Professor Patricia A. Broussard  
FAMU College of Law  
Constitutional Law II  
Fall **** 2015

Course Number: 5502  
Section: 302  
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Office Hours:  M 12-3; W 12-3  
Also, By Appointment

Constitution Law II is a three-credit course which involves the study of Economic Liberties, Equal Protection, and Fundamental Rights under Due Process and Equal Protection. This course builds upon Constitutional Law I and demonstrates the actualization of the principles espoused therein. In addition the goals of the course are to broaden students’ knowledge of the subject matter and to enhance analytical and reasoning skills. The final grade is based upon the final exam. Daily class participation is required. A series of quizzes, for credit, may be given during the semester.

Failure to be prepared twice will result in a half point lowering of your grade; e.g. if you are unprepared four times, your grade will be reduced be an entire point, and so on. This course is tested on Bar Examinations and the standards utilized for that exam will be utilized in this class. There are 120 cases to be read in Con Law II.

By the end of this course students should:
1. Be able to read and brief a US Supreme Court Case.
2. Be able to analyze a Supreme Court case using context rules, history, public policy, and politics.
3. Be conversant, generally, with the US Constitution.
4. Demonstrate knowledge of Equal Protection.
5. Demonstrate knowledge of Due Process.
6. Demonstrate an understanding of the 14th Amendment of the US Constitution.
7. Be able to demonstrate the skills enumerated in the “course description.”
8. Be able to apply rules and concepts to new scenarios.
9. Demonstrate the ability to work in a group.

Florida Bar Examination Specifications Which Will Be Covered:
1. State Action
2. Due Process
3. Equal Protection

**Students will demonstrate these skills through quizzes, exams, classroom participation and in-class exercises. **

The following rules govern this class:
1. Laptops are not permitted in class.
2. Lateness over 10 minutes will be counted as an absence.
3. You must be respectful and professional at all times.

Texts:

*** Note: There is a new edition to this text. You do not have to purchase the new edition, but you are responsible for the information therein.
ASSIGNMENTS:
Please read the hornbook before you read the casebook.

Week One
Read the 14th Amendment
Constitutional Law: Principles and Policies pp. 605-620
Chapter Six: Economic Liberties
pp. 601-622
Introduction
Economic Substantive Due Process of the Lochner Era:
- Allgeyer v. Louisiana
- Lochner v. New York
Laws protecting unionizing
Maximum hour laws
- Muller v. Cohen
- Adkins v. Children's Hospital
Consumer protection laws
- Weaver v. Palmer Bros.
- Nebbia v. New York

Week Two
Constitutional Law: Principles and Policies pp. 621 -638
Chapter Six
pp. 623 - 663
Economic Substantive Due Process since 1937:
Pressure for change
- West Coast Hotel v. Parrish
- United States v. Carolene Products
- Williamson v. Lee Optical
- BMW v. Gore
- State Farm v. Campbell
- Phillip Morris USA v. Williams
The Contracts Clause
The Modern Use of the Contracts Clause:
- Home Building v. Blaisdell
Government interference with a private contract
Government interference with a government contract
- United States Trust v. New Jersey

Week Three
Chapter Six
pp. 663 – 716
Read the Takings Clause – Fifth Amendment
Possessory Takings
Is there a Taking?
- Loretto v. Teleprompter Manhattan CATV
Regulatory Takings
• Pennsylvania Coal v. Mahon
• Miller v. Schoene
• Penn Central Transport. V. New York City
• Lucas v. South Carolina Coastal Council
• Dolan v. City of Tigard
• Palazzolo v. Rhode Island
• Tahoe-Sierra v. Tahoe Regional Planning Agency

Is it for Public Use?
• Hawaii Housing Authority v. Midkiff
• Kelo v. City of New London

What is the Requirement for Just Compensation?
• Brown v. Legal Foundation of Washington

Week Four
Chapter 7: Equal Protection
pp. 717 - 748
Constitutional provisions concerning Equal Protection
A Framework for Equal Protection Analysis
    Question 1: What is the classification?
    Question 2: What is the appropriate level of scrutiny?
    Question 3: Does the government action meet the level of scrutiny?

The Rational Basis Test
Does the Law Have a Legitimate Purpose?
What Constitute a Legitimate Purpose?

• Romer v. Evans

Must it be the actual purpose or is any conceivable purpose enough?
The Requirement for a reasonable relationship
• Railway Express Agency, Inc. v. New York
• New York Transit Authority v. Beazer
• U.S. Dept of Agriculture v. Moreno
• City of Cleburne, Texas v. Cleburne Living Center, Inc.

Race discrimination and slavery before the 13th and 14th Amendments:
• Dred Scott v. Sandford
• Korematsu v. United States

Week Five
Race and national origin classifications on the face of the law:
• Loving v. Virginia
• Plessy v. Ferguson
• Brown v. Board of Education
• Johnson v. California
Facially neutral laws with a discriminatory impact or discriminatory administration:
• Washington v. Davis
• McClesky v. Kemp
• City of Mobile v. Bolden
• Palmer v. Thompson
• Personnel Administrator of Mass. v. Feeny
• Village of Arlington Heights v. Metropolitan Housing

Week Six
Constitutional Law: Principles and Policies pp. 721 - 748
Chapter 7
pp. 801 - 878
Remedies: The Problem of School Segregation
• Brown v. Board of Education
• Swann v. Charlotte-Mecklenberg Board of Education
• Miliken v. Bradley
• Board of Ed of OK CPS v. Dowell
• Parents Involved in Community Schools v. Seattle School Dist.
The emergence of strict scrutiny as the test for evaluating government affirmative action programs:
• Richmond v. Croson
• Grutter v. Bollinger
• Gratz v. Bollinger
• Easley v. Cromartie

