

US CONSTITUTIONAL HISTORY II

SPRING 2025 HI 219-01

MW 12:30 Sullivan 122

INSTRUCTOR: DR. TONA HANGEN

WORCESTER STATE UNIVERSITY



COURSE OVERVIEW

Description

This course is designed to introduce students to the development of the rights and protections offered by the United States Constitution. Learners will study landmark Supreme Court Cases to understand the changes in the federal government's interpretation of the Constitution. Focusing mainly on recent(-ish) Constitutional History, learners will focus on cases in which the concepts of civil liberties and civil rights developed over time, such as freedom of speech, religious freedom, and individuals' rights when interacting with the police. The course concludes with analysis of legal concepts connected to race and identity.

Be aware: This class involves the analysis of contentious political issues and questions, like whether Americans should have the right to terminate a pregnancy; should states have the right to regulate abortion? Should employers be able to require employees to submit to mandatory drug testing? Can institutions in the United States enforce systems of reverse discrimination in higher education to correct past injustices? Does the state have the right to execute an individual who commits a crime? Properly answering these questions requires several layers of analysis, and students should remember that the questions we ask in this course are not about morality – they are about legality.

For example, one might not agree with an individual's religion, right to own a gun or decision of whom to marry, but the question we ask in this course is (simply) whether such rights are protected by the Constitution. And if they are protected rights, then a law cannot be passed that hinders that right, even if it is popular. Along the same lines, one might think that a person should have the “right” to have an abortion or use a mind-altering substance in the privacy of their own home, but the right has to be protected in the Constitution for it to be a right. This course has two main goals: first, to help clarify which rights and liberties the American Constitution protects and which ones it does not. And second, to provide students with a framework to understand how such decisions about legality and rights are made.

Along the way, this course helps learners develop their critical thinking skills. When analyzing these legal questions, seek to always relate them back to our central question: how has the court defined the relationship between the government and the people? Legal historians often treat “the court” as something of a unitary voice (which, as we’ll often see, is a convenient fiction). Yet it is court decisions and what “the court” says about the relationship between the government and the people that, ultimately, define our collective and evolving concepts of civil liberties and civil rights.

Student Learning Outcomes

Students will be able to...

Identify evolving changes in the federal government's interpretation of the Constitution.

Think critically by incorporating key concepts, terminology, and methods of legal studies (i.e. critique Supreme Court decisions).

Define civil liberties and civil rights in light of relevant and significant Supreme Court cases in modern American history.

Explain key tests used by the Supreme Court to apply Constitutional rights.

Explain the basic workings of the Supreme Court of the United States and its dynamic evolution over time.

Conduct college-level legal research in written and oral formats with academic integrity (including correct citation).

Grading

Attendance and Oral Participation	25
Case Briefs (submit 3 before Spring Break)	15 @ 5 each
Final Paper (1500-2000 words)	15
Exam 1	10
Exam 2	10
Cumulative Final Exam	25
Total	100

Briefing Cases

The bulk of our class sessions will be discussion (rather than lecture) based on the list of cases provided for each day. I assign cases, not specific readings on them. It is YOUR responsibility to learn the cases in advance of each class using reliable resources — including our textbooks — and to “brief” them for yourself well enough that you can explain them to others. Some cases are quite long / complex, so I understand we all won’t necessarily read every word of the full text of every case listed in the syllabus. However, you should be well-versed in the case’s basics and its relevance to the syllabus topic of the day. I will call on everyone throughout the semester for the substance of your case briefs, so expect to be called upon for any and every case.

Writing your own case briefs is an important skill in its own right and a study technique essential to your success in the course. In other words, it is a responsibility you should not outsource to AI or to pre-made case briefs. I’ve provided [a template](#) which you are welcome to use or adapt, to aid in the process of briefing cases for yourself.

Before Spring Break, turn in three of your briefs as a portfolio of your best work in the course. These become part of your final grade and allow me to check in on how your preparations for class discussion are going.

Elements of a Strong Brief may include:

