

## Supreme Court Term, Dow, Fall 2021, Syllabus and Course Description.

The reading material for this course consists primarily of Supreme Court opinions handed down during the October 2020 Term. You must acquire copies of these opinions for yourselves and are required to have a copy of the opinion with you during class when we are discussing it. The opinions are reported in volume 141 of the Supreme Court Reporter, and page numbers listed next to the cases below refer to page numbers in that volume.

In addition to opinions, I may assign some non-judicial writing. If so, the materials will be available online (Westlaw or Lexis or SSRN).

(If you have any administrative or other questions, the best person to ask is my (temporary) assistant, Melissa Fleet. Her email address is MFleet@UH.edu; I will provide her direct line no later than the first week of class.)

All email communication with me should include, on the subject line, the words "dow, supreme court term, fall 2021"; an email lacking those words on the subject line will languish in my spam folder for months, if not for eternity, and I will not respond to it. You may also leave me voice mail on my office line: 713-743-2171. (Do not send text messages to my office line.)

Your grade will be based on three short papers, each of which will constitute 25-30 percent of your grade, as well as class participation, which will constitute 10-25 percent of your grade. I will discuss the requirements for these papers in the first class; ***you are therefore strongly encouraged not to miss the first class, as I will not have individual conversations with students about my expectations concerning these papers.*** Rules concerning the short papers are as follows:

- (1) With exceptions noted below, papers are due by the beginning of class on Tuesday; ***absolutely no late papers will be accepted.*** For grading purposes, a late paper is equivalent to no paper.
- (2) Papers should be emailed to me; the subject line of the email should read "dow, supreme court term, fall 2021, paper number [x]", where the x is either a 1, 2, or 3.
- (3) Papers cannot exceed 2000 words, including notes; the aggregate of all three papers must be between 4500 and 6000 words, including notes. (Please note the word count on the first page of your paper, beneath your name.)
- (4) Content of the papers will be covered during the first class.

- (5) With exceptions noted below, on weeks when multiple opinions are assigned, papers are required to discuss only one case (though they may discuss more than one).
- (6) Grading will be on the following scale: a, a/m, m, m/b, b.

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## **GROUP 1.**

Week of Aug 23:

Trump v. NY (census), 530-48.\*\*

Week of Aug 30:

Torres v. Madrid (4th amend. seizure), 989-1017;  
Lange v. Calif. (warrantless entry), 2011-38;  
Caniglia v. Strom, 1596-1604.\*\*

Week of Sep 6:

Google v. Oracle (fair use), 1183-1220.

Week of Sep 13:\*

Carr . . . Hilliard v. Saul (appointments clause), 1352-63;  
US v. Arthrex (same), 1970-2011.

Week of Sep 20:

California v. Texas (ACA, standing), 2104-40;  
Transunion v. Ramirez (standing), 2190-2226.

## **GROUP 2.**

Week of Sep 27:

Jones v. Mississippi (juvenile LWOP), 1307-41;  
Edwards v. Vannoy (retroactivity), 1547-82.

Week of Oct 4:\*

Roman Catholic Diocese v. Cuomo (covid restr.), 63-81;  
South Bay United Pentacostal v. Newsom, 716-23.  
Tanden v. Newsom (covid restrictions), 1294-99.

Week of Oct 11:

Cedar Point v. Hassid (labor access / taking), 2063-90.

Week of Oct 18:

No class, spring break.

Week of Oct 25:

Americans for Prosperity v. Bonita (1st amend. privacy), 2373-2405.

**GROUP 3.**

Week of Nov 1:

Berisha v. Lawson (1st amend. falsehoods; dissent from denial of cert.), 2424-30; \*\*

Mahoney v. B.L. (1st amend. / school), 2038-63.

Week of Nov 8:

NCAA v. Alston (paying athletes), 2141-69.

Week of Nov 15:

Brnovich v. DNC (voting rights), 2321-73.

Week of Nov 22:

no class; thanksgiving week.

Week of Nov 29:

Fulton v. City of Phil. (gay adoption), 1868-1931.

\* Papers written for this week must address all cases assigned, not just one.

\*\* No papers permitted on this case(s).

## Additional Information:

The following language is required by either the University of Houston Law Center or the University of Houston. Please consider the following a supplement to the syllabus I have previously distributed by email..

### 1. Required Daily Health Self-Assessment:

Your presence in class each session means that you have completed a daily self-assessment of your health exposure and you are not exhibiting any Coronavirus Symptoms; have not tested positive for COVID-19; have not knowingly been exposed to someone with COVID-19 or suspected or presumed to have COVID-19. If you are experiencing any COVID-19 symptoms that are not clearly related to a pre-existing medical condition, do not come to class.

### 2. Potential Changes to Syllabus:

Due to the changing nature of the COVID-19 pandemic, please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Such modifications may include changes to the mode(s) of assessment for the course. Notice of such changes will be announced as quickly as possible via email to your University-registered email address.

### 3. Counseling and Psychological Services:

Counseling and Psychological Services (“CAPS”) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus.

The Texas Lawyers’ Assistance Program (“TLAP”) also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP’s website includes a page with links to sources about mental health that are of interest to law students: <https://www.tlaphelps.org/law-students>.

### 4. Anti-Discrimination and Sexual Misconduct Policies:

UHLC and the University of Houston are committed to maintaining and strengthening an educational, working, and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, a

confidential reporting process is available to you. For more information, please refer to the University System's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08.

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty and other University employees are required to report to the University any information received regarding sexual misconduct as defined in the policy. Due to this reporting requirement, faculty members and other employees are not a confidential resource. The reporting obligations under the sexual misconduct policy extends to alleged conduct by University employees and students.