

Version 0.8 Last changed 10/7/2022				Pursuant to Law Center policy, this syllabus is subject to change		Cases to read are official cases to read from great judicial organization. Cases to read are cases to read from 2022		Modality is described in the Course Organization Video, which is available here		Orange type material is at https://opencasebook.org/casebooks/4501-constitutional-law/		OPTIONAL Materials in light purple are on OneDrive (generally videos); Materials in orange are in https://opencasebook.org/casebooks/4501-constitutional-law/		Note: non-Zoom Videos are located in this directory: https://wolfr.am/SF5alBTVS		Zoom Video for Corresponding Class in 2022	
Date	DOV	Wee Sessi	Segm Panel	Topic	Subtopic	Focus	Modality	Reading	Note	Optional	Slides from 2023 or 2022 class	Videos					
1/17/2023	2	1	1 A	The Texts	Articles of Confederation	Articles of Confederation	panel	3-16; li-ivii; 26-27	strongly recommend you take the AOC quiz: <a href="https://wolfr.am/SD15d6ll">https://wolfr.am/SD15d6ll</a> , a complete copy of the AOC (except for signatories :.) may be found here: <a href="https://wolfr.am/SF5M0AxJ">https://wolfr.am/SF5M0AxJ</a> . I will briefly discuss Declaration of Independence		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/oVDw (Declaration of Independence)</a> ; <a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/TDc4 (Articles of Confederation)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/DzqM</a>			
1/17/2023	2	1	1 B	The Texts	Constitution	The Constitution	panel; I will ask the panel to take the Constitution Quiz available here: <a href="https://forms.gle/DuMRzNerpPbduo9">https://forms.gle/DuMRzNerpPbduo9</a>	xxxiii-4; 27-30		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/IC9N (The Federalist Papers)</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/DFZp (What Problems Was The Constitution Trying to Solve)</a> ; <a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/CwE (Constitution Timeline)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/DzqM</a>			
1/19/2023	4	1	2 A	Foundational Cases	Judicial Review of Federal Legislation	<b>Marbury v. Madison; Article III</b>	panel	89-102		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">https://www.youtube.com/watch?v=QGTkRP4v8tM</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/cDwy (Marbury v. Madison)</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">https://wolfr.am/SEPGWVAh (optional video Marbury Prelude)</a>		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/ek7c</a>			
1/19/2023	4	1	2 B	Foundational Cases	Judicial Review of State Court Constitutional Interpretations	<b>Martin v. Hunter's Lessee; Supremacy Clause</b>	panel	103-105; <b>Martin</b>		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/ZzEJ (Martin v. Hunter's Lessee)</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/Odi5R (Martin v. Hunter's Lessee)</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">https://wolfr.am/SEVtAHhC (optional video Martin Prelude)</a>		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/vXtw</a>			
1/23/2023	1	2	3 A	Federal Congressional Power	As against state taxing power	<b>McCulloch v. Maryland; Commerce Clause; Necessary and Proper Clause</b>	panel	105-118		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">https://www.youtube.com/watch?v=QGTkRP4v8tM</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/mDU3 (McCulloch v. Maryland)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/vXtw</a>			
1/23/2023	1	2	3 B	Commerce clause, Fugitive Slave Clause, Coinage	Before Jones & Laughlin	<b>Gibbons v. Ogden, Prigg, Paper Money cases, EC Knight, Champion v. Ames, Dagenhart, Butler; Schechter; Commerce Clause</b>	panel and (mostly) lecture	128-137; 168-173; 218-227	I will lecture on Southeastern Underwriters	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">https://www.youtube.com/watch?v=QGTkRP4v8tM</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/MOWT (Gibbons v. Ogden); t.ly/ZTU9 (Enumerated Powers Before the New Deal)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/nCCn</a>			
1/24/2023	2	2	4 A	Commerce clause	The expansion: the substantial effects doctrine	<b>Jones &amp; Laughlin; Darby; Southeastern Underwriters; Wickard v. Filburn</b>	panel and lecture	229-240		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">https://www.youtube.com/watch?v=QGTkRP4v8tM</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/hJ9S (Enumerated Powers During the New Deal)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/nCCn</a>			
1/24/2023	2	2	4 B	Commerce clause	Reducing de jure segregation	<b>Heart of Atlanta; McClung; 14th amendment; Commerce Clause</b>	panel	249-262		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">https://www.youtube.com/watch?v=QGTkRP4v8tM</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/50hg (Enumerated Powers During the Warren Court)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/lZwi</a>			
1/26/2023	4	2	5 A	Commerce clause	Retrenchment	<b>Lopez; Morrison; Commerce Clause; 10th Amendment</b>	panel	270-286		<a href="https://scholar.lib.vt.edu/VA-news/VA-Pilot/issues/1996/vp960120/0120043_0.htm">https://scholar.lib.vt.edu/VA-news/VA-Pilot/issues/1996/vp960120/0120043_0.htm</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/Ryan (Commerce Power Under the Rehnquist Court)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/lZwi</a>			
1/26/2023	4	2	5 B	Commerce Clause	Equipoise; Modern Interstate Commerce Before NFIB	<b>Raich; Taylor v. United States; Commerce Clause</b>	panel and lecture	287-303; add <a href="https://www.scotusblog.com/2016/06/opinion-analysis-proof-of-interstate-effects-is-unnecessary-for-federal-prosecution-when-illegal-drugs-are-involved/">https://www.scotusblog.com/2016/06/opinion-analysis-proof-of-interstate-effects-is-unnecessary-for-federal-prosecution-when-illegal-drugs-are-involved/</a>		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">https://www.youtube.com/watch?v=QGTkRP4v8tM</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/U995 (Modern Interstate Commerce Before NFIB)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/3wPz</a>			
1/30/2023	1	3	6 A	Commerce clause	Retrenchment sort of	<b>NFIB; Commerce Clause; Necessary and Proper Clause; Limitation on direct taxes</b>	panel	303-337		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">https://www.youtube.com/watch?v=QGTkRP4v8tM</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/y2bw (NFIB v. Sebelius)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/3wPz</a>			
1/30/2023	1	3	6 B	Problem 1: National Pork Producers Council v. Ross (similar to)			breakout with TA							<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/Ja5G</a>			
1/31/2023	2	3	7 A	Dormant Commerce Clause & Article	Dormant Commerce Doctrine + PI IV	<b>Blackbird; Cooley; Barnwell, Washington Appltes; Oneida-Herkimer</b>	panel	399-420	I will lecture on PH-IV		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/5T0G (Dormant Commerce Clause)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/Ja5G</a>			
1/31/2023	2	3	7 B	Preemption	Express and Implied; Field v. Conflict	<b>Many cases</b>	lecture and quizlet	<b>Federal Preemption: A Legal Primer</b>	You do not need to read the footnotes		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/EJrM (Preemption)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/wRoR; t.ly/8TJJ (contains some discussion of preemption)</a>			
2/2/2023	4	3	8 A	Taxing and Spending		<b>United States v. Butler; Dole; NFIB; Taxing Clause; finish NFIB</b>	panel	<b>Butler; 263-267; 337-343</b>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/P8pC (Spending and Conditional Spending)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/8TJJ</a>			
2/2/2023	4	3	8 B	Problem Report			problem report							<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/8TJJ</a>			
2/6/2023	1	4	9 A	10th Amendment	Commandeering	<b>New York v. United States; Printz v. United States; Murphy v. NCAA; 10th Amendment</b>	lecture on Murphy; panel	345-373			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/p9yz (Commandeering)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/qh3T</a>			
2/6/2023	1	4	9 B	11th Amendment		<b>Hans v. Louisiana; Seminole Tribe;</b>	lecture on Arden v. Maine; Franchise Tax Board v. Hyatt	374-385		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">https://www.youtube.com/watch?v=QGTkRP4v8tM</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/M4EI (The 11th Amendment and State Sovereign Immunity)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/qh3T</a>			
2/7/2023	2	4	10 A	Native Americans		<b>Johnson v. McIntosh; Cherokee Nation v. Georgia; Worcester v. Georgia; Haaland v. Brackeen (either argument or opinion)</b>	lecture on Johnson v. McIntosh, Cherokee Nation v. Georgia, Worcester v. Georgia; Adoptive Couple v. Baby Girl	<b>Cherokee Nation v. Georgia; Worcester v. Georgia; Adoptive Couple v. Baby Girl</b>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/10Cs (Indians and the Constitution)</a>	<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">I have made a movie on the Indian Trilogy. I will show it in class but you can get a sneak preview here: https://wolfr.am/TcxFchFE</a>		<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/XL8h</a>			
2/7/2023	2	4	10 B	Federal jurisdiction	Standing, ripeness, mootness	<b>Allen v. Wright; Clapper; Article III Section 2</b>	lecture on Lujan, Massachusetts v. EPA; panel	644-652; 655-663			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/WkQS (Standing)</a>			<a href="https://www.youtube.com/watch?v=QGTkRP4v8tM">t.ly/XL8h</a>			
2/9/2023	4	4	11 A	Federal jurisdiction	Standing	State standing; pickup standing	Lujan; Mass v. EPA; others										

