American Constitutional Law I
GOVT 4303.001
Fall 2021
Ferg. 374
Mon., Weds., & Fri, 12-12:50pm

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Office Hours: MW 1-2pm & TR 2-3:30pm

Course Description
A study of the constitutional sources of power and restraint for the federal government as well as the American federal constitutional provisions concerning the organization of government and the powers, rights, duties and responsibilities of both the government and individual citizen. Major Supreme Court cases will be analyzed and critiqued. Prerequisites: PSC 141/GOVT 2305 and PSC 142/GOVT 2306.

Justification. “American Constitutional Law I” (3 credit) is an advanced course that requires approximately 150 minutes of classroom time/direct instruction weekly for 15 weeks, and also meets for a two-hour final examination. In addition, students spend at least six hours weekly out-of-class on work including reading, researching, writing, and studying. Students are required to complete a mid-term and a final exam. Moreover, students are required to write a 1-2 page case brief for all cases assigned. In addition, students are required to participate in the Moot Court Simulation that focuses on our system of separated powers. That is, students will deliver an oral argument based on a hypothetical fact pattern to a panel of their classmates.

Text Books

Program Learning Outcomes
Below are the specific program learning outcomes addressed in this course:
- The student will critically analyze and critique political institutions and/or complex political issues.

1Because this is a syllabus, it is guide for how the semester will unfold. To be clear, I reserve the right to change ANY aspect of the course as necessary.
• The student will demonstrate oral communication skills.
• The student will develop research skills.

Grading

Grades will be based on legal briefs, exams, and a moot court simulation.

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<th>Grade</th>
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<tr>
<td>A</td>
<td>90 - 100</td>
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<td>B</td>
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Legal Briefs (30%). Briefing cases not only helps you learn the material, but provides the basis for your informed participation in class discussions and oral arguments. To ensure that students are keeping up, I will collect case briefs at the start of each class. That is, you must write approximately a 1 page brief for all cases assigned, and you must submit your briefs on D2L (all briefs for that day should be include in a single document) prior to the start of each class (Dropbox for each class will close at 10:00am). To be clear, all assignments will be turned in via Dropbox by 10:00am and they must be turned in as a word or pdf document. If an assignment is not turned in via Dropbox or it is not turned in as a word or pdf document, it will not be graded and you will earn a zero for the assignment.

Note: It’s critical not to fall behind with readings in this course; if I feel students are not adequately preparing for class I will ask to collect additional case briefs or may administer a short pop quiz at the beginning of class. It is worth noting, you are required to summarize the cases in your own words, because this will strengthen your understanding of them. Moreover, you are not allowed to copy summaries of cases from the internet. This is by definition plagiarism, and it will earn you an F for the course.

Exams (50%). There will be two exams: a midterm and a final. These will be weighted equally and will be take home exams. (This means each exam will be worth 25 percent.) Because they are take home exams, you must upload a copy of your exam on D2l by the start of class on the day it is due. This timeline is non-negotiable. Exceptions to this will be made only in the most unusual of circumstances!

Moot Court Simulation (20%). All students will be required to give a 9-12 minute oral argument in front of a panel of three to five judges and will be required to serve as a judge. Concerning litigants, the order of litigants will be chosen randomly. If your name is called and you refuse to deliver your argument, then you will automatically lose 5 percent on the assignment. If your name is called and you are absent, then you will lose 5 percent on the assignment (exceptions will be made for excused absences, but excused absences must be properly documented). Concerning judges, you will be expected to ask a minimum of 3
relevant questions over the course of two oral arguments. If you ask no questions as a judge
during an oral argument, you will be replaced by a loquacious classmate because there will
be no Clarence Thomas acolytes in this courtroom and you will automatically be deducted
5 points. Moreover, if you choose not to participate in the oral arguments as a litigant or
judge, you will not earn higher than a C for the course.

1. Litigant during Oral Argument (10%).

2. Judge during Oral Argument (10%).

Technology

Use of cell phones in class, for talking, texting or reading/writing email is prohibited. If
I observe you using a cell phone during class, your final grade for the semester will suffer.
Additionally, if I observe you using a cell phone during class, I reserve the right to kick you
out of class. If you are asked to leave class and you refuse to leave, you will be dropped from
the course.

Academic Integrity

The following is taken from SFA’s Policy Manual and can be found in section 4.1 –
STUDENT ACADEMIC DISHONESTY: Abiding by university policy on academic integrity
is a responsibility of all university faculty and students. Faculty members must promote
the components of academic integrity in their instruction, and course syllabi are required
to provide information about penalties for cheating and plagiarism as well as the appeal
process.

