Roe v. Wade</i> (1973)	March 24
<i>Planned Parenthood v. Casey</i> (1992)	March 24
<i>Stenberg v. Carhart</i> (2000)	March 26
<i>Bowers v. Hardwick</i> (1986)	March 26
<i>Lawrence v. Texas</i> (2003)	March 31
<i>Cruzan v. Director, Missouri Dept. of Health</i> (1990)	March 31
<i>Vacco v. Quill</i> (1997)	March 31

Gender

<i>Bradwell v. State</i> (1873)	April 2
<i>Frontiero v. Richardson</i> (1973)	April 7
<i>Craig v. Boren</i> (1976)	April 7
<i>Personnel Administrator of Mass. v. Feeney</i> (1979)	April 7
<i>Michael M. v. Sonoma County Superior Court</i> (1981)	April 7
<i>Automobile Workers v. Johnson Controls</i> (1991)	April 9
<i>Rostker v. Goldberg</i> (1981)	April 9
<i>U.S. v. Virginia</i> (1996)	April 9
<i>U.S. v. Morrison</i> (2000)	April 14

Extra Credit Case Brief Information and Schedule

Each student may hand in up to 3 extra credit briefs during the semester. Extra credit briefs must be handed in the day they are due as stated in the schedule below. No discussion or questioning is required for extra credit briefs, but briefing of all dissenting and concurring opinions in each case is required to receive extra credit. Extra credit briefs are graded on an acceptable/not acceptable basis. No late extra credit briefs will be accepted.

Cases:

Barron v. Baltimore

Boy Scouts of America v. Dale (2000)

United States v. O'Brien (1968)

Strauder v. West Virginia (1880)

Yick Wo v. Hopkins (1886)

Missouri ex rel. Gaines v. Canada (1938)

Sweatt v. Painter (1950)

McLaurin v. Oklahoma State Regents (1950)

Griffin v. School Board of Prince Edward Co. (1964)

Green v. County School Board of New Kent County (1968)

Keyes v. School District No. 1, Denver, Colorado (1973)

Freeman v. Pitts (1992)

Bob Jones University v. U.S. (1983)

Griggs v. Duke Power Co. (1971)

Grutter v. Bollinger (2003)

Gratz v. Bollinger (2003)

Skinner v. Oklahoma (1942)

Loving v. Virginia (1967)

Carey v. Population Services (1977)

Gonzales v. Carhart (2007)

Romer v. Evans (1996)

Goeseart v. Cleary (1948)

Reed v. Reed (1971)

Cleveland Board of Education v. LaFleur (1974)

Geduldig v. Aiello (1974)

General Electric Co. v. Gilbert (1976)

Due Date:

Jan. 22

Jan. 29

Jan. 29

Feb. 12

Feb. 12

Feb. 12

Feb. 12

Feb. 12

Feb. 17

Feb. 17

Feb. 19

Feb. 24

Feb. 24

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Feb. 24

March 17

March 17

March 19

March 26

March 31

April 7

April 7

April 9

April 9

April 9

Marbury v. Madison
U.S. Sup.Ct. (1803)
CJ Marshall

Facts: President Adams, as a lame duck, appointed Marbury and others to a federal judicial post (DC Justice of the Peace). The appointments were approved by the Senate, sealed, but failed to be delivered by the Sec of State, John Marshall (the CJ who decided this case). After being sworn in, Pres Jefferson refused to acknowledge the appointments. Marbury, based on an act of Congress, went directly to the US SupCt to have a writ of mandamus issued, so he could secure his position.

Issue: Is Marbury entitled to his post? If has a right to that post, do the laws afford a remedy? If yes, is a mandamus from the SupCt the proper remedy?

Holding: YES. YES. YES, but...

Rationale: Judicial commission was appointed, approved, signed, and sealed (all discretionary acts were carried out). Failure of delivery (a ministerial act) does not preclude Marbury from his post. Marbury also has a legal right to his post via a remedy. A mandamus **IS** the proper remedy; **BUT**, the SupCt does **NOT** have the power to issue such a writ. §13 of the Jud. Act of 1789 gave the SupCt the power to issue writs of mandamus. But, the Const limits the cases where the SupCt has original jurisdiction, and Congress cannot change the SupCt's original jurisdiction; but, Congress did that by passing §13. Syllogism: 1) the Const is the supreme law of the land; 2) §13 is contrary to the Const; 3) therefore, §13 is unconst'al. Since §13 is repugnant to the Const, it is ruled to be invalid. The key to this case is not that Marbury gets his post, although not by the SupCt issuing a writ of mandamus. Instead, the key to this decision is that the SupCt affirmatively asserts its power of judicial review over a co-equal branch of the federal govt: "It is emphatically the province and duty of the judicial dept to say what the law is."

Other opinions: None

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