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PSC 472.01: Constitutional Law II - Civil Rights and Liberties

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Constitutional Law II: Civil Rights and Liberties
Spring 2005

Course Overview

Constitutional Law II covers civil rights and civil liberties, limitations that the American people have placed on their government. Civil rights, located in the Bill of Rights and Fourteenth Amendment, are traditional expectations about fair governmental procedure. Examples are due process, equal protection, impartial juries, and search warrants. Civil liberties are fundamental freedoms found in the First Amendment, such as speech, press, and religion. Courts have the special role of protecting these rights and liberties against unjustified regulation by political majorities. The course's learning goals are student understanding of the nature and evolution of constitutional principles, accurate case analysis, and clear and coherent oral and written expression.

Instructor – Jim Lopach, LA 348, 243-4829, james.lopach@umontana.edu

Text - Mason and Stephenson, *American Constitutional Law*, 13th edition

Class Format

Students are expected to complete reading assignments (approximately 10 pages for each meeting) prior to class. In class, the instructor will call upon students to present their analyses of Supreme Court decisions, lead discussion concerning the meaning and significance of the cases and related contemporary issues, and lecture as required.

Examinations

There will be two examinations. The midterm, scheduled for March 14, will use definition and short-essay questions. The final, a 30-minute oral examination of each student, will cover course material since the midterm and will be scheduled at convenient times from May 9 through May 13.

Grading

Each of the two examinations can earn a maximum of 50 points. The instructor, at his discretion, can award up to 10 extra-credit points for excellence in class recitation. The 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."

Holidays – February 21 and March 21, 23, and 25

PSC 300 and PSC 400

The writing assignment will focus on one of the recent U.S. Supreme Court cases listed below, to be selected in consultation with the instructor. The paper must follow the provided outline and be no more than 10 pages long, documented, double spaced, and turned in by April 29. A first draft of the introduction is due on March 2. Grading criteria will be accuracy of content, coherence of argument, and correctness of writing.

Work from the full report of the case, which can be found in *U.S. Reports, Supreme Court Reporter, Lawyer's Edition*, or at www.findlaw.com.

Outline for Term Paper

1. Give an introduction to your paper, including a brief overview and the importance of the principal case, the sources you will use, and a brief summary of your conclusions.
2. Discuss the most important precedent cases or lines of cases, summarizing the facts and holding of each.
3. Discuss the principal case in detail, including the following:
 - a. facts of the case
 - b. litigants and basis of the plaintiff's standing; how the constitutional question was raised
 - c. course of lower-court litigation; how the case reached the Supreme Court
 - d. main constitutional arguments of opposing counsel
 - e. question(s) before the Supreme Court
 - f. decision of the Supreme Court
 - g. summary of reasoning in majority and separate opinions
4. Present the legal and policy importance of the case:
 - 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 (which elements of our society were benefited or disadvantaged?)
5. Analyze the political environment of the decision:
 - 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: its eagerness to reach or to avoid the merits and policy issues
 - c. Justices' voting behavior; possible influence of their backgrounds, ideology, judicial philosophy, voting blocs
6. Conclude the paper with a bibliography arranged into three sections, each arranged alphabetically: cases, books, and articles. Documentation is required and may use parenthetical text notes, footnotes, or endnotes.

Cases for Term Paper

1. Child Online Protection Act case, 159 LEd2d 690
2. Application of *Miranda* to youthful suspect case, 158 LEd2d 938
3. Reveal name during stop and frisk case, 159 LEd2d 292
4. Use of physical evidence/anti-*Miranda* confession case, 159 LEd2d 667

5. Two-step interrogation case, 159 LEd2d 643
6. Washington sentencing guideline case, 159 LEd2d 403
7. Pennsylvania partisan gerrymander case, 158 LEd2d 546
8. McCain-Feingold campaign finance case, 157 LEd2d 491
9. Guantanamo Bay/habeas corpus case, 159 LEd2d 548
10. American citizen/enemy combatant case, 159 LEd2d 578
11. State subsidy of ministry student case, 158 LEd2d 1
12. Pledge of Allegiance case, 159 LEd2d 98
13. Police roadblock to gather information case, 157 LEd2d 843
14. FEC regulation of nonprofit corporation case, 156 LEd2d 729
15. Library pornography filter case, 156 LEd2d 221
16. Child abuse/ex post facto case, 156 LEd2d 544
17. Incompetent counsel case, 156 LEd2d 471
18. Reapportionment/retrogression case, 156 LEd2d 428
19. Michigan affirmative action cases, 156 LEd2d 257 and 304
20. Homosexual sodomy case, 156 LEd2d 508
21. Incarceration/deportation of aliens case, 155 LEd2d 724
22. Prison "hitching post" case, 153 LEd2d 666
23. Execution of mentally retarded case, 153 LEd2d 335
24. Sex offender/self incrimination case, 153 LEd2d 47
25. Civil commitment of sexual offender case, 151 LEd2d 856
26. Search of bus passengers case, 153 LEd2d 242
27. School drug testing case, 153 LEd2d 735
28. Judicial candidate gag rule case, 153 LEd2d 694
29. Door-to-door canvassing case, 153 LEd2d 205
30. Virtual child pornography case, 152 LEd2d 403
31. Citizenship/gender discrimination case, 150 LEd2d 115
32. Indefinite detention of alien case, 150 LEd2d 653
33. Mushroom advertising/compelled speech case, 150 LEd2d 438
34. School religious club case, 150 LEd2d 151
35. Thermal-imaging case, 150 LEd2d 94
36. Seatbelt arrest case, 149 LEd2d 549
37. Pre-natal/urine-analysis case, 149 LEd2d 205
38. Narcotics roadblock case, 148 LEd2d 333
39. Education materials to religious schools case, 147 LEd2d 660
40. Grandparents visitation rights case, 147 LEd2d 49
41. Nude dancing case, 146 LEd2d 265
42. University student fee case, 146 LEd2d 121
43. Prohibition of casino advertising case, 144 LEd2d 161
44. Prohibition of street-gang loitering case, 144 LEd2d 67
45. Exclusion from TV debate case, 140 LEd2d 875
46. Excessive fine case, 141 LEd2d 314
47. Fusion candidacy (New Party) case, 137 LEd2d 589
48. V.M.I. male-only admission case, 135 LEd2d 735
49. Ban on advertising liquor prices case, 134 LEd2d 711
50. University funding of religious newsletter case, 132 LEd2d 700