

Constitutional Law
Professor Leslie Griffin (Spring 2012)

M, T, & W 2:30 - 3:50 p.m.

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Course Materials:

Required: SULLIVAN & GUNTHER, CONSTITUTIONAL LAW (Foundation Press; 17th ed. 2010) and 2011 Supplement.

The following websites provide very useful information about the Supreme Court, access to old cases and details about this term's calendar:

<http://www.supremecourtus.gov/>

<http://www.scotusblog.com>

<http://supct.law.cornell.edu/supct/index.html>

<http://otd.oyez.org/>

<http://www.findlaw.com/casecode/supreme.html>

Electronic Resources: The syllabus and old exams are posted at <http://www.law.uh.edu/faculty/lgriffin/courses.html>. Please note that there are more exams available here than on the UHLC exam website.

Recommended: When you need help, consider JOHN E. NOWAK & RONALD D. ROTUNDA, PRINCIPLES OF CONSTITUTIONAL LAW: CONCISE HORNBOOKS (West 2010); STEVEN L. EMANUEL, EMANUEL LAW OUTLINES: CONSTITUTIONAL LAW (Wolters Kluwer 2010-2011 edition) or ERWIN CHEMERINSKY, CONSTITUTIONAL LAW: PRINCIPLES AND POLICIES (4th edition 2011). Remember that these books may help you to understand the reading but should not replace the reading.

Course Requirements:

Attendance: You are expected to attend **all** class sessions, and to arrive **on time and sign the attendance sheet**. It is your responsibility to make sure that you sign the list. If you are unable to attend a class session, please notify me in advance. **Under the UHLC attendance policy, I reserve the right to drop any student who fails to attend 80% of class sessions.** At my discretion, final grades may be adjusted downward for poor participation or habitual lateness, even if the 80% requirement is satisfied.

Class preparation and participation: Class preparation and participation are expected. In this class, everyone is on call every day. At my discretion, your final grade may be adjusted upward in recognition of exceptional contributions in the classroom or downward for failure to participate.

Use of computers: You are permitted to use a computer to take notes in this class, and **I encourage you to use computer software to take the final examination.** However, during class your computer is to be used only for note-taking purposes. **Use of e-mail and internet access is not permitted during class sessions.** I reserve the right to adjust final grades downward for unauthorized electronic access during class.

Cell phones/pagers/tape recorders: While it may be necessary to carry these devices, all pagers and cell phones (and any other devices that make noise) **should be set to vibrate/silent mode during class.** Sanctions for violation of this rule may be imposed at my discretion. **You are not allowed to record class in any way without my written permission.**

Examination and grading: The course grade will be based on a **closed-book, open-Constitution** final examination, given on **Wednesday, May 9, 2012, from 2 p.m. to 6 p.m.** The examination will consist primarily of essays, and will be based on the assigned readings and materials discussed in class. This course is subject to the official UHLC grade curve.

ADA Accommodations: The Law Center is committed to meeting the needs of students with physical, learning and other disabilities and provides appropriate accommodations and services tailored to each person's specific requirements. **Please do not inform me about your disability as it may compromise the integrity of anonymous grading.** Students with disabilities are encouraged to contact Dean Sondra Tennessee in the Office of Student Services so that the individual's needs for support services can be evaluated and accommodated in a timely manner. You may also find advice at the UH-Center for Students with DisABILITIES, <http://www.uh.edu/csd/>.

READING ASSIGNMENTS

The assignments listed below are in SULLIVAN & GUNTHER, CONSTITUTIONAL LAW (Foundation Press; 17th ed. 2010) and the 2011 Supplement (S).

