

# PLSC 382D

# Constitutional Law: Voting Rights and Race

Syllabus

Date and Time: TBD

Location: TBD

Instructor: Michael Catalano

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Office Hours: TBD

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# Course Description

This course examines the most sacred of rights necessary for rule by the people: the right to vote. We consume the written constitutional provisions, US Supreme Court decisions, and scholarly works regarding the right to vote. We pay particular attention to the intersection of race and gender in the evolution of voting rights in the United States.

Students can expect to build a broader foundation of knowledge in the historical and constitutional underpinnings of US voting rights. This gives us a useful understanding of the controversies around voting rights, both past and recent. This course will benefit those interested in 1) our most fundamental rights, 2) the legal profession, 3) legal writing, 4) constitutional history, 5) how courts establish policy, and/or 6) our role in safeguarding freedoms.

# Course Objectives

- 1) Understand established case law and policy regarding voting rights over time.
- 2) Map the evolution of voting rights over time.
- 3) Analyze the intersection of voting rights with race and gender.
- 4) Develop legal and social science reasoning and writing skills.

# Course Requirements – Course Textbooks

- There are two required textbooks for this course:
  - 1) (GGW) Gillman, Howard, Mark Graber, and Keith Whittington. 2021. *American Constitutionalism: Volume II Rights and Liberties*, 3<sup>rd</sup> edition. New York: Oxford Press.
  - 2) (EW) Epstein, Lee, and Thomas G. Walker. 2019. *Constitutional Law for a Changing America: Rights, Liberties, and Justice*, 10th edition. Washington, DC: CQ Press.
- The course schedule (at the end of this syllabus) lists readings with the book abbreviations (GGW or EW) and page numbers. I will upload the appropriate selections from both textbooks to our course Brightspace page.
- NOTE: These may not be the most recent editions. This is a deliberate choice to make these books more affordable for you. However, purchase is not required for this course.

# Assignments - Overview

- This course has two types of assignments, which comprise the entirety of your grade.
- Case briefs – you distill the important information and concepts out of the cases we cover each session.
- Argumentative Essays (3 total) – you argue a side in a scenario involving concepts covered at a certain point in our course.

# Assignments – Case Briefs

- You distill the important information and concepts out of the cases covered in this course.
- These case briefs assess your ability to understand and summarized complex legal cases in a useful and meaningful way.
- You will submit case briefs for each opinion we will read. These case briefs should detail the facts of a case, issues/disputes, court holding, rationale, and other relevant elements.
- Case briefs should be no more than 1-2 single-spaced pages.
- More information will be provided in lecture the second (2<sup>nd</sup>) day of the course, but for reference feel free to use:
  - <https://www.lexisnexis.com/en-us/lawschool/pre-law/how-to-brief-a-case.page>
  - <https://lawschool.westlaw.com/marketing/display/SG/3>

# Assignments – Argumentative Essays

- You argue a side in a scenario involving concepts covered at a certain point in our course.
- There will be 3 distinct essay prompts due through this course.
- These essays assess your ability to construct thoughtful arguments using a combination of scholarly work and relevant case law from Supreme Court decisions covered in this course.
- You draw from a closed universe of cases for these essays - Only use cases explicitly covered in this course.



# Grading

## Basis of Grade Calculation

| <u>Item</u> | <u>% of Overall Grade</u> |
|-------------|---------------------------|
|-------------|---------------------------|

|            |     |
|------------|-----|
| Case Brief | 40% |
|------------|-----|

### Argumentative Essay

|         |     |
|---------|-----|
| Essay 1 | 20% |
|---------|-----|

|         |     |
|---------|-----|
| Essay 2 | 20% |
|---------|-----|

|         |     |
|---------|-----|
| Essay 3 | 20% |
|---------|-----|

## Grading Scale

|   |        |
|---|--------|
| A | 94-100 |
|---|--------|

|    |       |
|----|-------|
| A- | 90-93 |
|----|-------|

|    |       |
|----|-------|
| B+ | 87-89 |
|----|-------|

|   |       |
|---|-------|
| B | 83-86 |
|---|-------|

|    |       |
|----|-------|
| B- | 80-82 |
|----|-------|

|    |       |
|----|-------|
| C+ | 77-79 |
|----|-------|

|   |       |
|---|-------|
| C | 73-76 |
|---|-------|

|    |       |
|----|-------|
| C- | 70-72 |
|----|-------|

|   |       |
|---|-------|
| D | 65-69 |
|---|-------|

|   |     |
|---|-----|
| F | <65 |
|---|-----|

# Course Policies – Academic Integrity

- Faculty and students have a responsibility to abide by and vigorously promote the highest standards of academic integrity.
- Students are to carefully review the Student Academic Honesty Code, which can be found on-line in the University Bulletin.
- Have questions? Ask me!!
- Violations will receive a grade of 0.00 (F) for the class and likely proceedings before the Academic Honesty Committee.

# Course Policies - Accommodations

Students who require accommodation (as documented by Services for Students with Disabilities) should be sure to contact me in the first week or so of classes so that we can discuss the logistics of providing any accommodation(s) to which they are entitled.

Student athletes and students who are in the military should also be sure to contact me in the first week or so of classes so that we can develop a plan (if necessary) to help students simultaneously meet their academic obligations for this class and their athletic or military responsibilities.

I can also accommodate any other special circumstances (family illness, childcare) that students are experiencing. However, YOU must share a plan so that we can navigate academic and other obligations.

# Topic Outline/Schedule – Week 1

| Date          | Concepts   | Textbook             | Articles | SCOTUS Cases | Other |
|---------------|--|----------------------|----------|--------------|-------|
| July 10, 2023 | <b>Course Overview, Syllabus, Case Briefs, Writing Assignments</b> |                      |          |              |       |
| July 11, 2023 | <b>How to read an opinion, How to write a case brief</b>           |                      |          |              |       |
| July 12, 2023 | <b>What is the Law? What is a Constitution?</b>                    | EW p.1-8; GGW p.3-23 |          |              |       |
| July 13, 2023 | <b>SCOTUS Basics I</b>   | EW p.9-41            |          |              |       |
| July 14, 2023 | <b>Judicial Review</b>   | EW p.43-55           |          |              |       |

Note I: EW is the abbreviation for the Epstein and Walker textbook. GGW is the abbreviation for the Gillman, Graber, and Whittington textbook.

Note II: Articles, SCOTUS Case Opinions, and Other readings will be available as PDFs on our Brightspace course page.

# Topic Outline/Schedule – Week 2

| Date             | Concepts   | Textbook  | Articles  | SCOTUS Cases  | Other                                      |
|------------------|--|---|---|---|--|
| July 17,<br>2023 | <b>Ratification of the Constitution</b>            | GGW p.105-113                                   |   |   |  |
| July 18,<br>2023 | <b>Early Voting Rights</b>                         |   | Malone, Christopher. 2005. "Race Formation, Voting Rights, and Democratization in the Antebellum North." <i>New Political Science</i> 27(2): 177-198. |   |  |
| July 19,<br>2023 | <b>Dred Scott Decision</b>                         | GGW p. 197-207                                  |   | Dred Scott Majority Opinion (Taney); Dred Scott Dissenting Opinion (McLean) |  |
| July 20,<br>2023 | <b>Reconstruction Amendments and Incorporation</b> | EW p.65-86; GGW p.223-237, p.255-264, p.290-294 |   |   | US Constitution, Amendments 13, 14, and 15 |
| July 21,<br>2023 | <b>The Slaughter-House Cases</b>                   | GGW p.237-240                                   |   | Slaughter-House Cases (1873)  |  |