Week Seven
Chapter 7
pp. 878 - 909
Gender Classification:
• Frontiero v. Richardson
• Craig v. Boren
• United States v. Virginia
What is discrimination?
• Geduldig v. Aiello
• Orr v. Orr
• Mississippi University for Women v. Hogan
• Michael M. v. Superior Court of Sonoma County
• Rostker v. Goldberg

Week Eight
Chapter 7
• Califano v. Webster
• Nguyen v. INS
pp. 917 - 942
Alienage Classifications
Discrimination against Non-Marital Children and Other Types of Discrimination:
• Graham v. Richardson
• Foley v. Connelie
• Ambach v. Norwick
• Plyer v. Doe
• Massachusetts Board of Retirement v. Murgia
1. Age discrimination
2. Discrimination based on disabilities
3. Discrimination based on sexual orientation

Week Nine
Chapter 8: Fundamental Rights under Due Process and Equal Protection
pp. 943 - 977
Framework for Analyzing Fundamental Rights:
1. Is there a fundamental right?
2. Has that right been infringed?
3. Is there a sufficient justification for the government to infringe it?
4. Is the means sufficiently related to the purpose?

Constitutional Protection for Family Autonomy
The right to marry:
  • Loving v. Virginia
  • Zablocki v. Redhail
The right to custody of one’s children
  • Stanley v. Illinois
  • Michael H. v. Gerald D.
The right to keep the family together
  • Moore v. City of East Cleveland
The right of parents to control the upbringing of their children
  • Myer v. Nebreska
  • Troxel V. Granville

Week Ten
Constitutional Law: Principles and Policies pp. 813 - 844
Chapter 8
pp. 977 – 1040
The right to procreate:
  • Buck v. Bell
  • Skinner v. Oklahoma
The right to purchase and use contraceptives:
  • Griswold v. Conn
  • Eisenstadt v. Baird
The right to abortion:
  • Roe v. Wade
  • Planned Parenthood v. Casey
Government regulation of abortion:
  • Gonzales v. Carhart
Government restrictions on funds and facilities for abortions:
  • Maher v. Roe

Week Eleven
Constitutional Law: Principles and Policies pp. 844 - 871
Chapter 8
Spousal consent and notice requirements:
  • Planned Parenthood v. Casey
Parental notice and consent requirements:
- *Bellotti v. Baird*

Constitutional protection for medical decisions

Right to refuse treatment:
- *Cruzan v. Director, Missouri Health*

Right to physician-assisted suicide:
- *Washington v. Glucksberg*

Constitutional protection for sexual orientation and sexual activity:
- *Lawrence v. Texas*

Constitutional protection for control over information:
- *Whalen v. Roe*

Constitutional protection for travel:
- *Saenz v. Roe*

Week Twelve
*Constitutional Law: Principles and Policies pp. 871 – 907*
Chapter 8
pp. 1080 - 1133

The Right to Vote: Poll taxes:
- *Harper v. Virginia State Board of Elections*
- *Shelby County v. Holder*

Property ownership requirements:
- *Kramer v. Union Free School District*

Prisoners’ and convicted criminals right to vote:
- *Crawford v. Marion County Election Board*

Dilution of the right to vote:
- *Reynolds v. Sims*
- *Bush v. Gore*

Week Thirteen
*Constitutional Law: Principles and Policies pp. 907 - 919*
Chapter 8
pp. 1133– 1158

Constitutional protection for access to court:
Filing fees:
- *Boddie v. Conn*
- *United States v. Kras*
- *Bounds v. Smith*

Prisoners’ rights of access to the courts:
- *Lewis v. Casey*

Constitutional protection for rights to education:
- *San Antonio Independent School District v. Rodriquez*

pp. 1158 - 1204

Procedural Due Process
What is a Deprivation?
- *Daniels v. Williams*
- *County of Sacramento v. Lewis*

When is the government’s failure to protect a person from privately inflicted harms a deprivation?
• Deshaney v. Winnebago County Dept. of Social Services
• Town of Castle Rock v. Gonzales

Week Fourteen
Constitutional Law: Principles and Policies pp. 545 - 604
Chapter 8
Is it a deprivation of life, liberty, or property?
• Goldberg v. Kelly
• Board of Regents v. Roth
• Goss v. Lopez
• Paul v. Davis

Liberty interest for prisoners:

What Procedures are required?
• Mathews v. Eldridge
• District Attorney’s Office for the Third Judicial District v. Osborne

Grades:
Mid-term Exam = 30%
Final Exam = 70%
Final grades are subject to the Law School’s grade normalization policy.

The exams may be comprised of multiple choice questions, short answers, essays, take-home essays, and whatever other measurement tools the professor deems necessary to assess your comprehension of this course.

FAMU College of Law Statement on Plagiarism:
FAMU College of Law does not tolerate plagiarism. Students found guilty of plagiarism will be prosecuted to the full extent of the laws outlined in the FAMU College of Law Students’ Handbook.

FAMU College of Law Statement of ADA Procedures:
FAMU College of Law is committed to providing an educational environment that is accessible to all students. In accordance with this policy, students in need of accommodations due to a disability should contact the Associate Dean for Student Affairs for verification and determination of reasonable accommodations as soon as possible after admission to the Law School, or at the beginning of each semester.

Cheating Policy:
If you have direct knowledge of a classmate cheating on an exam, you MUST IMMEDIATELY report that information to the Student Disciplinary Committee.

SEE ALC STATEMENT: