

POLS 3210-0: AMERICAN CONSTITUTIONAL LAW

CRN 45640, 3 credit hours

Fall 2014

TR 1:40-2:55 Hunter 303

Office:

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Office Hours:

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DR. MICHELLE D. DEARDORFF

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MTR 9:00-11:00 (and by appointment, I am in my office most days)

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<http://www.utc.edu/political-science-public-administration-nonprofit-management/profiles/nfw641.php>

REQUIRED TEXTS

Schultz, David, John R. Vile, Michelle D. Deardorff. 2011. *Constitutional Law in Contemporary America, Volume I: Institutions, Politics, and Process*. Oxford University Press. ISBN: 978-0-19-539009-4.

Additional Required Readings Provided on UTClearn

Boehner, Speaker John. Memo to his House Colleagues Regarding "[T]hat the Laws Be Faithfully Executed..." June 25, 2014.

Brennan, Jr., William J. "The Constitution of the United States," reprinted from *The Great Debate*, Federalist Society, 1986.

Mayer, Kenneth R. "Executive Orders," *The Constitutional Presidency*, Joseph M. Bessette and Jeffrey K. Tulis, eds. The Johns Hopkins University Press, 2009: 149-172.

McConnell, Michael W. "The Story of *Marbury v. Madison*: Making Defeat Look Like Victory," *Constitutional Law Stories*, Michael C. Dorf, ed. Foundation Press, 2004: 1-31.

Meese, III, Edwin. "Toward a Jurisprudence of Original Intention" *Public Administration Review*, 1985.

Pious, Richard M. "Military Tribunals, Prerogative Power, and the War on Terror," *The Constitutional Presidency*, Joseph M. Bessette and Jeffrey K. Tulis, eds. The Johns Hopkins University Press, 2009: 123-148.

Savage, Charlie. "Bush Challenges Hundreds of Laws: President Cites Powers of His Office," *Boston Globe*, April 30, 2006.

Zeder, Jeri. "Razing the Question: Private Rights v. Public Good—has eminent domain gone too far?" *Northeastern Law Magazine*. Summer 2007: 10-13.

CATALOG DESCRIPTION

This is the second part of a two-semester course, which examines the limitations placed upon the federal and state government.

GOALS AND OBJECTIVES OF COURSE

How much power does the presidency have since September 11? What does this mean for President Barack Obama? Does Congress have any say regarding our involvement in Afghanistan, or potentially Iran? Can the President declare a U.S. citizen an "enemy combatant" and then deny access to a lawyer and other basic Constitutional guarantees? Can the Supreme Court tell states whether or not they can legalize marijuana for medical use or whether they can allow citizens the "right to die"? Can Congress and the Executive branch require individuals to purchase insurance and mandates states to enforce these expectations? This course looks not only at what the Constitution says about these conflicts, but examines the Court's decisions, current and past, that affect

our current political climate. Students will evaluate and assess a current political issue through the lens of constitutional interpretation.

This course will introduce you to the important role that the United States Constitution plays in American politics and governance. With this end in mind, we will explore the Constitution and the role of the judiciary in constitutional interpretation, examples of the influence it has had on the functioning of government, and that case law has had on constitutional principles. It has as objectives the development of your analytic and reasoning skills, the strengthening of your reading comprehension, the expansion of your vocabulary, improving your verbal expression, and the heightening of personal expectations and self-discipline.

PROFESSOR AVAILABILITY

My office hours are posted. I encourage you to use them to come in and ask questions, discuss ideas, or just talk. I am also available via email, which I generally check daily. If you don't receive a response from me within 24 hours I may not have received it, please contact me again; I *always* respond to emails. The times I am not in my office at UTC, I may be reached at my home library via cell or email, where I do the majority of my writing and grading.

USE OF BLACKBOARD

This course has a blackboard equivalent that will be used to post announcements regarding the course, provide your grades for the course, contain the additional readings outside the assigned textbooks used in class, and be the repository of course documents like the syllabus and semester project assignment.

GRADING AND ASSIGNMENTS

There will be two exams in this course, including a final exam. The final is not cumulative, but you will be expected to use and understand material covered earlier in the semester and anything on the previous test will be fair game. In addition there will be one project, and your case briefs will be collected and checked for completeness on a fairly regular basis. Because it is so important that you read and understand the Mahler book, you need to be prepared to answer the reading questions provided in class. Listed in this syllabus are reading and briefing assignments for the course; assignments should be completed *by class time on the date indicated*. Additional cases may be given to you to read and not all of the cases in the syllabus may be covered; the schedule is subject to change. The project may be turned in any time prior to its due dates; however, no excuses are accepted for lateness, so plan accordingly. Every day the paper is late will be 5% off of the final grade. Attendance and class participation will be considered in determining borderline grades, as will chronic tardiness.