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Date	DOV	Wee Sessi	Segm	Panel	Topic	Subtopic	Focus	Modality	Reading	Note	Optional	Slides from 2023 or 2022 class	Videos				
2/9/2023	4	4	11	B	Federal jurisdiction	Standing; mootness; independent and adequate state grounds	California v. Texas; Defunis; Friends of the Earth; NY State Rifle & Pistol; Standing in state court;		California v. Texas; https://www.scotusblog.com/2021/06/court-again-leaves-affordable-care-act-in-place/; 667-674	Lecture on independent and adequate state grounds; lecture on state standing and ASARCO clarification		t.ly/WkQS (Standing)		t.ly/wLcq			
2/13/2023	1	5	12	A	Federal jurisdiction	Political question	Baker v. Carr; Zivotofsky (II)	panel	611-620; 624-631	I will also lecture on Dorr rebellion and related cases; if we run behind it is not too bad because Rucho will not take a full segment	Nixon v. United States (718-724); https://www.youtube.com/watch?v=bGLRJ12uqmk	t.ly/TIX (Political Question Doctrine)		t.ly/wLcq			
2/13/2023	1	5	12	B	Federal jurisdiction	Political question	Rucho	panel	631-642		Play Hexapolis at t.ly/kOE; Look at the shortest splitline algorithm for fair districting: t.ly/8vIv	t.ly/etx1 (Rucho)		t.ly/ZaA0			
2/14/2023	2	5	13	A	Separation of Powers	War	Ex Parte Merryman; The Prize Cases; The War Powers Resolution	panel	429-451; watch t.ly/ybTk (up to 3:58); t.ly/vkHZ	If you just skimmed Federalist 70, I would not be offended; What the Hip dude describes as the "elastic clause" is what more formal presentations call the "necessary and proper" clause		t.ly/of3P (Presidential War Powers)		t.ly/ZaA0			
2/14/2023	2	5	13	B	Separation of Powers	Presidential Powers	Youngstown; Dames & Moore; The Constitution	panel	456-482	In Youngstown, pay special attention to the Jackson opinion. You could probably get away with just skimming the Vinson opinion.	If you are struggling with Article II and Separation of Powers, read this: t.ly/OyOr; I will lecture on Missouri v. Holland	t.ly/7aR1 (Presidential Emergency Powers)		t.ly/tgIj			
2/16/2023	4	5	14	A	Separation of Powers	Detention	Korematsu; Endo; Equal Protection Clause	panel	493-507	I will lecture on Ozawa, Thind, and Hirabayashi	Highly recommended: https://youtu.be/vYVla11ZtAE (Federal propaganda attempting to justify the internment)	t.ly/kFX7 (War and Personal Liberty)		t.ly/tgIj			
2/16/2023	4	5	14	B	Separation of Powers	Who can fire whom	Seila Law	panel	509-512; 529-530 (aftermath discussion); 531-556			Class Slides		t.ly/aGzg			
2/20/2023	1	6	15	A	Separation of Powers	Retentiveness and Immunity	Chadha; Clinton v. City of New York; United States v. Nixon; Clinton v. Jones	panel	Chadha; Clinton v. City of New York; 576-588	I will lecture on Chadha and Clinton v. NYC and I will try to shoehorn in a little review with Thompson v. Trump		t.ly/OXDj (Congressional Vetoes, Line Item Vetoes and Executive Immunity); t.ly/xqRs (Trump v. Thompson)		t.ly/aGzg			
2/20/2023	1	6	15	B	Separation of Powers	Non-delegation	Gundy v. United States	panel	Gundy v. United States	Read the dissent with particular care and consider its implications		t.ly/Jt4W (Gundy and Non-Delegation)		t.ly/15wk7			
2/21/2023	2	6	16	A	Problem 2: The Sigma Variant									t.ly/15wk7			
2/21/2023	2	6	16	B	Separation of Powers	Investigations and Further Immunity Issues	Trump v. Vance	panel	588-607	May discuss this, depending on whether Supreme Court takes the case: https://www.scotusblog.com/2021/12/trump-asks-justices-to-block-the-release-of-documents-related-to-jan-6-riot/		t.ly/whPs (Trump v. Vance and related)		t.ly/BBbK			
2/23/2023	4	6	17	A	Pre-civil war power to police the state Bill of Rights; Slavery		Barron v. City of Baltimore; Dred Scott; 5th Amendment; Article IV Section 2; Article IV Section 3; Article V	panel	144-147; 684-705	Most of the class will be spent on Barron and Dred Scott. Note: Many people consider Dred Scott to be the worst Supreme Court decision ever. It is crucial to understand it, but if you are extremely offended, please be aware that you are hardly alone.		t.ly/7lv (Barron v. City of Baltimore); t.ly/3NQQ (Dred Scott)		t.ly/BBbK			
2/23/2023	4	6	17	B	Problem 2: The Sigma Variant									t.ly/tXt9			
2/27/2023	1	7	18	A	Contracts Clause and Bills of Attainder		Apartment Association of Los Angeles County v. Los Angeles County; Article I Section 10; Huawei Technologies USA Inc. v. United States	panel	Apartment Association of Los Angeles County; Huawei Technologies USA v. United States			t.ly/jNAV		t.ly/xGz9			
2/27/2023	1	7	18	B	Post Civil War Amendments	The history of the 13th through 15th amendments	13th amendment; 14th amendment; 15th amendment	panel	717-727			t.ly/LYRK (we will focus only on Slides 1-12)		t.ly/hLgq			
2/28/2023	2	7	19	A	Post Civil War Amendments	Citizenship	Wong Kim Ark; Elk v. Wilkins; 14th amendment Section 1 Sentence 1	panel	Wong Kim Ark; Elk v. Wilkins	You should have already read Dred Scott. Just re-skim it for this class.		t.ly/OaHL (Citizenship)		t.ly/hLgq			
2/28/2023	2	7	19	B	Post Civil War Amendments	Privileges and Immunities Clause of the 14th amendment	The Slaughterhouse Cases; Cruikshank v. United States; Privileges and Immunities 14; Privileges and Immunities 5	panel	728-750; 754-761			t.ly/1P8c (PL-14)		t.ly/h6zs			
3/2/2023	4	7	20	A	State Action	The Civil Rights Cases	The Civil Rights Cases; 14th Amendment Section 1	panel	789-805			t.ly/q8WQ		t.ly/h6zs			

