Sample Syllabus

POLS 4620: The U.S. Supreme Court

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**Course Description**

How did the Supreme Court become such a major player in American politics? How did an unelected court of nine people become powerful enough to rewrite criminal procedure, nullify most campaign finance reforms, invalidate restrictions on abortion, order desegregation of the nation’s schools, command the state of California to release tens of thousands of prisoners, and effectively decide a contested presidential election? By examining the modern Supreme Court as both a legal and political institution this course will seek to answer these questions. The goal will be for students to understand how the Supreme Court’s power has steadily increased to the point where liberal and conservative justices are equally willing to embrace the active use of judicial power (though for different goals).

**Course Readings**

There are three required textbooks for this course. Please let me know if you have a problem obtaining any of the required texts.

* Keck, Thomas M. 2004. *The Most Activist Supreme Court in History: The Road to Modern Judicial Conservatism.* Chicago: University of Chicago Press (ISBN: 9780226428857, List Price: $27.50).
* Stohr, Greg. 2006. *A Black and White Case: How Affirmative Action Survived its Greatest Legal Challenge*. New York: Bloomberg Press (ISBN: 9781576602270, List price: $14.95).
* Toobin, Jeffrey. 2007. *The Nine: Inside the Secret World of the Supreme Court*. New York: Anchor (ISBN: 9781400096794, List Price: $16.00).

In addition to these books, there will be a number of required readings available on Canvas or distributed in class. It is your responsibility to obtain and read the required readings prior to the day that we discuss them in class.

Students should also try to keep up on current developments, below are a few useful sites:

* ScotusBlog (scotusblog.com) should be read regularly as it is the best site for current developments at the Supreme Court.
* The Volokh Conspiracy (volokh.com) is a great site for regular posts from conservative/libertarian law professors on a range of legal issues.
* Balkinization (balkin.blogspot.com) is a similarly great site for liberal law professor commentary on various legal issues.

**Course Requirements**

1. Participation (20%)

An important aspect of academic study is engagement with the concepts from reading and lecture through active participation. Obviously completing the assigned readings on time will be an important element of this. Simply reading and attending class is not enough, however. I expect you to share your own questions, concerns, and comments on the issues that are discussed. I reserve the right to give quizzes and other in-class assignments without notice and your performance on those items will be included in this grade.

2. Midterm (15%)

We will have a midterm on [DATE]. The exam will cover all readings and lectures up to that point and will be a mixture of short answers and essays. The goal is to evaluate your knowledge of the material and your ability to critically assess that material.

3. Simulation assignment (40%)

The primary assignment will be a simulation of actual cases. The class will be split into lawyers and justices. The justices will write a short paper examining their justice’s history and approach to the law as well as hear the oral arguments and issue written opinions. The lawyers will initially choose cases to present cert petitions for and, after the Court decides on what issues they wish to hear, the lawyers will write briefs as either parties or amicus curiae and some lawyers will present oral arguments. More details on this process will come later.

4. Take-home final (25%)

In approximately 6-8 pages (double-spaced 12 point times new roman) analyze the contemporary Supreme Court. How well is it performing its role in the U.S. political system? What exactly is that role? If it is performing well, why? If not, are the justices to blame? Is it simply a matter of appointing the right people to fix the Court? Or is there some structural problem with the institution that needs to be correct? If so, how might we correct the problem? If you could propose a constitutional amendment regarding the Court, what would it say? Would it expand Court power or narrow it?

**Course Policies**

Attendance: Attendance is an important element to any class but especially this one. The readings and lectures will be complementary but not coextensive and you will be held responsible for all of the information from both lectures and assigned readings. While I understand that attendance is not always possible, regular absences will negatively affect your grade.

Grading Policy: If you are unsatisfied with a grade assigned you may appeal that grade to me and I will reevaluate the assignment from scratch. This means that you could receive a higher, lower, or the same grade as initially given. To appeal you must send me a short statement explaining why you believe the grade is incorrect along with the graded copy of the assignment.

Late Assignments: Assignments are due at the time and date listed on the syllabus. Any late papers will be deducted a letter grade for every 8 hours late (e.g. A to A-, A- to B+, B+ to B, and so on). Requests for extensions must be made to me before the assignment is due and will not be granted retroactively.

Academic Integrity: Academic honesty is a fundamental requirement of this course and violations will not be tolerated. Examples of such violations include copying from another student's work, unauthorized cooperation in completing assignments or examinations, and submitting the same written work in more than one course without prior written approval from me. In my experience, the most common form of academic misconduct is plagiarism. Plagiarism includes, but is not limited to, using another writer’s words or ideas without proper citation, borrowing all or part of another student’s paper or using someone else’s outline to write your paper, and using a paper writing “service” or having a friend write your paper for you. If you are caught violating any of these rules, I will assign a failing grade for the course and then refer the matter to the WSU Due Process Officer for further action.

