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### PSCI 474.01: Civil Liberties & Rights Seminar

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PSCI 474, Civil Rights Seminar  
Spring 2012

**Course overview.** This course deals intensively with civil rights and civil liberties, the limitations that the American people have placed on their government. In general, civil rights are located in the Bill of Rights and Fourteenth Amendment and are traditional expectations about fair governmental procedure. Examples are due process, equal protection, right to counsel, impartial jury, and reasonable search. Civil liberties are fundamental freedoms found primarily in the First Amendment, such as speech, press, religion, assembly, association, and privacy. Courts have the special role of protecting these rights and liberties against unjustified regulation by political majorities.

**Instructor.** James Lopach, LA 349, 243-2946, [james.lopach@umontana.edu](mailto:james.lopach@umontana.edu); scheduled office hours: M-F, Noon to 1; available by appointment other times

**Text.** David Schultz et al., *Constitutional Law in Contemporary America*, Vol. 2, *Civil Rights and Liberties*, Oxford University Press, 2011

**Class format.** Students will complete reading assignments (3 to 4 cases, approximately 15 pages) prior to each meeting. In class, students will take turns presenting their briefs of the assigned cases, and the instructor will lead discussion concerning the significance of the assigned cases and related contemporary issues. At appropriate times during the semester, each student will present an oral summary of research completed on a recent U.S. Supreme Court case (see below) selected in consultation with the instructor.

**Reading.** The following 75 civil rights cases will be read in the order presented:

Incorporation and Interpretation of the Bill of Rights (4)

Barron v. Baltimore  
Palko v. Connecticut  
Griswold v. Connecticut  
District of Columbia v. Heller

Establishment and Freedom of Religion (8)

Engel v. Vitale  
Lemon v. Kurtzman  
Wallace v. Jaffree  
Zelman v. Simmons Harris  
Van Orden v. Perry  
Sherbert v. Verner  
Wisconsin v. Yoder  
Employment Division v. Smith

Freedom of Speech (14)

Gitlow v. New York  
Dennis v. United States  
Brandenburg v. Ohio

Ward v. Rock Against Racism  
Rust v. Sullivan  
National Endowment of the Arts v. Finley  
Tinker v. Des Moines Independent Community School District  
Hazelwood School District v. Kuhlmeier  
Morse v. Frederick  
R.A.V. v. City of St. Paul  
Wisconsin v. Mitchell  
United States v. O'Brien  
Cohen v. California  
Texas v. Johnson

Obscenity, Pornography, and Censorship (4)

Miller v. California  
City of Renton v. Playtime Theaters, Inc.  
Barnes v. Glenn Theatre, Inc.  
Ashcroft v. American Civil Liberties Union

Commercial Speech (3)

Virginia State Board of Pharmacy v. Virginia Citizens  
Central Hudson Gas & Electric Corp. v. Public Service Commission of New York  
44 Liquormart, Inc. v. Rhode Island

Freedom of the Press (5)

New York Times Co. v. Sullivan  
New York Times Co. v. United States  
Branzburg v. Hayes  
Federal Communications Commission v. Pacifica Foundation  
Richmond Newspapers v. Virginia

Freedom of Association (4)

National Association for the Advancement of Colored People v. State of Alabama  
Roberts v. United States Jaycees  
Boy Scouts of America v. Dale  
Hurley v. Irish-American Gay, Lesbian & Bisexual Group of Boston, Inc.

Criminal Due Process (11)

Katz v. United States  
Kyllo v. United States  
Terry v. Ohio  
Pennsylvania v. Mimms  
Georgia v. Randolph  
United States v. Leon  
Florida v. Bostick  
Miranda v. Arizona

New York v. Quarles  
Schmerber v. California  
Batson v. Kentucky

Cruel and Unusual Punishment (5)

Hudson v. McMillian  
Coker v. Georgia  
Atkins v. Virginia  
Roper v. Simmons  
Harmelin v. Michigan

Equal Protection of the Laws (13)

Plessy v. Ferguson  
Sweatt v. Painter  
Brown v. Board of Education I  
Swann v. Charlotte-Mecklenburg Board of Education  
Frontiero v. Richardson  
Craig v. Boren  
Rostker v. Goldberg  
United States v. Virginia  
Adarand Contractors v. Pena  
Grutter v. Bollinger  
Plyler v. Doe  
City of Cleburne, Texas v. Cleburne Living Center, Inc.  
San Antonio Independent School v. Rodriguez

Privacy and Reproductive Rights (4)

Roe v. Wade  
Planned Parenthood of Southeastern Pennsylvania v. Casey  
Washington v. Glucksberg  
Lawrence v. Texas

**Examination.** There will be a 30-minute oral examination that will cover the entire course and will be scheduled at a time convenient to each student during finals week.

**PSCI 474 term paper.** The writing assignment, which is required of each student, will expand on the student's research for the oral report. It will focus, therefore, on a student-selected recent U.S. Supreme Court case on civil rights or civil liberties (see below). The student must meet periodically with the instructor regarding choosing the case, locating source materials, and organizing, writing, and documenting the paper. The text of the paper must be double spaced, no longer than 12 pages, and turned in by April 24. Grading criteria will be accuracy of content, coherence of argument, and correctness of writing (grammar, diction, syntax, transitions). Students must work from the full report of the principal case (found at *U.S. Reports*, *Supreme Court Reporter*, *Lawyer's Edition*, [www.findlaw.com](http://www.findlaw.com) or [www.supremecourtus.gov](http://www.supremecourtus.gov)), the full report of precedent cases, and

scholarly discussions found in appropriate law-related books, journal articles, and treatises. Documentation is required and may use parenthetical text notes (see instructor for this method) or footnotes or endnotes following *The Chicago Manual of Style* or *A Uniform System of Citation*. The paper must use the following outline:

1. Give an introduction to the paper, which must include an overview and the importance of the principal case, the sources to be used, and a summary of your findings and conclusions (approximately 1 page).
2. Discuss the most important precedent cases or lines of cases, summarizing the facts and holding of each (approximately 2 pages).
3. Discuss the principal case in detail, including the following (approximately 5 pages):
  - a. facts of the case
  - b. identity of the litigants and basis of standing; how the constitutional question was framed and raised
  - c. course of lower-court litigation; how the case reached the Supreme Court
  - d. principal constitutional arguments of opposing lawyers
  - e. question(s) before the Supreme Court
  - f. decision of the Supreme Court
  - g. summary of reasoning in majority, concurring, and dissenting opinions
4. Present the legal and policy importance of the case (approximately 2 pages):
  - a. legal problems resolved by the decision
  - b. legal problems left unresolved or created by the decision
  - c. policy implications of the decision for the nation, i.e., which parts of our society were benefited and which were disadvantaged
5. Analyze the political environment of the decision (approximately 2 pages):
  - a. public attitudes and social forces concerning the issue of the case and an assessment of their relationship to the decision
  - b. Supreme Court's activism and restraint: the justices' desire to reach or to avoid the merits and policy issues
  - c. Justices' voting behavior; possible influence of their backgrounds, ideology, and judicial philosophy; voting blocs
6. Conclude the paper with a bibliography arranged into the following three sections, with each section organized alphabetically: Cases, Books, and Articles

**Case options for class presentation and term paper.** Each student in consultation with the instructor will select one of the following cases as the basis of that student's class presentation and term paper (two students may not select the same case):

1. *Arizona Free Enterprise Club PAC v. Bennett*, 2011 (campaign finance)
2. *Brown v. Entertainment Merchants Assn.*, 2011 (violent video game ban)

3. *Snyder v. Phelps*, 2011 (protest at military funeral)
4. *Christian Legal Society v. Martinez*, 2010 (regulation of law student org.)
5. *Sorrell v. IMS Health Inc.*, 2011 (regulation of commercial speech)
6. *Salazar v. Buono*, 2010 (Christian cross on federal land)
7. *Arizona Christian School Tuition Org. v. Winn*, 2011 (establishment of religion/taxpayer standing)
8. *Holder v. Humanitarian Law Project*, 2010 (ban on supporting foreign terrorist groups)
9. *United States v. Stevens*, 2010 (ban of animal-cruelty videos)
10. *McDonald v. City of Chicago*, 2010 (city ban of handguns)
11. *City of Ontario, Calif. v. Quon*, 2010 (search of employee's text messages)
12. *J.D.B. v. North Carolina*, 2011 (Miranda warnings/custody/age of suspect)
13. *Berghuis v. Thompson*, 2010 (right to remain silent)
14. *Kentucky v. King*, 2011 (warrantless knock and enter)
15. *Graham v. Florida*, 2010 (life sentence for juvenile non-homicide offender)
16. *Brown v. Plata*, 2011 (8<sup>th</sup> amendment/ prison conditions/prison release)
17. *FCC v. Fox Television*, 2009 (ban of fleeting F-word and S-word)
18. *Safford v. United School District v. Redding*, 2009 (school strip search)
19. *Davis v. United States*, 2011 (automobile search/exclusionary rule)
20. *District Attorney v. Osborne*, 2009 (right to access DNA test results)
21. *Caperton v. A.T. Massey Coal Co.*, 2009 (recusal of biased state judge)
22. *Bullcoming v. New Mexico*, 2011 (cross examination of lab technician)
23. *Gonzales v. Carhart*, 2007 (constitutionality of Partial-Birth Abortion Act)
24. *Parents Involved in Community Schools v. Seattle School District No. 1*, 2007 (race-based student assignment plan)

**PSCI 474 grading.** The oral examination can earn 40 points, the term paper can earn 40 points, and class attendance, discussion, and presentation can earn 20 points. The instructor may, at his discretion, assign extra credit points for truly excellent performance in any of these course components. Course grades will be determined as follows: A = 94-100; A- = 90-93; B+ = 87-89; B = 83-86; B- = 80-82; C+ = 77-79; C = 73-76; C- = 70-72; D+ = 67-69; D = 63-66; D- = 60-62; F = 59 and below. For the credit/no-credit grading option, a grade of D- and above will count as "credit." A letter grade of at least C- is needed to apply the course to the Political Science major or minor.

**PSCI 400 (optional).** The first three sections of the term paper (7 pages) must be submitted by March 13. After the instructor has corrected and commented on these sections, the student must rewrite these sections and submit the final revisions as part of the completed 12-page term paper, which is due on April 24. The PSCI 400 work will be graded separately using the 100-point grading system given immediately below.

**Graduate increment.** Graduate students must consult with the instructor about research and writing options that will fulfill the University's graduate-increment requirement.

## Briefing Form

Case name

Facts

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Action

Issue(s)

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Decision(s) of the Court

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Reasoning of the majority

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Reasoning of the dissenting and/or concurring opinions

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