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Date	DOV	Wee Sessi	Segm Panel	Topic	Subtopic	Focus	Modality	Reading	Note	Optional	Slides from 2023 or 2022 class	Videos					
3/2/2023	4	7	20 B	State Action	Modern State Action Cases	Marsh v. Alabama; Shelley v. Kraemer; Burton v. Wilmington Parking Authority; Blum v. Yaretsky; DeShaney v. Winnebago; Brentwood Academy v. TSSAA; 14th Amendment Section 1	Lecture	Cornell LII Entry on State Action (t.ly/JbA2)		Buchanan v. Warley (924-929); Erwin Chemerinsky's 15 Minute Lecture (t.ly/nEAU)			t.ly/hAzd		t.ly/qzZU		
3/6/2023	1	8	21 A	State Action	Suing State Actors (a little bit of "Federal Courts")	Ex Parte Young; Whole Womens Health v. Jackson	panel	Ex Parte Young; Whole Woman's Health v. Jackson					t.ly/xsBL		t.ly/qzZU		
3/6/2023	1	8	21 B	Incorporation	Applying the Bill of Rights to the states	McDonald; Timbs; 2nd Amendment; 8th Amendment	panel	1563-1584	I will lecture on Timbs				t.ly/0yPz		t.ly/T7x6		
3/7/2023	2	8	22 A	Procedural Due Process	How much process; when is process due	Mathews. v. Eldridge; DHS v. Thuraissigiam; Due Process Clause of 5th Amendment; 14th Amendment Due Process	panel	Mathews v. Eldridge; Department of Homeland Security v. Thuraissigiam					t.ly/X2SI		t.ly/T7x6		
3/7/2023	2	8	22 B	Substantive Due Process Early Cases;	A world without substantive due process	Unenumerated rights; Burlington v. Chicago; Buck v. Bell; 14th Amendment Due Process	panel	833-840; Jacobson v. Massachusetts; 879-883		Watch the lecture of Prof. Paul Lombardo on Buck v. Bell: t.ly/nzfn			t.ly/vTXI		t.ly/PrTG		
3/9/2023	4	8	23 A	Substantive Due Process		Unenumerated rights; United Public Workers v. Mitchell; Saenz; 9th Amendment	panel and lecture on Saenz	57-60; 928-931					t.ly/vTXI		t.ly/PrTG		
3/9/2023	4	8	23 B	Substantive Due Process	The early cases	Pierce v. Society of the Sisters; Meyer v. Nebraska; Lochner; 14th Amendment Due Process	panel	840-854; 870-879					t.ly/vyWe		t.ly/jinN		
3/20/2023	1	9	24 A	Substantive Due Process	Scrutiny	Nebbia; West Coast Hotel; Carolene Products; Lee Optical; 14th Amendment Due Process; Equal Protection Clause	14th Amendment Due Process Clause; Equal Protection Clause	889-909; 921-923					t.ly/vyWe		t.ly/jinN		
3/20/2023	1	9	24 B	Substantive Due Process	Marriage	Loving v. Virginia; Tiers; 14th Amendment Due Process Clause; Equal Protection Clause	panel	971-976					t.ly/RDck		t.ly/jpOU		
3/21/2023	2	9	25 A	Substantive Due Process	Theories and the Key Case	Griswold v. Connecticut; 14th Amendment Due Process Clause;	panel	1079-1097					t.ly/zLbk		t.ly/jpOU		
3/21/2023	2	9	25 B	Substantive Due Process	Tradition	Reynolds v. United States; Glucksberg; 14th Amendment Due Process Clause	panel	1433-1440; 1116-1122					t.ly/LDJD		t.ly/CNDc		
3/23/2023	4	9	26 A	Substantive Due Process	Abortion	Dobbs v. Jackson Women's Health Organization	panel	t.ly/IMB4 (context of Dobbs case); t.ly/s7O8 (summary of amicus briefs in Dobbs)		If the Supreme Court decides the case before 3/28, I will assign the opinion or a summary of the opinion			t.ly/EWKW		t.ly/4g6		
3/23/2023	4	9	26 B	Equal Protection	Cases Before Brown	Plessy v. Ferguson; Yick Wo v. Hopkins	panel	Plessy v. Ferguson; Yick Wo v. Hopkins		I will lecture on Cummings, Gong Lum, and some Texas law			t.ly/uw3wi		t.ly/4g6		
3/27/2023	1	10	27 A	Family Separation											t.ly/D7J6		
3/27/2023	1	10	27 B	Equal Protection	From Plessy to Brown	Brown v. Board of Education; Bolling v. Sharpe; 14th Amendment Equal Protection Clause	panel	935-949					t.ly/y2f5		t.ly/D7J6		
3/28/2023	2	10	28 A	Equal Protection	Retrenchment	Cooper v. Aaron; Milliken v. Bradley	panel	952-955; Milliken v Bradley		Skim Milliken and get the general idea			t.ly/5GU4		t.ly/ztk		
3/28/2023	2	10	28 B	Equal Protection	The meaning of discrimination	Washington v. Davis; Proxy Discrimination; Measures of equality	lecture on Proxy Discrimination; panel	976-995		Optional reading: t.ly/Xuca (Proxy Variables and Discrimination)			t.ly/y8a3; t.ly/PzhJ		t.ly/ztk		
3/30/2023	4	10	29 A	Problem 3 Report											t.ly/QiuO		
3/30/2023	4	10	29 B	Equal Protection	Affirmative Action in education	Bakke; Grutter; Gratz;	panel	995-1013	We might not get to Gratz; if so it will be pushed				t.ly/sfal; t.ly/TSLX		t.ly/QiuO		
4/3/2023	1	11	30 A	Equal Protection	Affirmative Action outside education	Fisher II; Students For Fair Admission v. UNC (argument or opinion); Adarand	panel	1013-1031	I will lecture on Schuette				t.ly/sfal; t.ly/TSLX		t.ly/xs9G		
4/3/2023	1	11	30 B	Catchup	No new reading	No new reading	catchup								t.ly/xs9G		
4/4/2023	2	11	31 A	Equal Protection	Gender discrimination	Bradwell; Craig v. Boren; United States v. Virginia	panel	751-753 1044-1057	I will fill in Craig v. Boren	In Bush v. Gore focus this time on the Per Curiam and Breyer dissent			t.ly/30uU (The old short link was having issues. Maybe this one will work better???)		t.ly/Y3HZ		
4/4/2023	2	11	31 B	Equal Protection	Rational basis plus	Cleburne; Bush v. Gore; Equal Protection	panel	1058-1065; Bush v. Gore					t.ly/Z0bL (Cleburne); t.ly/UjptN (Bush v. Gore)		t.ly/Y3HZ		
4/6/2023	4	11	32 A	Regulation of Sexual Expression and Behavior	Rationale Contaminants	Romer; 303 Creative v. Elenis (argument or opinion); 14th Amendment Due Process Clause; Equal Protection Clause	panel	1066-1075; Masterpiece Cakeshop		The Supreme Court has granted cert in a case called 303 Creative v. Elenis. The question presented: "Whether applying a public-accommodation law to compel an artist to speak or stay silent violates the free speech clause of the First Amendment."			t.ly/Er5n		t.ly/jlNa (edited version)		
4/6/2023	4	11	32 B	Substantive Due Process/ Equal Prote	and maybe B	Homosexuality; the GL	panel	1178-1199	Lawrence v. Texas; Equal Protection Clause				t.ly/Er5n		t.ly/jlNa (edited version)		

