

# **POLI 323: American Constitutional Law: Civil Rights and Liberties**

Spring 2024

TR 1:00 AM – 2:15 PM  
TBA

## **Contact Information**

Instructor: Dr. Joseph Cozza (*He/Him*)  
Office: 115 Herzstein Hall  
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Office Hours: Tuesday 2:30 – 4:00 and Wednesday 1:00 – 2:30

## **Course Objectives and Learning Outcomes**

This class is concerned with the ways in which the Constitution protects individual rights against the often-competing claims of state, groups, and communities. We will examine rights claims related to property, privacy and personhood, First Amendment protections regarding speech and religion, and equal protection of the laws based on race, gender, age, wealth, etc.

How are we to understand the role of the Supreme Court in the American constitutional order, especially when it acts as a counter-majoritarian institution in defense of individual rights? Should the Supreme Court protect rights not explicitly enumerated by the constitutional text, and, if so, how? What role should tradition, the practice of other constitutional democracies around the world, or judicial precedent play in the Supreme Court's explication of these rights? Is it possible to distinguish rights such that the Court would be justified in treating them differently as far as a constitutional defense is concerned? By the end of the course students should have an informed judgment on such questions, which is to say, on the role of the Supreme Court in contemporary American politics.

Some of you may have enrolled in this course to test your aptitude for the study of law. No doubt this course will provide invaluable preparation for law school by introducing you to case law, judicial opinions, and legal reasoning. And yet, this course aims to delve deeper than a pre-professional course on law. Indeed, it is designed as an important part of a liberal education. If we do our jobs right, this course in constitutional law will be nothing less than an extended commentary on the meaning of America—at least as understood and portrayed by the Supreme Court. Our purpose is to get clear what the Court has said about the Constitution's meaning, objectively assess what the Court has held, and to identify and assess the underlying social, moral, and political theories that inform the opinions of the Supreme Court.

In this course, students will:

- Engage and interpret primary sources, especially decisions of the Supreme Court
- Consider and evaluate competing modes of constitutional interpretation
- Consider and evaluate the role of courts and judicial review in a constitutional democracy
- Developed and strengthen critical thinking, written, and oral communication skills
- Use logical and analytical reasoning skills on exams and papers that require one to think like a lawyer or judge
- Become informed citizens able to participate effectively and meaningfully in the political process

## Required Texts and Materials

The reading assignments are crucial for a complete understanding of the course material, and students are expected to keep pace with the syllabus. Required readings for this course are as follows:

Donald P. Kommers, John E. Finn, Gary J. Jacobsohn, George Thomas, and Justin Dyer, *American Constitutional Law: Liberty, Community, and the Bill of Rights* (Vol. 2, 4<sup>th</sup> ed.). West Academic Publishing. ISBN: 9781683289012

Michael C. Dorf, Editor, *Constitutional Law Stories*. Foundation Press. 1<sup>st</sup> Edition (Students are welcome to get the second edition, but it is more expensive and the first edition has all the chapters that we need. The second edition is very affordable online.)

Both of these required texts are available at the Rice Campus Store and can also be purchased online. All other required readings will be posted on Canvas. All readings on the course calendar are required unless otherwise indicated.

## Exams and Papers

This course has two exams: a midterm and a final. The midterm exam will take place on DATE. It will be comprised of essay and identification questions. The final exam will take place during the final exam period. The final will consist of essays and identification questions. In addition to this, students will write a 7 - 10 page analytic paper responding to a hypothetical legal case. The paper will be due in class on DATE. More instruction will be given for the paper during the term. Participation will also serve as a component of your grade. Students are expected to come to class prepared every day having read and briefed the cases. The class will often be conducted using the Socratic method, meaning I will call on students to explain the cases and their significance.

The grading breakdown for the class is as follows:

- Midterm 25%
- Final 30%
- Paper 25%
- Briefs and participation 20%

## Grade Policies

Overall course grades are assigned according to the following scale:

93.0% - 100%	A	77.0% - 79.9%	C+
90.0% - 92.9%	A-	73.0% - 76.9%	C
87.0% - 89.9%	B+	70.0% - 72.9%	C-
83.0% - 86.9%	B	60.0% - 69.9%	D
80.0% - 82.9%	B-	0% - 59.9%	F

Final course grades are calculated based on a percentage rounded to the nearest tenth of a percent. For example, a final score of 92.95 is rounded to 93.0 and is an A, while an 82.91 is rounded to 82.9 and is a B-. This grading policy is not subject to appeal.

## Grade Appeals

Following the return of graded work, a student must wait **three (3)** days before contacting me about an appeal. After the three-day waiting period, a student has **eleven (11)** business days after the return of graded work (MTWHF) to appeal a grade. Appeals must be made in writing (via email is fine) and provide evidence for the change. In total, the appeal time frame is **fourteen (14)** days from the day the graded work is returned. For example, if an exam is returned on Wednesday, appeals may not be submitted until Tuesday of the following week. Between Tuesday after the exam is returned and the following Tuesday, appeals are accepted. On Wednesday, two weeks after the exam is returned, appeals are no longer accepted. Do not contact me about your grade if fourteen business days have passed. Do not appeal a grade unless evidence presented is compelling and thoughtfully reasoned.

## Makeup Policy

All assignments are due as indicated on the syllabus or on assignment handouts. Makeup exams will only be offered when extreme circumstances keep a student from being able to take the exam on the scheduled date, and such exceptions are made at my discretion. If at all possible, such circumstances should be communicated to me before scheduled exams. Late papers are accepted, but they will be penalized a full letter grade for every day late. Exceptions to this policy can be made at my discretion, but only if circumstances are communicated in advance of the due date.

## Attendance and Absence Policies

While attendance is not mandatory, students are expected to attend all class sessions and will be graded on their participation throughout the course. It is important to note that class participation is different from attendance. During class sessions students are encouraged to raise questions and relevant topics in class and are expected to contribute to class discussions. Students are expected to do the assigned readings *before* we discuss the topic in class and arrive at class ready to discuss the readings. I reserve the right to make attendance mandatory if attendance at the discussions sessions is unsatisfactory.

## **Accommodations for Religious Holidays**

If you must miss an exam or assignment in order to observe a religious holiday, you will be given an opportunity to complete the missed work within a reasonable time after the absence.

## **Course Communication**

Course materials, including all readings outside of the core text, will be posted on the course Canvas page. All important course communication outside of class time will be posted as an announcement on the class Canvas page. I do not anticipate using this feature frequently, but I would encourage you to check the Canvas page daily or change your Canvas settings to email you when an announcement is posted. You will also use Canvas to submit the course paper.

*Office Hours:* Office hours are your time and will be held Tuesday, 2:30 – 4:00 PM and Wednesday, 1:00 – 2:30 PM. You are welcome to stop by to discuss course material, current events, or simply talk politics. If you need to arrange a meeting outside my office hours, please email me with suggested times. I will do my best to accommodate these requests, but they should only be used in circumstances where attendance to my normal office hours is impossible.

*Email:* The easiest way to contact me outside of office hours is via email. I will respond to emails during normal business hours (8-6pm, M-F) and will be sure to respond within 24 hours.

## **Rice Honor Code**

In this course, all students will be held to the standards of the Rice Honor Code, a code that you pledged to honor when you matriculated at this institution. If you are unfamiliar with the details of this code and how it is administered, you should consult the Honor System Handbook at <http://honor.rice.edu/honor-system-handbook/>. This handbook outlines the University's expectations for the integrity of your academic work, the procedures for resolving alleged violations of those expectations, and the rights and responsibilities of students and faculty members throughout the process.

## **Disability Resource Center**

If you have a documented disability or other condition that may affect academic performance you should: 1) make sure this documentation is on file with the Disability Resource Center (Allen Center, Room 111 / [adarice@rice.edu](mailto:adarice@rice.edu) / x5841) to determine the accommodations you need; and 2) talk with me to discuss your accommodation needs.

## **Syllabus Change Policy**

This syllabus is only a guide for the course and is subject to change with advanced notice.

## **Title IX Responsible Employee Notification**

Rice University cares about your wellbeing and safety. Rice encourages any student who has experienced an incident of harassment, pregnancy discrimination or gender discrimination or relationship, sexual, or other forms interpersonal violence to seek support through The SAFE Office. Students should be aware when seeking support on campus that most employees, including myself, as the instructor, are required by Title IX to disclose all incidents of non-consensual interpersonal behaviors to Title IX professionals on campus who can act to support that student and meet their needs. For more information, please visit [safe.rice.edu](http://safe.rice.edu) or email [titleixsupport@rice.edu](mailto:titleixsupport@rice.edu).