Parties, Name, Date, Citation

Procedural Posture

Issue, Facts, Reasoning

Holding, Judgment

Dissents, Key Quotations

Relevant Historical Context

Commentary, Evaluation

SYLLABUS

Course Calendar

Day#	Date	Agenda and Deadlines
1	Wed Jan 22	Course Intro and Getting Started Reading: "The Constitution is Sacred. Is it Also Dangerous?" (PDF on Bbd); Sample Case Brief. Viewing: Briefing a Case In-Class Viewing: Overview of the American Legal System
2	Mon Jan 27	SCOTUS and Constitutional Basics Reading: Constitution and Bill of Rights; Bodenhamer pp. 1-59 (Chapters 1-4). Constitutional Assists, see Bbd. Prepare Assigned Online Resource for class
3	Wed Jan 29	Selective Incorporation Reading: Bodenhamer pp. 60-125 (Chapters 5-Epilogue) Cases: <i>Barron v. Baltimore</i> (1833), <i>Slaughterhouse Cases</i> (1873), <i>Civil Rights Cases</i> (1883), <i>Palko v. CT</i> (1937)
4-5	Mon Feb 3 and Wed Feb 5	First Amendment: Establishment Clause Cases: <i>Everson v. Board of Education Ewing Township</i> (1947), <i>Engel v. Vitale</i> (1962), <i>Lemon v. Kurtzman</i> (1971), <i>Allegheny County v. Greater Pittsburgh ACLU</i> (1989), <i>Santa Fe Independent School District v. Doe</i> (2000), <i>McCreary County v. ACLU</i> (2005), <i>Van Orden v. Perry</i> (2005)
6-7	Mon Feb 10 and Wed Feb 12	First Amendment: Free Exercise Cases: <i>Reynolds v. US</i> (1879), <i>Sherbert v. Verner</i> (1963), <i>Employment Division of Oregon v. Smith</i> (1990), <i>Church of Lukumi Babalu Aye v. City of Hialeah</i> (1993), <i>Burwell v. Hobby Lobby Stores Inc</i> (2014), <i>Kennedy v. Bremerton School District</i> (2022)
	Friday Feb 14	Case Brief #1 Due
	<i>Mon Feb 17</i>	<i>University Holiday, No Class</i>
8-9	Wed Feb 19 and Mon Feb 24	First Amendment: Free Speech and Expression –Speech: <i>Schenck v. US</i> (1919), <i>Gitlow v. New York</i> (1925), <i>Dennis v. US</i> (1951), <i>Brandenburg v. Ohio</i> (1969), <i>Holder v. Humanitarian Law Project</i> (2010) –Expression: <i>Tinker v. Des Moines</i> (1969), <i>Texas v. Johnson</i> (1989), <i>Morse v. Frederick</i> (2007)
10	Wed Feb 26	Exam 1

11-12	Mon March 3 and Wed March 5	First Amendment: Freedom of Press and Association –Free Press: <i>Near v. Minnesota</i> (1931), <i>New York Times v. US</i> (1971), <i>Branzburg v. Hayes</i> (1972), <i>Cox Broadcasting Corp v. Cohn</i> (1975), <i>Florida Star v. B.J.F.</i> (1989) –Association: <i>NAACP v. Alabama</i> (1958), <i>Roberts v. United States Jaycees</i> (1984), <i>Boy Scouts of America v. Dale</i> (2000)
13-14	Mon March 10 and Wed March 12	Fourth and Fifth Amendments: Search and Seizure, Self-Incrimination Cases: <i>Olmstead v. US</i> (1928), <i>Mapp v. Ohio</i> (1960), <i>Miranda v. Arizona</i> (1966), <i>In re: Gault</i> (1967), <i>Terry v. Ohio</i> (1968), <i>Rhode Island v. Innis</i> (1980), <i>US v. Leon</i> (1984), <i>Massachusetts v. Sheppard</i> (1984), <i>Arizona v. Hicks</i> (1987), <i>Herring v. US</i> (2009)
	Friday March 14	Case Briefs #2 and #3 Due
	March 17-21	Spring Break, No Classes
15-16	Mon March 24 and Wed March 26	Sixth Amendment: Rights to Counsel and Trial [aka Rights in Criminal Prosecutions] Cases: <i>Powell v. Alabama</i> (1932), <i>Gideon v. Wainwright</i> (1963), <i>Argersinger v. Hamlin</i> (1972), <i>Batson v. Kentucky</i> (1986), <i>A.L. Lockhart v. McCree</i> (1986), <i>Williams v. Florida</i> (1970), <i>Burch v. Louisiana</i> (1979)
17-18	Mon March 31 and Wed Apr 2	Fourteenth Amendment: Race and Equal Protection, Part I Cases: <i>Yick Wo v. Hopkins</i> (1886), <i>Plessy v. Ferguson</i> (1896), <i>State of Missouri ex. rel. Gaines v Canada</i> (1938), <i>Hirabayashi v. US</i> (1943), <i>Korematsu v. US</i> (1944), <i>Sweatt v. Painter</i> (1950), <i>Brown v. Board of Education of Topeka</i> (1954), <i>Bolling v. Sharpe</i> (1954), <i>Brown v. Board of Education II</i> (1955), <i>Cooper v. Aaron</i> (1958), <i>Loving v. Virginia</i> (1967), <i>Washington v. Davis</i> (1976), <i>Arlington Heights v. Metropolitan Housing Devt Corp</i> (1977)
19	Mon Apr 7	Presidential Power Cases: <i>Myers v. United States</i> (1926), <i>Schechter Poultry v. United States</i> (1935), <i>United States v. Nixon</i> (1974), <i>Buckley v. Valeo</i> (1976), <i>Clinton v. City of New York</i> (1998), <i>NLRB v. Noel Canning Company</i> (2014), <i>Collins v. Yellen</i> (2021), <i>Trump v. United States</i> (2024)
20	Wed Apr 9	Exam 2
21-22	Mon Apr 14 and Wed Apr 16	Fourteenth Amendment: Race and Equal Protection, Part II Cases: <i>Regents of University of California v. Bakke</i> (1978), <i>City of Richmond v. J.A. Croson Co.</i> (1989), <i>Adarand Constructors, Inc. v. Peña</i> (1995), <i>Grutter v. Bollinger</i> (2003), <i>Parents Involved in Community Schools v. Seattle School District No. 1</i> (2007), <i>Fisher v. Univ Texas at Austin</i> (Fisher I, 2013), <i>Fisher v. Univ Texas at Austin</i> (Fisher II, 2016), <i>Schuetz v. Coalition to Defend Affirmative Action by Any Means Necessary (BAMN)</i> (2014), <i>Cooper v. Harris</i> (2017), <i>Students for Fair Admissions v. Harvard / UNC</i> (2023)
	Friday Apr 18	Final Paper Proposal Due. Guidelines: https://docs.google.com/document/d/1G4_S_-CGUxDBojQEiTxVaNG