Version 0.8 Last changed 10/7/2022				Pursuant to Law Center policy, this syllabus is subject to change		Cases to read are official cases in blue from great professor.com; cases in pink have open case reports; non-cases in green are new for 2022		Modality is described in the Course Organization Video, which is available here	Orange type material is at https://opencasebook.org/casebooks/4501-constitutional-law/	OPTIONAL Materials in light purple are on OneDrive (generally videos); Materials in orange are in https://opencasebook.org/casebooks/4501-constitutional-law/	Note: non-Zoom Videos are located in this directory: https://wolfr.am/5FalbTYS	Zoom Video for Corresponding Class in 2022	
Date	DOV	Wee Sessi	Segm Panel	Topic	Subtopic	Focus	Modality	Reading	Note	Optional	Slides from 2023 or 2022 class	Videos	
4/10/2023	1	12	33 A	First Amendment	Origins of Free Speech	Alien & Sedition Acts; Abrams	panel	1201-10; 1216-1224	I will lecture on Schenk and Debs; Gitlow was eliminated			<a href="#">t.ly/2Cex</a>	<a href="#">t.ly/GCo</a>
4/10/2023	1	12	33 B	First amendment (speech)	Fighting words; overbreadth; modern test	Stromberg, Chaplinsky, Brandenburg	panel	1224-1231		For language that I believe meets the Brandenburg standard, see this: <a href="#">t.ly/3kok</a>		<a href="#">t.ly/2Cex</a>	<a href="#">t.ly/GCo</a>
4/11/2023	2	12	34 A	First amendment (speech)	Speech vs Conduct (i.e. burning symbols)	O'Brien, Texas v. Johnson, R.A.V.	panel	1231-1246		If you have Casebook Connect, the included video on these cases is particularly good		<a href="#">t.ly/ZyFhS</a>	<a href="#">t.ly/4Co9</a>
4/11/2023	2	12	34 B	First amendment (speech)	Money and Speech	Citizens United	panel	1252-1271	I will lecture on Buckley v. Valeo & McConnell			<a href="#">t.ly/HqBs</a>	<a href="#">t.ly/4Co9</a>
4/13/2023	4	12	35 A	First amendment (religion)	Belief v. Conduct	Reynolds; Sherbert; <b>Smith</b>	panel	1433-1446				<a href="#">t.ly/EvsS</a>	<a href="#">t.ly/Htb9</a>
4/13/2023	4	12	35 B	First amendment (religion)	Retrenchment from Smith?	<b>Lukumi</b> ; Congressional Response; Fulton v. City of Philadelphia	panel	<a href="#">Fulton v. City of Philadelphia</a> ; 1479-1480	I will lecture on Lukumi			<a href="#">t.ly/EvsS</a>	<a href="#">t.ly/Htb9</a>
4/17/2023	1	13	36 A	First amendment (religion)	Funding	Montana v. Espinoza	panel	1458-1479	I will lecture on the playground case: Trinity Lutheran Church v. Comer and more!			<a href="#">t.ly/4T2Q</a>	<a href="#">t.ly/a40l</a>
4/17/2023	1	13	36 B	<b>Problem 4: Child Welfare Services 45.004</b>									<a href="#">t.ly/a40l</a>
4/18/2023	2	13	37 A	First amendment (religion)	Vaccination	Jacobson v. Massachusetts & TBA (maybe <a href="#">Doe v. Mills</a> )							
4/18/2023	2	13	37 B	First amendment (establishment)	Roberts Court	Van Orden, Town of Greece; American Humanist Association; <a href="#">Carson v. Makin</a>	panel	1517-1539	I will lecture on Lemon and Van Orden			<a href="#">t.ly/k7lqd</a>	<a href="#">t.ly/oBrJ</a>
4/20/2023	4	13	38 A	<b>Problem 4: Child Welfare Services 45.004</b>									none
4/20/2023	4	13	38 B	Second amendment	Federal regulation of bearing arms;	<b>Heller</b> ; <b>2nd Amendment</b>	panel	1541-1563				<a href="#">t.ly/1UIP</a>	<a href="#">t.ly/_bE</a>
4/24/2023	1	14	39 A	Second amendment	Current debate	Bruen v. New York State Rifle & Pistol	panel	1607-1623				<a href="#">t.ly/NYeg</a>	<a href="#">t.ly/_bE</a>
4/24/2023	1	14	39 B	<b>Problem 4 Report</b>									<a href="#">t.ly/Deil</a>
4/25/2023	2	14	40 A	Enforcement Clauses	14th amendment	Katzenbach; <b>City of Boerne</b> ; <b>14th Amendment Section 5</b>	panel	385-393	I will lecture on Katzenbach v. Morgan			<a href="#">t.ly/jr6o</a>	<a href="#">t.ly/Deil</a>
4/25/2023	2	14	40 B	Enforcement Clauses	Interplay of 11th and 14th amendments	Allen v. Cooper; 11th Amendment; 14th Amendment Section 5; Morrison; Gibbs; Garrett; Lane	panel	393-398; <a href="#">United States v. Morrison</a> [use the opencasebook version and unelide section III from the majority opinion and the last edited passage from the Breyer dissent]				<a href="#">t.ly/Rn7u</a>	<a href="#">t.ly/n_7f</a>
4/27/2023	4	14	41 A	Voting	Independent State Legislature doctrine								
4/27/2023	4	14	41 B	Voting	Voting Rights Act	Shelby County v. Holder; Merrill v. Milligan							

