American Constitutional Law I
GOVT 4303.001
Fall 2023
Ferg. 374
Mon., Weds., & Fri, 12-12:50pm

Professor: Charles Gregory
Email: gregoryc2@sfasu.edu
Office: Liberal Arts North 106
Phone: (936) 468-2176
Office Hours: Mon., Weds., & Fri, 11:00am-12:00pm; Tues. & Thurs. 12:30-1:30pm

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: GOVT 2305 and 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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<tr>
<th>Grade</th>
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<tr>
<td>A</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.

It is also worth noting that all briefs will be checked through Turnitin Feedback Studio for use of AI or other forms of text similarity. Any brief that surpasses a 50% similarity score will be docked accordingly.

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 Code of Student Conduct and Academic Integrity outlines the prohibited conduct
by any student enrolled in a course at SFA. It is the responsibility of all members of all
faculty, staff, and students to adhere to and uphold this policy.

Articles IV, VI, and VII of the new Code of Student Conduct and Academic Integrity
outline the violations and procedures concerning academic conduct, including cheating, pla-
giarism, collusion, and misrepresentation. Cheating includes, but is not limited to: (1)
Copying from the test paper (or other assignment) of another student, (2) Possession and/or
use during a test of materials that are not authorized by the person giving the test, (3)
Using, obtaining, or attempting to obtain by any means the whole or any part of a non-
administered test, test key, homework solution, or computer program, or using a test that
has been administered in prior classes or semesters without permission of the Faculty mem-
ber, (4) Substituting for another person, or permitting another person to substitute for one’s
self, to take a test, (5) Falsifying research data, laboratory reports, and/or other records or
academic work offered for credit, (6) Using any sort of unauthorized resources or technology
in completion of educational activities.

Plagiarism is the appropriation of material that is attributable in whole or in part to
another source or the use of one’s own previous work in another context without citing
that it was used previously, without any indication of the original source, including words,
ideas, illustrations, structure, computer code, and other expression or media, and presenting
that material as one’s own academic work being offered for credit or in conjunction with a
program course or degree requirements.
Collusion is the unauthorized collaboration with another person in preparing academic assignments offered for credit or collaboration with another person to commit a violation of any provision of the rules on academic dishonesty, including disclosing and/or distributing the contents of an exam.

Misrepresentation is providing false grades or resumes; providing false or misleading information in an effort to receive a postponement or an extension on a test, quiz, or other assignment for the purpose of obtaining an academic or financial benefit for oneself or another individual or to injure another student academically or financially.

Because this course is designed to help you build the skills that accompany a liberal arts education, AI tools (including, but not limited to ChatGPT) are prohibited, and any use of AI tools will be considered as plagiarism. All work will be checked using Turnitin Feedback to identify use of AI tools and for text similarity.

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.

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/.

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.

Mental Health

SFASU values students’ mental health and the role it plays in academic and overall student success. SFA provides a variety of resources to support student’s mental health and wellness. Many of these resources are free, and all of them are confidential.

On-campus Resources:

- SFASU Counseling Services [www.sfasu.edu/counselingservices](http://www.sfasu.edu/counselingservices)
- Health and Wellness Hub (corner of E. College and Raguet) 936.468.2401
- SFASU Human Services Counseling Clinic [www.sfasu.edu/humanservices/139.asp](http://www.sfasu.edu/humanservices/139.asp)
- Human Services Room 202 936.468.1041

Crisis Resources:

- Burke 24-hour crisis line 1(800) 392-8343
- Suicide Prevention Lifeline 1(800) 273-TALK (8255)
- Crisis Text Line: Text HELLO to 741-741
Course Schedule

August 28: Introduction
  • Getting to know each other

August 30: Introduction
  • Course Expectations/Syllabus

September 1: Introduction
  • Writing Briefs

September 4: The Judiciary
  • Judicial Review
    – Marbury v. Madison (1803)

September 6: The Judiciary
  • Judicial Review
    – Martin v. Hunter’s Lessee (1816)
  • Constraints on Judicial Power
    – Ex parte McCarter (1869)