Reasonable Accommodation: Students who may need academic accommodations due to a disability are encouraged to discuss their needs with me at the beginning of the semester. Any student requiring accommodations or services due to a disability must contact Services for Students with Disabilities (SSD) in Room 181 of the Student Services Center (or Room 221 at the Davis Campus).  SSD can also arrange to provide course materials (including this syllabus) in alternative formats upon request. For more information about SSD, contact them at 801-626-6413, [ssd@weber.edu](mailto:ssd@weber.edu), or <http://departments.weber.edu/ssd>

Office Hours and Communication: My regular office hours are listed above and I encourage you to avail yourself of them if you have any problems, questions, or simply want to discuss ideas. If you cannot make my office hours, I am available by appointment. If you have a quick question, please feel free to email me. Finally, I may regularly Canvas to contact you (in particular if I have to cancel a class meeting or change an assignment). This means that you will be responsible for regularly checking your Weber email account and keeping it open to emails. I will not make any extra attempt to contact you if an email gets rejected because yours is full.

**Course Schedule**

Class 1: Course introduction.

Class 2: [more intro]

Class 3: Where a lawsuit begins. Why did the University adopt affirmative action programs and what are the arguments for and against it? Pay close attention to the attorneys, where they are employed, and how their clients were chosen.

* Stohr, prologue-ch. 4

Class 4: The trial. Pay close attention to all the legal tools available to the parties and interveners. How do they develop and present the facts of the case? Why did the trial judges joke that “it doesn’t matter what we do?” Were they correct?

* Stohr, ch. 5-10

Class 5: The appeal. Carefully consider the sequence of events in the Sixth Circuit. Were the decisions on how the cases were heard political or legal? Is there an easy way to answer this? Note how a case moves from the Circuit Court to the Supreme Court.

* Stohr, ch. 11-13

Class 6: The final product. What were the parties’ strategy in presenting their cases to the Supreme Court? How successful were they? Which party won the most? Should amici be as important as they were in this case?

* Stohr, ch. 14-epilogue
* Oral arguments, *Grutter v. Bollinger*, April 1, 2003 (on oyez.com)

Class 7: What are the justices supposed to be doing (in constitutional cases)?

* Antonin Scalia, “Common-Law Courts in a Civil-Law System: The Role of the United States Federal Courts in Interpreting the Constitution and Laws” (1997).
* David Souter, “Harvard Commencement Remarks” (May 27, 2010)

Recommended reading: William Rehnquist, “The Notion of a Living Constitution” (1976); William Brennan, “The Constitution of the United States: Contemporary Ratification” (1985); Jeffrey Rosen, *The Most Democratic Branch*, introduction.

Class 8: The New Deal constitutional revolution.

* Keck, introduction-ch. 1

**Note: Justice paper is due in class today**

Class 9: From the New Deal to the Warren Court.

* Keck, ch. 2

Class 10: Should the justices sometimes ignore the law: *Brown v. Board of Education*?

* Michael Klarman, “*Brown v. Board of Education*: Law or Politics?”

Class 11: The Warren Court.

* Keck, ch. 3

Class 12: Nixon strikes back.

* Keck, ch. 4

Class 13: The limits to the 1970s backlash: *Roe v. Wade*.

* Linda Greenhouse, “The road to *Roe.*”

Class 14: The Reagan revolution and the early Rehnquist Court.

* Keck, ch. 5
* Toobin, prologue-ch. 2

Class 15: The conservative backlash comes up short again: *Planned Parenthood v. Casey*.

* Toobin, ch. 3-4
* I suggest you get started on Keck ch. 6 and 7 as they are fairly long.

Class 16: The later Rehnquist Court: conservative activism prevails …

* Keck, ch. 6-conclusion

Class 17: … but the moderate center still holds on.

* Toobin, ch. 5-10 (can skim 7-8)

Class 18: *Bush v. Gore*: The most activist decision ever?

* Toobin, ch. 11-13

**Note: Lawyers’ briefs due today.**

Class 19: Oral argument: *Perry v. Schwarzenegger*

Class 20: Oral argument: health care

Class 21: *Lawrence v. Texas* and *Roper v. Simmons*: Should the Supreme Court be citing foreign law?

* Toobin, ch. 14-15 (should also read 16-17 but skim over the affirmative action material)

Class 22: The War on Terror and presidential power.

* Toobin, ch. 18-20

Class 23: Nominations. Should Presidents be allowed to appoint whomever they wish?

* Toobin, ch. 21-24

Class 24: The Roberts Court. What does it hold in the future?

* Toobin, ch. 25-afterword

**Note: Justices’ opinions due today**

Class 25: Do Court decisions have any impact?

* Gerald Rosenberg, “Bound for Glory? *Brown* and the Civil Rights Revolution.”

Class 26: Is Rosenberg wrong?

* Matthew Hall, selections from *The Nature of Supreme Court Power* (2011).

Class 27: TBA

Class 28: Course wrap up and evaluations.

**Take Home Final Due [TBD]**