Materials You Really Need to Have	Notes		
Randy Barnett & Josh Blackman, Constitutional Law: Cases in Context (4th ed. 2021)	I will not compel use of the "Connected Casebook," however, the videos in the Connected Casebook are often very good (if sometimes opinionated in a way with which I do not agree); I recommend finding a way to view them. Can you save money by using a used Third Edition of the casebook? Yes, but the page numbers in the syllabus will match up and I may make reference in class to "look at the top of page 742." That won't be very helpful if you have the older edition. There are also a few cases (though not too many) in the Fourth edition that aren't in the Third. And your used Third edition won't have much resale value next year, I suspect, whereas your used Fourth edition probably will. My suggestion would be to bite the bullet and buy the Fourth edition and then sell it if you need to at the end of the course.		
Materials You Could Read or Watch Before Constitutional Law Class Begins			
May & Ides: Constitutional Law: Examples and Explanations	There are two books, one for structure, one for rights		
Blackman & Barnett: 100 Supreme Court Cases Everyone Should Know	Several of my tutors strongly recommend this; there are videos that go with it		
Chemerinsky: Constitutional Law: Principles and Policies	Probably the best single volume treatise on constitutional law; I use it when I am confused (which definitely happens)		
Emmanuel Course Outlines for Constitutional Law	Some tutors found this commercial outline helpful and a 4.7 rating on Amazon		
scotusblog	Probably the best contemporary blog on the Supreme Court (not all constitutional law)		
<a href="https://reason.com/volokh/">https://reason.com/volokh/</a>	A conservative/libertarian blog on constitutional law and related issues		
What Trump Can Teach Us About Constitutional Law Podcast	Not sure what will happen in a post-Trump world, but probably still some lessons; left orientation, but not far left		
We The People podcast	Straight down the middle from the National Constitution Center		
American Constitution Society Blog			
For Oral Learners			
The Declaration of Independence	<a href="https://ia800908.us.archive.org/19/items/united_states_documents/Declaration_64kb.mp3">https://ia800908.us.archive.org/19/items/united_states_documents/Declaration_64kb.mp3</a>		
The Constitution of the United States	<a href="https://ia800908.us.archive.org/19/items/united_states_documents/Constitution_64kb.mp3">https://ia800908.us.archive.org/19/items/united_states_documents/Constitution_64kb.mp3</a>		
Marbury v. Madison	<a href="https://ia802805.us.archive.org/3/items/jeffersonians_2001_librivox/jeffersonians_03_morris_128kb.mp3">https://ia802805.us.archive.org/3/items/jeffersonians_2001_librivox/jeffersonians_03_morris_128kb.mp3</a>		
Old Exams			
Here is the link to a directory containing some old exams of mine	<a href="https://uofh-my.sharepoint.com/:f/g/personal/schandle_cougarnet_uh_edu/EvMMf2DnUFVAoVep30J4hssBmiWxlciW6gRFui0PKzSrlQ?e=dFEbDm">https://uofh-my.sharepoint.com/:f/g/personal/schandle_cougarnet_uh_edu/EvMMf2DnUFVAoVep30J4hssBmiWxlciW6gRFui0PKzSrlQ?e=dFEbDm</a>		