GRADING SCALE

A	93 – 100%	B+	87 – 89%	C+	77 – 79%	D+	67 – 79%	F	0 – 59%
A-	90 – 92%	B	83 – 86%	C	73 – 76%	D	63 – 66%		
		B-	80 – 82%	C-	70 – 72%	D-	60 – 62%		

This grading scale is designed to help you interpret your assignment grades in order to improve your work. The final grade in the course will be reported on the university scale of "A," "B," "C," "D," and "F."

GRADING DISTRIBUTION

Briefs	20%	Semester Project	
Midterm Exam	15%	• First Version	15%
Final Exam	20%	• Second Version	20%
Participation/Engagement	10%		

STUDY GROUPS

In the study of law, one of the best ways to understand the cases and to fit them into coherent interpretative frameworks is to spend time discussing the material in small groups (composed of three or four students) with your colleagues. I encourage you to form these groups early and meet often—of course, I am happy to meet with both

individuals and groups for assistance and discussion.

ACADEMIC EXPECTATIONS

In an academic community, the worst offense that can be committed is to cheat or plagiarize; neither will be accepted or condoned within this classroom. All material that is submitted must be your work or appropriately cited, if you have questions regarding citation procedure or when documentation is necessary — see me. Academic dishonesty, in any form, will be taken seriously. Such work will automatically receive a zero and UTC policies will be followed. A second concern in the academic community is the freedom to learn and discover inside and outside the classroom. Because this freedom should be equally available to all, harassment of any kind will not be tolerated.

SEMESTER PROJECT

There is a written paper assigned in this class; the project will require you to address the constitutionality of policy choices made by President Barack Obama over the last year. Details of the assignment will be provided in the near future. Whatever additional resources you use to develop your analysis should be carefully cited in your final project. There are several general parameters to this paper that are worth mentioning. I expect the paper to be typed and proofread. Any hand-written or non-edited paper will be returned to be rewritten, and the final grade will be dropped by two letters. *There are two versions of this paper assigned.* The first version must be a completed project; I will then provide you extensive feedback and you will rewrite it for the second version. The second version must improve on the first. The project must be typed, one inch margins and no larger than 12 font. This double-spaced paper should be between 10-12 pages long. I expect you to use headings and subheadings to structure your paper and to communicate your argument and organization for your reader.

PREPARATION, PARTICIPATION & ATTENDANCE

Students will be evaluated by the professor for the quality of their preparation of class and their willingness to participate in the discussion. This is a seminar and not a lecture course, so student **MUST** attend weekly and prepare diligently. The following matrix will be used for evaluation. While attendance is not part of the grade, participation is a part of your final grade. Regular attendance and engagement is necessary for success. On the rare occasion you miss a class, you may submit comments and analysis in writing to improve participation grade. Participation grades will be given for each class period and posted on the blackboard account.

5	Comments connect different ideas and arguments. Work by the same author is compared to each other and then to other authors. Opinions and thoughts are supported by evidence or specific examples. This is the most valuable form of participation. Primary and secondary texts are integrated in the analysis. Connections are made to other classes and integration with other disciplines or subfields of political science.
4	Comments demonstrate a reading of the material and the student can carefully describe the materials read. Beginning interpretations are provided that demonstrate an awareness of how the material connects to other authors and other works. Connections are made to personal opinions and evaluations.
3	Comments are relevant to the discussion and build off of previous points of participants. Opinions are not given support and evidence is not provided. Description of text statements and questions regarding content indicate the student has read the material prior to class. This is a good start for participation, but the professor will push you to further develop your ideas. Connections are made to personal experiences.
2	Comments are not relevant to the discussion or to the material at hand. This is a person talking to hear their own voice and to claim they have participated. Questions and comments demonstrate student has not carefully read the material prior to class. This form of participation has no role in an undergraduate classroom. It also indicates a student who has not been prepared for class.
1	Comments are so superficial or irrelevant as to be a distraction to the class and to the discussion. The line between a "2" and a "1" is a fine one. No participation, no engagement in the discussion. You might as well just stayed home.

METHOD OF COURSE EVALUATION

This course will be evaluated through the use of mid-term evaluations, which will be reported to and discussed by the class, end-term evaluations, and the use of the university's student evaluation system after the term ends.

COUNSELING CENTER STATEMENT

If you find that personal problems, career indecision, study and time management difficulties, etc. are adversely impacting your successful progress at UTC, please contact the Counseling and Career Planning Center at 425-4438 or <http://www.utc.edu/Administration/CounselingAndCareerPlanning/>.