I. FEDERAL POWERS

A. JUDICIAL POWER

- T, 1/17: 1. Judicial Review [1-30]
- W, 1/18: 2. Standing [30-48; S 1-2]
- M, 1/23: 3. Political Questions [48-59]

B. LEGISLATIVE POWER

- T, 1/24: 1. *McCulloch* and *Term Limits* [60-81]
- W, 1/25: 2. Commerce Power
 - a. Congressional authority
 - (1) *Gibbons* to Civil Rights [82-106]
 - (2) *Lopez*, *Morrison*, *Raich*, *Comstock* [106-26; S 3-5]
- M, 1/30:

- T, 1/31: b. Federalism-based limits
 - (1) State autonomy [127-43]
- W, 2/1: (2) State sovereign immunity [143-50]
- M, 2/6: 3. Tax, Spending and War Powers [151-74]

C. FEDERAL LIMITS ON STATE POWERS

- T, 2/7: Dormant Commerce Clause and Interstate Privileges & Immunities [184, n. 4-209; 225-32]

D. EXECUTIVE POWER

- W, 2/8: 1. Domestic Affairs: *Steel Seizure* [248-64]
- M, 2/13: 2. Executive Discretion in Times of War or Terror [275-300]

E. SEPARATION OF POWERS

- T, 2/14: *Chadha, Clinton* [300-315]
- W, 2/15: *Bowsher, Morrison, PCAOB* [315-29; S 6-8]
- M, 2/20: Executive Privileges & Immunities [329-47]

II. THE POST-CIVIL WAR AMENDMENTS

- T, 2/21: *Slaughter-House* and *Saenz* [348-63]
- W, 2/22: Incorporation and the Second Amendment [363-74; S 9-15]

III. SUBSTANTIVE DUE PROCESS

A. ECONOMIC LIBERTY

- M, 2/27: 1. *Lochner*, Punitive Damages [375-97]
- T, 2/28: 2. Takings, *Kelo* [398-409]

B. PERSONAL LIBERTY ("PRIVACY")

- W, 2/29: 1. Privacy [427-38]
- M, 3/5: 2. Abortion
 - a. *Roe* [438-48]
 - b. *Casey, Carhart I and II* [448-64]

W, 3/7: 3. Family and Sexuality, *Lawrence* [464-84]

Spring Break: March 12-17

M, 3/19: 4. Death [484-95]

T, 3/20: 5. Procedural Due Process, *DeShaney*, *Castle Rock* [495-99, 713-14]

IV. EQUAL PROTECTION

W, 3/21: Race Discrimination, *Brown* [500-514]

M, 3/26: *Loving*, Purpose and Effect [514-31]

T, 3/27: Affirmative Action (1) [531-48]

W, 3/28: Affirmative Action (2) [548-66]

M, 4/2: **No Class. Oral Argument Holiday.**

T, 4/3: *Parents Involved*, The End of *Brown*? [566-76]

W, 4/4: *Fisher v. UT Austin*, 631 F.3d 213 (5th Cir. 2011), available at <http://www.scotusblog.com/case-files/cases/fisher-v-university-of-texas-at-austin/> (opinion below). Skim the opinion and try to understand as much as you can.

M, 4/9: Sex Discrimination [586-613]

T, 4/10: Other Classifications [620-41]

W, 4/11: *Perry v. Brown*, 2012 WL 372713 (9th Cir. 2012), *handout*

M, 4/16: Rationality Review [641-54]

V. ENFORCEMENT OF CIVIL RIGHTS

T, 4/17: Thirteenth Amendment, Section 5 of Fourteenth Amendment [723-38]

W, 4/18: Free Exercise of Religion: *Smith* [1293-1312]

M, 4/23: *City of Boerne* and *Morrison* revisited [738, n. 3-759; 1312-1318]

VI. FIRST AMENDMENT

T, 4/24: *Citizens United* [1226-1235]
Summary of *Speechnow*, <http://www.fec.gov/law/litigation/speechnow.shtml>.

W, 4/25: *Western Tradition Partnership v. Attorney General*, 363 Mont. 220 (2011)
[handout]

M, 4/30: *Hosanna-Tabor* [handout]

The final exam is CLOSED BOOK and will be held on Wednesday, May 9, 2012 from 2 p.m. to 6 p.m.