## Learning Objectives

1. Understand the historical development of the Constitution, including the movement from the Articles of Confederation, the originally narrow interpretation of federal power, the changes created by the Civil War, the expansion of federal power during the New Deal era and the modern Constitution, including the evolution of due process and equal protection.
2. Have a good enough understanding of Constitutional Doctrine to be able to perform well on the multistate bar exam.
3. Appreciate and understand the limitations of different theories of interpreting the Constitution, textualism vs. non-textualism; static vs. dynamic; pragmatic vs. formalist; ability to recognize these forms of interpretation
4. Recognize that the scope of Constitutional Law exceeds the scope of materials covered in this class
5. Appreciate the difficulties of reconciling contemporary values (for some) against a document that is truly from a different era while still recognizing the genius of the original document and its various amendments
6. Be able to read the news and intelligently consider the constitutionality of various actions, the ways in which they might be challenged, the arguments that might be advanced, and the likely resolution. Examples: Biden's ability to restore DACA; the circumstances, if any, under which a sitting President may be indicted by a state entity or the Department of Justice; the constitutional rights of athletes to refuse to engage in patriotic rituals; what, if anything, would change if the Equal Rights Amendment were to be ratified; what steps may the states and federal government take to reduce spread of COVID-19; may the state of Texas require that four members of its board be racial minorities or women; and many more!

Have fun



## Policy

Students should live attend at least 80% of class sessions

Each day I will give out the attendance password. You will be given a link to input the password

I will ping students who at any given point in during the semester are live viewing less than 75% of class sessions. This will not be punitive but to figure out what is going on and see what can be done to help

An attendance system will be used; I will provide a daily password at some point during the class

I will use a panel system; expect to be on panel about 5 times per year; panelists must be prepared and present; panel trades are permitted but discouraged

Students on panel must be on video absent exigent circumstances and should be prepared to swiftly unmute

I generally will not cold call students

Powerpoints may sometimes be missing certain things that I fill in during class

Students should feel free to properly wear a mask when in a room with others during Constitutional Law class.

## Zoom etiquette

Students may but need not take their mask off when on panel and responding to questions

Students should use headphones or other listening devices rather than their speaker when using Zoom in a setting in which others are within hearing distance

Students should mute except when called on

Students should have their video on while in class

## Office Hours

I will have in person office hours on Monday from 2:30 [p.m.to](#) 4 p.m and virtual office hours on Thursday from 4:30 p.m. to 6 p.m. Use the class Zoom URL. If these times create a difficulty, send me an email suggesting three 30 minute blocks when you have availability and I will see what I can do.

Feature	Points	Comments	
Option to increase grade for extraordinary contributions to class	can increase grade	measured by depth, quality responses when called on; listening and actually responding in a respectful way to other students; in class volunteering; contribution of contemporary relevant materials	
Option to decrease grade for extraordinarily bad preparation	can decrease grade	showing no preparation when on panel is not good; if you can not be on panel a particular day, you must notify me in advance of the reason and suggest an alternative day when you can be on panel.	
Problem Response		16 All students will have their work graded each time.	The problem response will consist of no more than 700 words analyzing the problem presented. I will provide a grade and feedback within 120 hours of the submission deadline. Grades on this component will not be curved so that everyone can do wonderfully or poorly. The overall course grade will of course be curved.
Midterm		24 March 9, 2023: 12 multiple choice questions; take it during a midnight to midnight window from which you will select a one-hour period. Midterm will cover materials from Segment 1A through Segment 22B. Open book, open note	
Final		60 Format and Date TBA	

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 ([www.uh.edu/caps](http://www.uh.edu/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. [http://www.uh.edu/caps/outreach/lets\\_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html)

See <https://uh.edu/caps/crisis-intervention/what-to-do/>

The University of Houston is committed to student success, and provides information to optimize the online learning experience through our Power-On website. Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, and Blackboard; requesting a laptop through the Laptop Loaner Program; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact [UHOnline@uh.edu](mailto:UHOnline@uh.edu).