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	Mon Apr 21	University Holiday, No Class
23-24	Wed Apr 23 and Mon Apr 28	Nonracial Categories and Equal Protection Cases: <i>Goesaert v. Cleary</i> (1948), <i>Railway Express Agency Inc v. New York</i> (1949), <i>Dandridge v. Williams</i> (1970), <i>Reed v. Reed</i> (1971), <i>Frontiero v. Richardson</i> (1973), <i>United States Dept of Agriculture v. Moreno</i> (1973), <i>Craig v. Boren</i> (1976), <i>City of Cleburne v. Cleburne Living Center</i> (1985), <i>Hernandez v. New York</i> (1991), <i>United States v. Virginia (VMI)</i> (1996), <i>Romer v. Evans</i> (1996)
25-26	Wed Apr 30 and Mon May 5	Fundamental and Unenumerated Rights and Penumbras Cases: <i>Lochner v. New York</i> (1905), <i>Muller v. Oregon</i> (1908), <i>Pierce v. Society of Sisters</i> (1925), <i>Reynolds v. Sims</i> (1964), <i>Griswold v. CT</i> (1965), <i>Harper v. Virginia Board of Elections</i> (1966), <i>Roe v. Wade</i> (1973), <i>San Antonio Independent School District v. Rodriguez</i> (1973), <i>Plyler v. Doe</i> (1982), <i>Washington v. Glucksberg</i> (1997), <i>Lawrence v. Texas</i> (2003), <i>Obergefell v. Hodges</i> (2015), <i>Whole Woman's Health v. Hellerstedt</i> (2016), <i>Dobbs v. Jackson Women's Health Organization</i> (2022)
27	Mon May 12	Final Paper Due ~ and ~ Cumulative 3-Hour Final Exam 12:30 - 3:30 pm, in person, Sullivan 122

COURSE MATERIALS

Free OER Textbooks

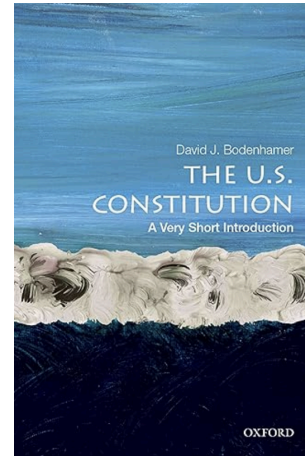
I've provided two Open Educational Resource (OER) textbooks on Blackboard authored by Ruthann Robson, CUNY School of Law. Neither is required, but both are good (and free!) legal textbooks for use in this course. I recommend you bookmark and/or download them, and read the relevant sections to prepare for class. Most, but not all, of our cases are mentioned in one or the other. I do not assign specific pages or chapters – you can figure out on your own what will be helpful for each class.

