

Professor Patricia A. Broussard
FAMU College of Law
Constitutional Law II
Fall **** 2016

Course Number: 5502

Section: 301

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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 by 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:

- Erwin Chemerinsky, *Constitutional Law* (4th ed. Aspen 2013) ISBN: 978-1-4548-1753-6
- Erwin Chemerinsky, *Constitutional Law: Principles and Policies* (4th ed. Aspen 2011). ISBN: 978-0-7355-9897-3.

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. Oregon*
- *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

- *Energy Reserves v. Kansas Power & Light Co.*

Government interference with a government contract

- *United States Trust v. New Jersey*

Week Three

Constitutional Law: Principles and Policies pp.639 – 665

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

Constitutional Law: Principles and Policies pp. 667 - 689

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. Sanford*
- *Korematsu v. United States*

Week Five

Constitutional Law: Principles and Policies pp. 690 – 721

Race and national origin classifications on the face of the law:

- *Loving v. Virginia*
- *Palemore v. Sidoti*
- *Plessy v. Ferguson*
- *Brown v. Board of Education*
- *Johnson v. California*

Facially neutral laws with a discriminatory impact or discriminatory administration:

- *Washington v. Davis*
- *McCleskey 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

Constitutional Law: Principles and Policies pp. 749 – 766

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

Constitutional Law: Principles and Policies pp. 776 – 789

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

Constitutional Law: Principles and Policies pp. 791 – 831

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:

- *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. Nebraska*
- *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*

pp. 1040 – 1080

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. Rodriguez*

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:

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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:

http://www.famu.edu/Assessment/UserFiles/File/07-08_summaries/law/FAMOUS-2007-2008-JD-Law.doc