All cases of academic dishonesty, both cheating and plagiarism, will be handled according
to University policies and procedures (A-4.1 & A-6.3). Cheating includes but is not limited
to (1) using or attempting to use unauthorized materials to aid in achieving a better grade
on a component of a class; (2) the falsification or invention of any information, including
citations, on an assigned exercise; and/or (3) helping or attempting to help another in an
act of cheating or plagiarism. Plagiarism is presenting the words or ideas of another person
as if they were your own. Examples of plagiarism are (1) submitting an assignment as if it
were one’s own work when, in fact, it is at least partly the work of another; (2) submitting
a work that has been purchased or otherwise obtained from an Internet source or another
source; and (3) incorporating the words or ideas of an author into one’s paper without giving
the author due credit. While these are not exhaustive lists, students who are curious should
peruse SFA’s Policy Manual . Specifically, you should focus on section 4.1 – STUDENT
ACADEMIC DISHONESTY .

To be clear, I do not take academic dishonesty lightly, and the consequences
for academic dishonesty will be an “F” for the course. No exceptions.

http://www.sfasu.edu/policies/
http://www.sfasu.edu/policies/student_academic_dishonesty.pdf
Withheld Grades

The following is taken from SFASU’s Policy Manual (2014), “Semester Grades Policy” (A-54): At the discretion of the instructor of record and with the approval of the academic chair/director, a grade of WH will be assigned only if the student cannot complete the course work because of unavoidable circumstances. **Students must complete the work within one calendar year from the end of the semester in which they receive a WH, or the grade automatically becomes an F.** If students register for the same course in future semesters, the WH will automatically become an F and will be counted as a repeated course for the purpose of computing the grade point average.

Students with Disabilities

To obtain disability related accommodations, alternate formats and/or auxiliary aids, students with disabilities must contact the Office of Disability Services (ODS), Human Services Building, and Room 325, 468-3004 / 468-1004 (TDD) as early as possible in the semester. Once verified, ODS will notify the course instructor and outline the accommodation and/or auxiliary aids to be provided. Failure to request services in a timely manner may delay your accommodations. For additional information, go to [http://www.sfasu.edu/disabilityservices/](http://www.sfasu.edu/disabilityservices/).

Acceptable Student Behavior

Classroom behavior should not interfere with the instructor’s ability to conduct the class or the ability of other students to learn from the instructional program (see the Student Conduct Code, policy D-34.1). Unacceptable or disruptive behavior will not be tolerated. Students who disrupt the learning environment may be asked to leave class and may be subject to judicial, academic or other penalties. This prohibition applies to all instructional forums, including electronic, classroom, labs, discussion groups, field trips, etc. The instructor shall have full discretion over what behavior is appropriate/inappropriate in the classroom. Students who do not attend class regularly or who perform poorly on class projects/exams may be referred to the Early Alert Program. This program provides students with recommendations for resources or other assistance that is available to help SFA students succeed.
Course Schedule

August 23: Introduction
• Getting to know each other

August 25: Introduction
• Course Expectations/Syllabus

August 27: Introduction
• Writing Briefs

August 30: The Judiciary
• Judicial Review
  – Marbury v. Madison (1803)
  – Martin v. Hunter’s Lessee (1816)

September 1: The Judiciary
• Constraints on Judicial Power
  – Ex parte McCardle (1869)
  – Baker v. Carr (1962)

September 3: The Judiciary/The Legislature
• Constraints on Judicial Power
  – Nixon v. United States (1993)
  – Flast v. Cohen (1968)
• Congressional Authority over Internal Affairs

4This is a tentative schedule, and I reserve the right to change the schedule as necessary.
September 6: The Legislature

- Congressional Authority over Internal Affairs
  - Gravel v. United States (1972)

- Enumerated and Implied Powers (Necessary and Proper Clause)
  - McCulloch v. Maryland (1819)

September 8: The Legislature

- Congressional Power to Investigate
  - McGrain v. Daugherty (1927)
  - Watkins v. United States (1957)
  - Barenblatt v. United States (1959)

September 10: The Legislature/The Executive

- Amendment-Enforcing Power
  - South Carolina v. Katzenbach (1966)

- Faithful Execution of the Law
  - In re Neagle (1890)

September 13: The Executive

- Domestic Powers of the President

September 15: The Executive

- Domestic Powers of the President
  - Myers v. United States (1926)
  - Humphrey’s Executor v. United States (1935)
September 17: The Executive

- Domestic Powers of the President
  - Mississippi v. Johnson (1867)

