



**TEXAS A&M**  
**UNIVERSITY**  
**CENTRAL TEXAS**

**POLI 5302**  
**Constitutional Law**  
**Section 110 (Summer 2018)**  
**6 PM – 9 PM Tues/Thurs**  
**Founder's Hall 211**



**Dr. Jeffrey Dixon**

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**Office Hours:** 5:00-5:45 PM Mon/Wed, 4:35-5:45 PM Tues/Thurs, or by appointment

**Course Description (from TAMUCT Catalog)**

Predict the resolution of constitutional controversies by examining theories of constitutional interpretation and judicial decision-making in the United States.

**Course Objectives and Outcomes**

This course is intended as a stand-alone introduction to Constitutional Law, with a particular emphasis on the Bill of Rights and the 14<sup>th</sup> Amendment. There are several objectives for the course:

1. Students should be familiar with the text of the U.S. Constitution.
2. Students should develop a coherent judicial philosophy of their own, through which they can interpret the provisions of the Constitution.
3. Students should be able to identify the uses of judicial philosophy to mask results-driven or ideological decision-making by judges.
4. Students should be able to use legal reasoning to argue for either side in constitutional disputes.
5. Students should become more effective written and oral advocates, capable of addressing controversial issues using reason and evidence.
6. Students should be able to approach Constitutional and legal interpretive dilemmas using the techniques of textual analysis and *stare decisis*, taking into account the conflicting demands of originalism and the need for a "living constitution."

The first two outcomes are assessed by both the first homework assignment and the final exam. Outcome 3 is assessed using in-class exercises and discussion. Outcomes 4-6 are assessed using the assigned debates and written opinions; the last of these is also assessed on the final exam.

**Book List**

The following book is required and available for purchase at the bookstore. It contains a copy of the American Constitution. You are under no obligation to purchase a textbook from a university-affiliated bookstore. The same textbook may also be available from an independent retailer, including an online retailer. All other required readings are available on Canvas.

Vile, John R. 2018. *Essential Supreme Court Decisions: Summaries of Leading Cases in U.S. Constitutional Law*. 17<sup>th</sup> Ed. Rowman & Littlefield. ISBN: 978-1538111963



## Mode of Instruction and Course Access

This is a face-to-face course. We use the A&M-Central Texas Canvas Learning Management System [<https://tamuct.instructure.com>] for course readings and other resources.

## Technology Requirements

This course will use the A&M-Central Texas Instructure Canvas learning management system.

Logon to A&M-Central Texas Canvas [<https://tamuct.instructure.com>].

Username: Your MyCT username (xx123 or everything before the "@" in your MyCT e-mail address)

Password: Your MyCT password

### Canvas Support

Use the Canvas Help link, located at the bottom of the left-hand menu, for issues with Canvas. You can select "Chat with Canvas Support," submit a support request through "Report a Problem," or call the Canvas support line: 1-844-757-0953.

For issues related to course content and requirements, contact your instructor.

### Other Technology Support

For log-in problems, students should contact Help Desk Central.

24 hours a day, 7 days a week:

Email: [helpdesk@tamu.edu](mailto:helpdesk@tamu.edu)

Phone: (254) 519-5466

[Web Chat](http://hdc.tamu.edu): [<http://hdc.tamu.edu>]

*Please let the support technician know you are an A&M-Central Texas student.*

**Grading** (90/80/70/60, rounded to the nearest percentage)

## POLI 5302 Course Rubric

Item	Points Possible	Percent
Academic Integrity Exercise	0 (but required to pass)	0% *
Judicial Philosophy and Constitutional Scavenger Hunt	100	10%
Debates	90 per debate (270 total)	27%
Opinions	15 per opinion (180 total)	18%
Participation	10 per session (150 total)	15%
Final Exam	300	30%
<b>TOTAL POSSIBLE</b>	<b>1000</b>	<b>100%</b>
<i>895+=A    795-894=B    695-794=C    595-694=D    594 or lower=F</i>		

## Exercises, Exams, and Participation

- Academic Integrity Exercise: This consists of watching a brief lecture on Canvas, taking a quiz, seeing where any mistakes on the quiz came from, and signing a statement. Once you successfully complete this exercise, you will no longer need to do so in future political science courses. If you have previously completed this exercise in one of my courses, you need not do so again. \*\*\*Completing the Academic Integrity Exercise is a prerequisite to passing this course. It must be completed before the due date on the syllabus.\*\*\*
  - **Rubric: You will automatically fail the course if you have not completed the Academic Integrity exercise on or before the deadline.**



