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PSC 472.01: Constitutional Law II - Civil Rights and Liberties

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POLITICAL SCIENCE 472
Constitutional Law II: Civil Rights and Liberties
Spring 2004

This course deals with special limitations that the American people have placed on their national, state, and local governments. Two basic constitutional principles provide the critical perspectives: civil rights and civil liberties. Civil rights are longstanding expectations about the proper mode of governmental activity. They are found in the due process and equal protection clauses of the fifth and fourteenth amendments to the U.S. Constitution. Due process means that the government must act fairly and reasonably when it affects an individual's person or property. Equal protection means that distinctions that governments make in law must be reasonably based. Civil liberties are preferred freedoms found in the first amendment which courts have taken special care to protect against threats from political majorities. This study of civil rights and civil liberties will involve analysis of the evolution of these fundamental American political values. The learning goals are student mastery of the substantive constitutional principles, accurate case analysis, and clear and coherent oral and written expression of this understanding and analytical ability.

CLASS FORMAT: Students are expected to complete reading assignments prior to class meetings. In class, students will be called upon to present analyses of Supreme Court opinions. The instructor will lead discussion concerning the meaning and significance of cases and will lecture as required. Class discussion will concentrate on case principles, evolution of doctrine, and related contemporary problems of a practical nature.

READING ASSIGNMENT: Approximately ten pages per class meeting

EXAMINATIONS: The dates of the three examinations are February 27, March 26, and May 12 at 10:10 a.m. The third examination will cover material from the second examination to the end of the course. Each examination will use definition and short-essay questions.

<u>GRADING:</u>	Class recitation	- 10% (20 points)	A = 180-200 points
	First examination	- 30% (60 points)	B = 160-179 points
	Second examination	- 30% (60 points)	C = 140-159 points
	Third examination	- 30% (60 points)	D = 120-139 points
			F = -119 points

HOLIDAYS: February 16; March 29, 31; April 2

TEXT: Mason and Stephenson, American Constitutional Law, 13th Edition

INSTRUCTOR: Jim Lopach, LA 348, 243-4829; james.lopach@umontana.edu

PSc 300 and 400 WRITING ASSIGNMENT

The focus of the assignment is a recent case of the United States Supreme Court taken from the attached list. Students must select their cases in consultation with the instructor. The paper must be double spaced and typewritten, no more than ten pages in length, and is due on May 3. A first draft of the paper's introductory section is due on March 1. The paper must use the outline provided below. Grading criteria will be accuracy of content, coherence of argument, and correctness of writing.

1. Give an introduction to your paper, including an overview of the case, the importance of the topic, 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. Present the principal case in detail. Your discussion of key items should contain:
 - a. the facts of the case
 - b. the litigants and basis of their standing
 - c. course of lower court litigation and how the constitutional question was raised; how the case reached the Supreme Court
 - d. the main arguments of opposing counsel
 - e. the question(s) before the Supreme Court
 - f. decision of the Supreme Court
 - g. summary of the key reasoning in the opinion of the Court and in 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 new legal problems raised by the decision
 - c. policy implications of the decision for the nation
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 willingness to reach the legal and policy issues--could they have been avoided?
 - c. voting behavior on the Supreme Court-- possible influence of justices' backgrounds, perception of judicial role, policy values or ideology, voting blocs
6. The paper should include a bibliography containing cases, books, and articles consulted. Source notes, set off by parentheses, may be placed in the text, or you may use footnotes or endnotes. You should work from the full report of the case, found in U.S. Reports, Supreme Court Reporter, or Lawyer's Edition.

CASES FOR TERM PAPERS

1. Victim impact evidence case (115 L Ed 2d 720)
2. Life sentence for drug possession case (115 L Ed 2d 836)
3. Tennessee voting place regulation case (119 L Ed 2d 5)
4. Racial peremptory challenge case (120 L Ed 2d 33)
5. Hawaii prohibition on write-in voting case (119 L Ed 2d 245)
6. Graduation prayers case (120 L Ed 2d 467)