Ruthann Robson, [Liberty, Equality, and Due Process: Cases, Contexts, and Controversies in Constitutional Law](#) (3rd ed, 2021)

Ruthann Robson, [First Amendment Cases: Controversies and Contexts](#) (2nd ed, Dec 2019)

Textbook for Purchase / Rent

Within the first two weeks of class we will read and discuss David J. Bodenhamer's *The U.S. Constitution: A Very Short Introduction* (Oxford University Press, 2018). ISBN: 978-0195378320. There is one paper copy placed on 2-hour course reserve at the library circulation desk.



COURSE POLICIES

Electronics-Free Zone

Our classroom will be an electronics-free zone. No laptops, iPads, e-Readers, recorders, or cell phone use during class (unless absolutely required by an academic accommodation). You should prepare all coursework as PAPER materials and have them available to refer to in class. I expect and welcome note-taking during class.

Technology Skills and Access

To succeed in this course, you need to be comfortable using Blackboard and WSU email, including uploading documents and making email attachments. You need reliable internet access to prepare for class sessions and access Blackboard and OER materials. Adobe Reader and a full installation of Microsoft Office (available as free download from WSU Information Technologies) are helpful in any course, including this one. You should know how to insert academic references in Google Docs or Word and how to save and send documents in multiple formats (such as .docx and .pdf). You need to be comfortable communicating and writing in standard business English.

Academic Integrity

All assignments created for this course should be original to this course, must be your own work, and must be your own writing. Whenever and wherever you employ the words or work of others, do so responsibly and cite your sources using standard academic citation format and/or correct legal citation.

Please note: It is a violation of the student code of conduct and academic integrity to plagiarize text or generate your course assignments (including case briefs) with AI (such as ChatGPT). Using online text-generation tools irresponsibly short-circuits your course learning.

Plagiarized work or exam cheating is an automatic zero on the assignment and may cause you to fail the course. Academic integrity violations are a serious breach of the student Code of Conduct. Please familiarize yourself with and follow the University Policy on Academic Honesty in the Student Handbook.

Attendance and Participation (A&P)

Consistent attendance and active, prepared verbal participation are essential to your course grade. I take attendance daily and will call on any student, any day. Multiple unexplained, unexcused absences or being unprepared in class will negatively affect your A&P grade. That said, don't endanger your own health or that of our class if you are sick or might be contagious to others. If you miss a class, connect with a classmate for notes. Exam makeups are rare, only granted in extreme circumstances.

Student Accessibility

I am committed to providing a learning environment in which all students can succeed. Accommodations requested through Student Accessibility Services will be honored. If applicable to you, please present SAS documentation as soon as possible so we can design a plan to help you be successful. If you see ways the course can be more inclusive, please let me know.

HELPFUL ONLINE RESOURCES

Oyez.org <https://www.oyez.org/>

Supreme Court Cases at Findlaw.com

<https://caselaw.findlaw.com/court/us-supreme-court>

SCOTUS Blog <https://www.scotusblog.com/> (note: current justices biographies at <https://www.scotusblog.com/biographies-of-the-justices/>)

National Constitution Center Supreme Court Case Library

<https://constitutioncenter.org/the-constitution/supreme-court-case-library>

Justia.com <https://www.justia.com/>

Supreme Court Historical Society <https://supremecourthistory.org/>

Streetlaw Inc Resource Library <https://store.streetlaw.org/resources/>

Timeline of Supreme Court Justices

<https://blogs.sas.com/content/sastraining/2018/10/11/timeline-of-us-supreme-court-justices/>

Cornell Law Institute Annotated Constitution <https://www.law.cornell.edu/constitution>

Congressional Research Service Constitution Annotated

<https://constitution.congress.gov/>

George Washington Law Library, Supreme Court Resources (note, we might not have access to all the links in that library) <https://law.gwu.libguides.com/scotus/tips>

First Amendment Museum (Augusta, Maine) <https://firstamendmentmuseum.org/>

Free Speech Center, Middle Tennessee State <https://firstamendment.mtsu.edu/>

GRADUATE APPENDIX

Graduate Credit

Graduate students may take a Directed Study version of this course as HI 992, Seminar in American Constitutional History. The syllabus will be adapted for graduate credit as follows:

Student Learning Outcomes

Students will be able to...

Think critically by incorporating key concepts, terminology, and methods of graduate-level legal studies.

Define civil liberties and civil rights in light of relevant and significant Supreme Court cases in modern American history.

Identify mechanisms of evolution in Constitutional interpretation in the 20th and 21st centuries.

Conduct graduate-level legal research in written and oral formats with academic integrity (including correct citation).

Grading

Consistent & Prepared Participation	20
Case Briefs (submit 3 before Spring Break)	15 @ 5 each
Final Paper (3000-4000 words)	20
Exam 1	10
Exam 2	10
Final Exam	25
Total	100