September 8: The Judiciary
  • Constraints on Judicial Power
    – Baker v. Carr (1962)
    – Nixon v. United States (1993)
    – Flast v. Cohen (1968)

\footnote{This is a tentative schedule, and I reserve the right to change the schedule as necessary.}
September 11: The Legislature

- Congressional Authority over Internal Affairs
  - Powell v. McCormack (1969)
  - Gravel v. United States (1972)

September 13: The Legislature

- Legislative Powers: Sources and Scope
  - McCulloch v. Maryland (1819)
  - McGrain v. Daugherty (1927)
  - Watkins v. United States (1957)

September 15: The Legislature

- Legislative Powers: Sources and Scope
  - Barenblatt v. United States (1959)
  - South Carolina v. Katzenbach (1966)

September 18: The Executive

- The Structure of the Presidency

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

September 20: The Executive

- Domestic Powers of the President
  - National Labor Relations Board v. Noel Canning (2014) Posted on D2L
September 22: The Executive

- Domestic Powers of the President
  - Myers v. United States (1926)
  - Humphrey’s Executor v. United States (1935)

September 25: The Executive

- Domestic Powers of the President
  - Mississippi v. Johnson (1867)
  - Nixon v. Fitzgerald (1982) Posted on D2L

September 27: The Executive

- Domestic Powers of the President
  - Trump v. Vance (2020)
  - Ex parte Grossman (1925)
  - Murphy v. Ford (1975)

September 29: Interbranch Interactions

- Domestic Powers
  - Mistretta v. United States (1989) Posted on D2L
  - Gundy v. United States (2019)
  - Immigration and Naturalization Service v. Chadha (1983)

October 2: Interbranch Interactions

- Domestic Powers
  - Bowsher v. Synar (1986)

- Powers over Foreign Affairs
  - Prize Cases (1863)
  - Ex parte Milligan (1866)
October 4: Interbranch Interactions

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

October 6: Interbranch Interactions

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

October 9: Federalism

- Doctrinal Cycle of Nation-State Relations
  - McCulloch v. Maryland (1819)
  - Scott v. Sandford (1857)
  - Coyle v. Smith (1911)

October 11: Federalism

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

October 13: Federalism

- The Eleventh Amendment and Sovereign Immunity

- National Preemption of State Laws
  - State of Missouri v. Holland (1920)
October 16: Federalism

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

October 18: Midterm

- Midterm

October 20: 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 23: Commerce Power

- Defining Commerce during the Industrial Revolution
  - Champion v. Ames (1903)
  - Hammer v. Dagenhart (1918)

- Supreme Court and the New Deal

October 25: Midterm Exam Due

- Turn it in on D2L by 11:30pm

October 27: 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 30: Commerce Power

- The Era of Expansive the Commerce Clause Jurisprudence
  - Heart of Atlanta, Motel Inc. v. United States (1964)

- Limits on the Commerce Power

November 1: Commerce Power

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

- Commerce Power of the States
  - Cooley v. Board of Wardens (1852)

November 3: Commerce Power

- Commerce Power of the States
  - Southern Pacific Company v. Arizona (1945)
  - Maine v. Taylor (1986)

November 6: Commerce Power/The Power to Tax and Spend

- Commerce Power of the States

- 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)
November 8: The Power to Tax and Spend

- Intergovernmental Tax Immunity

- Taxation as a Regulatory Power
  - McCray v. United States (1904)

November 10: 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 13: Takings Clause

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

November 15: 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 17: Takings Clause

- What Constitutes a Public Use?
  - Hawaii Housing Authority v. Midkiff (1984)
- What is Just Compensation?
  - United States v. 564.54 Acres of Land (1979)

November 27: Oral Argument Prep Day

- Attendance is Mandatory

November 29: Oral Argument Day

- Attendance is Mandatory

December 1: Oral Argument Day

- Attendance is Mandatory

December 4: Oral Argument Day

- Attendance is Mandatory

December 6: Oral Argument Day

- Attendance is Mandatory

December 8: Oral Argument Day

- Attendance is Mandatory

December 11: Final Exam Due

- Final exam due by 11:30pm