## **Course Schedule**

Tues, Jan. 9                    Course Introduction. No Reading

### **Rights Enforcement and the Role of the Supreme Court**

Thurs, Jan. 11    Textbook, 3-97, 1405-1410  
Declaration of Independence (1361)  
Constitution (1365)  
Gettysburg Address (1403)

Tues, Jan. 16    Textbook, 159-194  
Barron v. Baltimore (199)  
Adamson v. California (223)  
McDonald v. Chicago (246)

Thurs, Jan. 18    Gregg v. Georgia (266)  
Glossip v. Gross (314)

Tues, Jan. 23    Textbook, 329-354  
Fletcher v. Peck (366)  
Charles River Bridge Company v. Warren Bridge (371)  
Home Building & Loan Association v. Blaisdell (378)

Thurs, Jan. 25    Munn v. Illinois (385)  
Lochner v. New York (394)  
West Coast Hotel v. Parrish (403)  
Dorf, Chapter on Lochner

## The Right to Privacy and Personhood

- Tues, Jan. 30      Textbook, 451-493  
United States v. Carolene Products (498)  
Meyer v. Nebraska (499)  
Griswold v. Connecticut (509)
- Thurs, Feb. 1      Roe v. Wade (523)  
Planned Parenthood of Southeastern Pennsylvania v. Casey (539)  
Dobbs v. Jackson Women's health Organization  
June Medical Services v. Russo  
  
Dorf, Chapter on Roe
- Tues, Feb. 5      Moore v. East Cleveland (600)  
  
Bowers v. Hardwick (611)  
Lawrence v. Texas (625)
- Thurs, Feb 8      Obergefell v. Hodges (654)  
Michael H. v. Gerald D. (672)  
Washington v. Glucksberg (686)
- Tues, Feb 20      **Midterm Exam**

## The First Amendment: Speech

- Thurs, Feb 22      Textbook, 703-742  
Schenck v. United States (746)  
Dennis v. United States (751)  
Brandenburg v. Ohio (764)  
Dorf, Chapter on Whitney v. California
- Tues, Feb. 27      Chaplinsky v. New Hampshire (779)  
Cohen v. California (788)  
United States v. O'Brien (783)
- Thurs, Feb. 29      The Sedition Act of 1798 (802)  
New York Times Company v. Sullivan (795)  
Texas v. Johnson (803)  
R.A.V. v. City of St. Paul (822)

Tues, March 5            Snyder v. Phelps (864)  
                                 Morse v. Frederick (832)  
                                 Miller v. California (846)  
                                 Brown v. Entertainment merchants Assn. (857)

Thurs, March 7            U.S v. Alvarez (872)  
                                 McCullen v. Coakley (879)

### **The First Amendment: Religion**

Tues, March 12            Textbook, 891-929  
                                 Everson v. Board of Education (934)  
                                 Engel v. Vitale (942)  
                                 Lemon v. Kurtzman (948)

Thurs, March 14            McCreary County v. ACLU, Kentucky (1008)  
                                 Wallace v. Jaffree (956)  
                                 Lee v. Weisman (966)  
                                 Town of Greece v. Galloway (1023)

Tues, March 19            Davis v. Beason (1039)  
                                 West Virginia v. Barnette (1045)  
                                 Sherbert v. Verner (1053)  
                                 Wisconsin v. Yoder (1059)  
                                 Dorf, Chapter on West Virginia v. Barnette

Thurs, March 21            Employment Division v. Smith (1067)  
                                 Boerne v. Flores (1078)  
                                 Burwell v. Hobby Lobby (1100)  
                                 Christian Legal Society v. Martinez (1091)  
                                 Dorf, Chapter on Oregon v. Smith

### **The Right to Equality: Race**

Tues, March 26            Textbook, 1115-1142  
                                 Dred Scott v. Sandford (1146)  
                                 Strauder v. West Virginia (1152)  
                                 Plessy v. Ferguson (1158)  
                                 Dorf, Chapter on Dred Scott

- Thurs, March 28      Brown v. Board of Education (1166)  
                              The Civil Rights Cases (1173)  
                              Shelley v. Kraemer (1184)  
                              Palmore v. Sidoti (1188)
- Tues, April 2            **Paper due. Moot Court.**
- Thurs, April 4           Regents of the University of California v. Bakke (1190)  
                              Grutter v. Bollinger (1216)  
                              Fisher v. University of Texas II (1248)  
                              Parents Involved in Community Schools v. Seattle School District  
                              No. 1 (1226)

### The Right to Equality: Wealth, Gender, Age, etc.

- Tues, April 9            Textbook, 1255-1284  
                              Shapiro v. Thompson (1287)  
                              San Antonio Independent School District v. Rodriguez  
                              (1293)  
                              Plyler v. Doe (1300)
- Thurs, April 11          Frontiero v. Richardson (1306)  
                              Craig v. Boren (1312)  
                              United States v. Virginia (1319)
- Tues, April 16          Foley v. Connelie (1336)  
                              Massachusetts Board of Retirement v. Murgia (1340)  
                              Cleburne v. Cleburne Living Center (1346)
- Thurs April 18          Last Day of Class

\*Final exam will be held during the final exam period\*