This course is being technically offered in Hybrid format. I will teach some classes in person and others via Zoom. The current plan is for most Monday and Tuesday classes to be in person and for about 1/3 of Thursday classes sessions to be taught in person and the remainder taught in a synchronous remote mode. There may also be occasions on which a Monday or Tuesday class will be taught remotely. I will give you further notice on the allocation of classes between in person and remote as soon as I am able. I would ask for some flexibility and understanding from the class; the remote format is due to significant family health issues and a potential need for me to travel to the East Coast.

Topic	Podcast Episode	Relevant Cases	Editorial Notes
<b>Foundational Principles</b>	<a href="#">More Perfect podcast (36:44) "Kittens Kick the Giggly Blue Robot All Summer"</a>	<i>Marbury v. Madison</i> / The power of Judicial Review	
<b>Commerce Clause</b>	<a href="#">More Perfect podcast (34:21) "One Nation, Under Money"</a> <a href="#">What Roman Murawski Can Learn About Con Law (18:14) - "The Commerce Clause"</a>	-1824 <i>Gibbons v. Ogden</i> -1942 <i>Wickard v. Filburn</i> -1964 <i>Kennedy v. Louisiana</i> -2000 <i>United States v. Morrison</i> -2012 <i>National Federation of Independent Business v. Sebelius</i> -1942 <i>Wickard v. Filburn</i> -2005 <i>Gonzales v. Raich</i>	Discussion for 2/4 Podcast Club Meeting Discussion for 2/4 Podcast Club Meeting
<b>Native Americans</b>	<a href="#">More Perfect Podcast (45:08) Adoptive Couple v. Baby Girl</a> <a href="#">RadioLab (42:54) Adoptive Couple v. Baby Girl</a>	<i>Adoptive Couple v. Baby Girl</i>	I would pick one. No need to listen to both!
<b>Standing</b>	<a href="#">Law School Toolbox (18:00) The Basics of Justiciability (Con Law)</a>	No Case Discussion	Nothing revolutionary here, but if you are an audible learner, this might be a helpful summary of the basics.
<b>Political Question</b>	<a href="#">More Perfect Podcast (47:10) The Political Ticker</a> <a href="#">The 1157 Project (17:30) Why Partisan Gerrymandering is Constitutional</a>	<i>Baker v. Carr</i> <i>Recho</i>	
<b>Separation of Powers: Presidential Power</b>	<a href="#">National Security Law Podcast (1:13:00) A Deep Dive into the Steel Seizure Case</a>	<i>Youngstown Sheet &amp; Tube v. Sawyer</i>	Discussion for 2/18 Podcast Club Meeting
<b>Separation of Powers: Detention</b>	<a href="#">More Perfect Podcast (48:50) American Pendulum I</a>	<i>Korematsu v. United States</i>	Discussion for 2/18 Podcast Club Meeting
<b>Procedural Due Process/Immigration</b>	<a href="#">SCOTUScast Department of Homeland Security v. Thuraissigaly (72:00)</a>	<i>Fed Soc/Right viewpoint</i>	Useful refresher on DHS v. Thuraissigaly. May be helpful in reviewing for Problem #2.
<b>Procedural Due Process/Immigration</b>	<a href="#">At Liberty: SCOTUS Decision Undermines the Rights of Asylum Seekers (19:54)</a>	<i>ACLU/Left viewpoint</i>	Useful refresher on DHS v. Thuraissigaly. May be helpful in reviewing for Problem #2.
<b>Unenumerated Rights/SDP</b>	<a href="#">What Roman Murawski Can Learn About Con Law (42:00) A Jurisprudence of Doubt (feel free to skip the first 6-7 minutes)</a>	<ul style="list-style-type: none"> <li>o Texas SBB</li> <li>o <i>Dobbs</i></li> <li>o <i>Loewig</i></li> <li>o <i>Roe</i></li> <li>o <i>Casey</i></li> <li>o <i>Plessy</i></li> <li>o <i>Brown</i></li> </ul>	Discussion for 4/1 Podcast Club Meeting. Please just listen to this one OR the Daily.
<b>Unenumerated Rights/SDP</b>	<a href="#">The Daily (25:17) - The Legal Vulnerability of Roe</a>	<i>Grainwell, Roe, and Casey</i>	Discussion for 4/1 Podcast Club Meeting. Please just listen to this one OR the Daily.
<b>Equal Protection</b>	<a href="#">Throughline (36:00) <i>Milkien v. Bradley</i></a>	<i>Milkien v. Bradley</i> ; <i>Brown v. BOE</i>	Discussion for 4/1 Podcast Club Meeting.
<b>First Amendment (Speech)</b>	<a href="#">Make No Law: Fighting Faiths (27:41)</a>	<i>Schenck v. United States</i> ; <i>United States v. Abrams</i>	Discussion for 4/22 Podcast Club Meeting
<b>First Amendment (Religion)</b>	<a href="#">We The People: Death Row, Religious Freedom, Legislative Consent, and Free Speech</a>	<i>Employment Division v. Smith</i>	Discussion for 4/22 Podcast Club Meeting