# Topic Outline/Schedule – Week 3

| Date          | Concepts                     | Textbook      | Articles  | SCOTUS Cases  | Other                            |
|---------------|------------------------------|---------------|---|---|----------------------------------|
| July 24, 2023 | <b>The 15th Amendment</b>    |               |   | US v. Reese (1876);<br>Guinn v. US (1915)                                     | US Constitution,<br>Amendment 15 |
| July 25, 2023 | <b>Jim Crow</b>              | GGW p.345-353 | Epperly, Brad et al. 2020. "Rule by Violence, Rule by Law: Lynching, Jim Crow, and the Continuing Evolution of Voter Suppression in the U.S." Perspectives on Politics 18(3): 756–69. |   |                                  |
| July 26, 2023 | <b>"White Primary" Cases</b> |               |   | Nixon v. Herndon (1927); Nixon v. Condon (1932);<br>Smith v. Allwright (1944) |                                  |
| July 27, 2023 | <b>Women's Suffrage</b>      |               | Teele, Dawn. 2018. "How the West Was Won: Competition, Mobilization, and Women's Enfranchisement in the United States." Journal of Politics 80(2): 442-461.                           |   | Declaration of Sentiments (1848) |
| July 28, 2023 | <b>The 19th Amendment</b>    |               |   | Leser v. Garnett (1922)   | US Constitution,<br>Amendment 19 |

# Topic Outline/Schedule – Week 4

| Date           | Concepts                             | Textbook                    | Articles  | SCOTUS Cases   | Other                         |
|----------------|--------------------------------------|-----------------------------|---|--|-------------------------------|
| July 31, 2023  | <b>The Voting Rights Act of 1965</b> | EW p.676-683                | Coleman, Kevin. 2015. "The Voting Rights Act of 1965: Background and Overview." <i>Congressional Research Service</i> . |  | Voting Rights Act of 1965     |
| August 1, 2023 | <b>The Voting Rights Act of 1965</b> |                             |   | South Carolina v. Katzenbach (1966)  |                               |
| August 2, 2023 | <b>Majority-Minority Districts</b>   |                             |   | Shaw v. Reno (1993); Allen v. Milligan (2023)                                    |                               |
| August 3, 2023 | <b>Shelby County v. Holder</b>       | EW p.683-689; GGW p.838-842 |   | Shelby County v. Holder (2013); Brnovich v. Democratic National Committee (2021) |                               |
| August 4, 2023 | <b>The 24th Amendment</b>            |                             |   | Harper v. Virginia Board of Elections (1966)                                     | US Constitution, Amendment 24 |

# Topic Outline/Schedule – Week 5

| Date               | Concepts                                    | Textbook                       | Articles   | SCOTUS Cases                                     | Other                         |
|--------------------|---|--------------------------------|--|--|-------------------------------|
| August 7,<br>2023  | <b>The 26th Amendment</b>                   |                                | Fish, Eric. 2012. "The Twenty-Sixth Amendment Enforcement Power." <i>Yale Law Journal</i> 121(5):1168-1235.  | Oregon v. Mitchell (1970)                        | US Constitution, Amendment 26 |
| August 8,<br>2023  | <b>Independent State Legislature Theory</b> |                                |  | Smiley v. Holm (1932);<br>Moore v. Harper (2023) |                               |
| August 9,<br>2023  | <b>Voter Accessibility</b>                  |                                | Bentele, Keith G., and Erin E. O'Brien. 2013. "Jim Crow 2.0? Why States Consider and Adopt Restrictive Voter Access Policies." <i>Perspectives on Politics</i> 11(4): 1088–1116. |  |                               |
| August 10,<br>2023 | <b>Voter ID Laws</b>                        | EW p.689-692;<br>GGW p.716-720 | Fraga, Bernard, and Michael G Miller. 2021. "Who Does Voter ID Keep from Voting?" <i>The Journal of Politics</i> 84(2): 1091–1105.   | Crawford v. Marion County Election Board (2008)  |                               |
| August 11,<br>2023 | <b>Concluding Thoughts</b>                  |                                |  |  |                               |