September 20: The Executive/Interbranch Interactions

- Domestic Powers of the President
  - Ex parte Grossman (1925)
- Domestic Powers
  - Mistretta v. United States (1989)
  - Immigration and Naturalization Service v. Chadha (1983)

September 22: Interbranch Interactions

- Domestic Powers
  - Bowsher v. Synar (1986)
- Powers over Foreign Affairs
  - Prize Cases (1863)
  - Ex parte Milligan (1866)

September 24: Interbranch Interactions

- Powers over Foreign Affairs
  - Korematsu v. United States (1944)
  - Youngstown Sheet & Tube Co. v. Sawyer (1952)
  - Dames & Moore v. Regan (1981)

September 27: Interbranch Interactions

- Powers over Foreign Affairs
  - Zivotofsky v. Kerry, Secretary of State (2015)
September 29: Federalism

- Marshall Court and the Rise of National Supremacy
  - McCulloch v. Maryland (1819)
- Taney Court and States’ Rights
  - Scott v. Sandford (1857)
- Return of Dual of Dual Federalism
  - Coyle v. Smith (1911)

October 1: Federalism

- Return of Dual Federalism
  - New York v. United States (1992)
  - Printz v. United States (1997)

October 4: Federalism

- The Eleventh Amendment and Sovereign Immunity
- National Preemption of State Laws
  - State of Missouri v. Holland (1920)

October 6: Federalism

- National Preemption of State Laws
  - Arizona v. United States (2012)

October 8: Midterm passed out

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October 11: Commerce Power

- Foundations of the Commerce Power
  - Gibbons v. Ogden (1824)

- Defining Commerce during the Industrial Revolution
  - United States v. E. C. Knight Co. (1895)
  - Stafford v. Wallace (1922)

October 13: Commerce Power

- Supreme Court and the New Deal
  - National Labor Relations Board v. Jones & Laughlin Steel Corporation (1937)
  - United States v. Darby (1941)
  - Wichard v. Filburn (1942)

October 15: Midterm Exam Due

- Turn it in on D2L by 11:30pm

October 18: Commerce Power

- Expanding the Commerce Clause Jurisprudence
  - Heart of Atlanta, Motel Inc. v. United States (1964)
  - TBD

October 20: Commerce Power

- Limits on the Commerce Power
  - Gonzales v. Raich (2005)
October 22: Commerce Power

- Limits on the Commerce Power

- Commerce Power of the States
  - Cooley v. Board of Wardens (1852)
  - Southern Pacific Company v. Arizona (1945)

October 25: Commerce Power

- Commerce Power of the States
  - Maine v. Taylor (1986)

October 27: The Power to Tax and Spend

- Direct Taxes and the Power to Tax Income
  - Pollock v. Farmers’ Loan & Trust Co. (1895)

- Taxation of Exports
  - United States v. United States Shoe Corp. (1998)

- Intergovernmental Tax Immunity

October 29: The Power to Tax and Spend

- Intergovernmental Tax Immunity

- Taxation as a Regulatory Power
  - McCray v. United States (1904)
  - Bailey v. Drexel Furniture (1922)
November 1: The Power to Tax and Spend

- Taxing and Spending for the General Welfare
  - United States v. Butler (1936)
  - Steward Machine Co. v. Davis (1937)
  - South Dakota v. Dole (1987)

November 3: The Power to Tax and Spend

- Taxing and Spending for the General Welfare
- Restrictions on the Revenue Powers of the States
  - Michelin Tire Corp. v. Wages (1976)
  - Complete Auto Transit v. Brady (1977)

November 5: The Power to Tax and Spend

- Restrictions on the Revenue Powers of the States
  - South Dakota v. Wayfair (2018)

November 8: Takings Clause

- What is a Taking?
  - United States v. Causby (1946)
  - Pennsylvania Coal Co. v. Mahon (1922) – D2L
  - Penn Central Transportation Company v. City of New York (1978)

November 10: Takings Clause

- What is a Taking?
  - Loretto v. Teleprompter Manhattan CATV Corp. (1982) – on D2L
  - Lucas v. South Carolina Coastal Council (1992)
November 12: Takings Clause

- What is a Taking?

- What Constitutes a Public Use?
  - United States ex rel. Tennessee Valley Authority v. Welch (1946) – on D2L
  - Berman v. Parker (1954)

November 15: Takings Clause

- What Constitutes a Public Use?
  - Hawaii Housing Authority v. Midkiff (1984)

November 17: Oral Argument Prep Day

November 19: Oral Argument Day

November 29: Oral Argument Day

December 1: Oral Argument Day

December 3: Oral Argument Day

December 6: Final Exam Due

- Final exam due by 11:30pm