ACCOMODATION STATEMENT

If you are a student with a disability (e.g. physical, learning, psychiatric, vision, hearing, etc.) and think that you might need special assistance or a special accommodation in this class or any other class, call the Disability Resource Center (DRC) at 425-4006 or come by the office, 102 Frist Hall
<http://www.utc.edu/Administration/DisabilityResourceCenter/>.

CELLPHONE POLICY

Students should turn all cellphones off or place them on "silent" upon entering the classroom. You should not leave class to take a phone call; this is disruptive. If you expect a possible emergency call during a particular class, inform your professor before class begins. Do not text in class; these activities disrupt your learning and the learning community of which you are a member. Disruptive students may be asked to leave the class or may have their final grade affected by such behavior.

American Constitutional Law COURSE SCHEDULE Fall 2014

The Law in American Politics: Examination of Role of the Judiciary in the American Political System

T Aug 19 **Introduction to the Course**

Briefing a case
The role of the judiciary
Constitution 3.0
Video: Judicial Interpretation: Scalia and Breyer

R Aug 21 **The Role of the Judiciary**

Readings: Selections from the Judiciary Act of 1789 (Schultz, Vile, Deardorff 19-20)
Hamilton, "Federalist Paper No. 78" (Schultz, Vile, Deardorff 20-)
Brennan, "The Constitution of the United States" (UTC Learn)
Meese, "Toward a Jurisprudence of Original Intention" (UTC Learn)
Schultz, Vile, Deardorff, 3-12

Changes in Constitutional Interpretation of the Enumerated Powers

- The Judiciary Branch—The Power of Judicial Review**
The Constitutionality of Judicial Review
 R Aug 26 Readings: Article III
 Schultz, Vile, Deardorff 12-18
 Briefing: *Marbury v. Madison* (1803)
 Video: *Marbury v. Madison; The Supreme Court* excerpts
- R Aug 28 No Class—Dr. Deardorff participating in the American Political Science Association Annual Meeting, Washington, D.C.
 Readings: McConnell 1-31 (UTC Learn)
 Eakin v. Raub (1825)
- T Sept 2 ***The Power of the Judiciary***
 Briefing: *Bush v. Gore* (2000)
 Video: Jan Greenburg on the Implications of *Bush v. Gore*
- R Sept 4 **The Executive Branch—Domestic Powers**
The Constitutional Powers of the Presidency
 Reading: Article II
Executive Privilege
 Readings: Schultz, Vile, Deardorff 290-291
 Briefing: *United States v. Nixon* (1974)
 Clinton v. Jones (1997)
- T Sept 9 Readings: Schultz, Vile, Deardorff 305-306
 Briefing: *In Re Grand Jury Subpoena Tecum Duces* (1997)
 Clinton v. City of New York (1998)
- R Sept 11 ***Executive Orders and Signing Statements***
 Readings: Mayer 149-172 (UTC Learn)
 Savage Signing Statements 2006 (UTC Learn)
 Boehner Memo to House Members Lawsuit Obama 2014 (UTC Learn)
- T Sept 16 ***Appointment Powers***
 Briefing: *NLRB v. Noel Canning* (2014) (UTC Learn)
- R Sept 18 **The Legislative Branch—Commerce, Taxing, and Spending**
The Constitutional Powers of the Legislature
 Readings: Article I
 Schultz, Vile, Deardorff 175-185
 Briefing: *Wickard v. Filburn* (1941)
 Heart of Atlanta Motel v. United States / Katzenbach v. McClung (1964)
- T Sept 23 Briefing: *Seminole Tribe of Florida v. Florida* (1996)
- R Sept 25 Midterm Examination
- T Sept 30 **Discussion of Constitutionality and the Obama Administration**
 Discussion of Class Project
 Reading and Assignment: Students will bring copies of newspaper stories that demonstrate the interaction between the Constitution and the Obama Administration

T Nov 25

Readings: Schultz, Vile, Deardorff 399-402
Briefing: *Hawaii Housing Authority v. Midkiff* (1984)
Kelo v. City of New London, Connecticut (2005)
Video: *Kelo v. City of New London, Connecticut*
Briefing: *Lucas v. South Carolina Coastal Council* (1992)
Readings: Schultz, Vile, Deardorff 426-428
Zeder, "Razing the Question" (handout)
Video: *Lucas v. South Carolina Coastal Council* (1992)

FINAL EXAM DUE IN FLETCHER 317 ON THURSDAY, DECEMBER 1:00 P.M.