7. Federal speedy trial (8 1/2 year delay) case (120 L Ed 2d 520)
8. Animal sacrifice case (124 L Ed 2d 472)
9. Church access to school case (124 L Ed 2d 352)
10. Patdown-search "Plain feel" case (124 L Ed 2d 334)
11. Deaf parochial student's interpreter case (125 L Ed 2d 1)
12. Gender peremptory challenge case (128 L Ed 2d 89)
13. Hasidic Jewish school district case (129 L Ed 2d 546)
14. City prohibition of residential signs case (129 L Ed 2d 36)
15. Greenway and bicycle path taking case (129 L Ed 2d 304)
16. Ban on anonymous political literature case (131 L Ed 2d 426)
17. Parade/gay group ban case (132 L Ed 2d 487)
18. Ban on attorney solicitation case (132 L Ed 2d 541)
19. Drug testing of students case (132 L Ed 2d 564)
20. University funding of religious newsletter case (132 L Ed 2d 700)
21. Rhode Island ban on liquor price advertising case (134 L Ed 2d 711)
22. Federal Election Campaign Act's limitation on political party expenditures case (135 L Ed 2d 795)
23. Virginia Military Institute's male-only policy case (135 L Ed 2d 735)
24. District of Columbia routine traffic stop/drug seizure case (135 L Ed 2d 89)
25. Government-provided remedial education to parochial schools (138 L Ed 2d 391)
26. Drug testing for political candidates case (137 L Ed 2d 513)
27. Fusion-candidacy ban (New Party) case (137 L Ed 2d 589)
28. Self incrimination/foreign-nation prosecution case (141 L Ed 2d 575)
29. Eighth amendment excessive-fine case (141 L Ed 2d 314)
30. Exclusion from public TV debate (140 L Ed 2d 875)
31. State regulation of initiative petition circulators (142 L Ed 2d 599)
32. Police search of car passenger's personal belongings (143 L Ed 2d 408)
33. State limit on new residents' welfare benefits (143 L Ed 2d 689)
34. Chicago prohibition of street-gang loitering (144 L Ed 2d 67)
35. Federal prohibition of casino advertising (144 L Ed 2d 161)
36. Missouri Campaign contribution limits case (145 L Ed 2d 886)
37. Hawaii voting preference for native Hawaiians case (145 L Ed 2d 1007)
38. University of Wisconsin student fee case (146 L Ed 2d 121)
39. Pennsylvania nude dancing case (146 L Ed 2d 265)
40. Cable TV sex programming case (146 L Ed 2d 865)
41. Washington child visitation rights case (147 L Ed 2d 49)
42. Colorado antiabortion protest case (147 L Ed 2d 597)
43. Loan of educational materials to religious schools case (147 L Ed 2d 660)
44. Narcotics roadblock case (148 L Ed 2d 333)
45. Prenatal urine test case (149 L Ed 2d 205)
46. Thermal-imaging case (150 L Ed 2d 94)
47. Seatbelt arrest case (149 L Ed 2d 549)
48. Legal Services Corporation gag rule case (149 L Ed 2d 63)
49. Religious club in school case (150 L Ed 2d 151)
50. Party coordinated expenditure case (150 L Ed 2d 461)
51. Cigarette advertising case (150 L Ed 2d 532)
52. Mushroom advertising/compelled speech case (150 L Ed 2d 438)
53. Judicial review of alien deportation case (150 L Ed 2d 347)
54. Indefinite detention of alien case (150 L Ed 2d 653)
55. Gender discrimination/U.S. citizenship case (150 L Ed 2d 115)
56. Virtual child pornography case (152 L Ed 2d 403)

57. Door-to-door canvassing case (153 L Ed 2d 205)
58. Gag rule on judicial candidates case (153 L Ed 2d 694)
59. Ohio school voucher case (153 L Ed 2d 604)
60. Drug testing/extra curricular activities case (153 L Ed 2d 735)
61. Search of bus passengers case (153 L Ed 2d 242)
62. Civil commitment of sexual offender case (151 L Ed 2d 856)
63. Rehabilitation of sex offender/self-incrimination case (153 L Ed 2d 47)
64. Execution of mentally retarded case (153 L Ed 2d 335)
65. Prison "hitching post" case (153 L Ed 2d 666)
66. Lake Tahoe takings case (152 L Ed 2d 517)
67. Incarceration prior to deportation of criminal aliens (155 L Ed 2d 724)
68. Texas sodomy case (156 L Ed 2d 508)
69. Michigan affirmative action cases (156 L Ed 2d 257 & 304)
70. Georgia reapportionment/retrogression case (156 L Ed 2d 428)
71. California 3-strikes law cases (155 L Ed 2d 108 & 144)
72. Maryland incompetent counsel case (156 L Ed 2d 471)
73. California child abuse/ex post facto case (156 L Ed 2d 544)
74. Library anti-pornography filter case (156 L Ed 2d 221)
75. FEC regulation of non-profit advocacy corporations (156 L Ed 2d 179)