Constitutional Law

Spring Term 2012

Law 220.6 sec. 2

Prof. Bertrall Ross

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Syllabus

**Class Meeting:** Monday, Tuesday, and Wednesday from 2:15-3:25 in TBD

**Required Text:**

Erwin Chemerinsky, Constitutional Law

**Supplemental Texts:**

You may find helpful as supplements one or more of the following:

1. Erwin Chemerinsky, Constitutional Law: Principles and Policies (2006)
2. Laurence Tribe, American Constitutional Law (1999) (very detailed and does not cover Equal Protection or Substantive Due Process)
3. Christopher N. May and Allan Ides, Examples & Explanations: Constitutional Law: National Power & Federalism (5th ed. 2009)
4. Christopher N. May and Allan Ides, Examples & Explanations: Constitutional Law: Individual Rights (5th ed. 2009)

**Classroom Expectations:**

Be prepared and participate

**Other Classroom Rules:**

**TBD**

**Course Objectives:**

1. To familiarize you with the fundamental premises and design of the constitutional system and government of the United States.
2. To expose you to the guiding principles and applicable doctrines of select subfields of constitutional law.
3. To cultivate your ability to identify latent constitutional issues.
4. To equip you with the intellectual tools necessary to properly conceptualize and analyze constitutional issues.
5. To foster an informed perspective on the nature and limits of constitutional judicial decision-making.

**Exam Objectives:**

Students who will perform well on the exam will be able to:

1. Identify issues
2. Apply doctrine or rules to the issue
3. Make an argument that is not conclusory (every argument should include a “because” or something similar)
4. Identify and consider counter-argument(s)
5. Explain why argument is still valid in light of the counter-argument(s)

**Grading:**

Grades will be based on a combination of participation (40%) and a take-home open book exam (60%). The participation grade will be based on three short response papers (2-3 pages) and in-class participation..

**Assignments:**

All assignments are subject to change.

**Part I: Introduction to the Constitution of the United States**

Intro Class: TBD

1. Judicial Review
2. Judicial Interpretive Methods
3. Standing
4. The Political Question Doctrine

**Part II: Separation of Powers**

1. Inherent Presidential Power
2. Executive Power and Foreign Affairs
3. Presidential Power and the War on Terrorism
4. Congressional Control over the Executive Branch
5. Congressional Control over Executive Officers: The Appointment and Removal Power

**Part III: Federalism**

1. The Framework of National Power
2. Commerce Power I
3. Commerce Power II
4. The Tenth Amendment as a Constraint on Congress’s Commerce Power
5. Taxing and Spending Power
6. Congress’s Power Under the Post-Civil War Amendments
7. Congress’s Power to Authorize Suits against State Governments
8. Preemption Doctrine
9. The Dormant Commerce Clause
10. The Privileges and Immunities Clause of Article IV, § 2

**Part IV: The Structure of the Constitution’s Protection of Civil Rights and Civil Liberties**

1. The Incorporation Doctrine
2. The State Action Doctrine I
3. The State Action Doctrine II

**Part V: Equal Protection**

1. The Constitutional Framework for Equal Protection Analysis; The Rational Basis Test
2. Classifications Based on Race and National Origin; Express Classifications
3. Classifications Based on Race and National Origin: Facially Neutral Laws
4. The School Segregation Cases
5. Racial Classifications Benefiting Minorities
6. Gender Classifications
7. Alienage Classification
8. Other Classifications (Non-Marital Children, Age, Disability, Wealth, and Sexual Orientation)

**Part VI: Fundamental Rights and Due Process**

1. Substantive Due Process Revived: Constitutional Protection for Family Autonomy
2. Constitutional Protection for Reproductive Autonomy I
3. Constitutional Protection for Reproductive Autonomy II
4. Constitutional Protection for Sexual Orientation and Sexual Activity
5. The Right to Vote
6. Dilution of the Right to Vote
7. Access to Courts
8. The Right to Education
9. Procedural Due Process I
10. Procedural Due Process II
11. Flex/Review Class