- Judicial Philosophy and Constitutional Scavenger Hunt Exercise (10%).
    - Set forth your philosophy of how judges should decide difficult Constitutional cases. This should take a couple of paragraphs. It should be clear from your explanation exactly what a judge should do with the text of the Constitution and how the judge is to select from among competing interpretations of that text. You should also address the relevance or irrelevance of the intent of the framers of Constitutional provisions, dictionary definitions of the words in the Constitution (sometimes referred to as “plain meaning”), changing social or technological conditions, established precedent, and overarching values like natural rights or justice.
    - Doing your best to remain consistent with your judicial philosophy, answer the following questions about the Constitution. For each one, give a straightforward (usually Yes or No) answer followed by an explanation of why the text of the Constitution as interpreted by your judicial philosophy compels that result. You may find the Annotated Constitution helpful, since it contains many judicial precedents, historical notes, and textual analyses: <https://www.law.cornell.edu/anncon/>  
Another source that may be useful is The Founder’s Constitution: <http://press-pubs.uchicago.edu/founders/tocs/toc.html>  
Note, however, that The Founder’s Constitution omits everything after the Twelfth Amendment (which is interesting, since it implies the authors don’t particularly care what the Framers of the post-Civil War Amendments thought).
1. What clause of the Constitution, if any, permits Congress to establish an independent Air Force?
  2. Is there anything in the federal constitution that would prevent Representatives from being chosen by a lottery among all registered voters in each state?
  3. Can the President constitutionally order an unprovoked, full-scale, nuclear first strike against Russia, China, Britain, France, Israel, Pakistan, North Korea, and India?
  4. In the 1980s, thirty-two of the required thirty-four states passed resolutions calling for a Constitutional Convention to propose a balanced budget amendment. If such a Convention had been called, could it have also proposed Constitutional Amendments banning abortion and permitting Congress to regulate spending in election campaigns?
  5. Can the Vice President be impeached?
  6. What provision of the Constitution, if any, prohibits the use of excessive force against suspects?
  7. What happens if a federal court finds an act of Congress to be unconstitutional?
  8. Could the President constitutionally issue a statement that only evangelical Protestants will be considered for Supreme Court nominations?
  9. Are noncitizens entitled to equal protection of the laws?
  10. Is it constitutionally permissible for the President to violate a treaty that has previously been signed and ratified by the Senate?
  11. Do warrantless searches violate the Constitution?
  12. Could a state establish an official church, funded with state tax revenues?
  13. Under what provision, if any, are federal laws prohibiting *private* racial discrimination in employment and housing authorized by the Constitution?
  14. If a President died before passage of the 25<sup>th</sup> Amendment, did the Vice President become President until the next Presidential election, or did he merely assume the functions of the President for that period?



15. Assume the United States is hit with a devastating nuclear strike. In the aftermath, may the President impose martial law and suspend *habeas corpus* if there has been no invasion or rebellion?
- Write a final, reflective paragraph assessing whether and how your judicial philosophy has changed while answering these questions. Are there particular puzzles that are difficult to resolve using your philosophy? Are there results you were forced to reach that you find abhorrent? Were you able to separate your political preferences from your judicial findings?
  - Rubric:
    - Judicial Philosophy: 15 points – 5 for the actual statement of your judicial philosophy and 10 for addressing the complete list of relevant/irrelevant factors. Minus five if your philosophy is unclear (e.g. “I weigh the following factors” without saying which factors take precedence in which situations).
    - Questions: 75 points (5 each) – all of them for the brief justification of your answer, minus 2 if you didn’t have a clear answer to justify.
    - Reflective Paragraph: 10 points – based on the degree of self-reflection and/or modification to one’s judicial philosophy.
  - Debates (27%): Debating involves the preparation and copying of briefs, an oral defense of your position before the “Justices” (the rest of the class, save for your opponent), politely listening to the arguments of your opponent (take notes so you can rebut them), and finally making a brief rebuttal and closing statement.
    - Briefs (40 points): Preparation is so important that this and the opening argument based on it are together worth 2/3 of the credit for the debate.
      - Post your brief before the debate (use the discussion forum on Canvas, attaching the file as Word, pdf, or other commonly-used filetypes). Your fellow students will need the briefs when they are writing their opinions for the case (below).
      - You want a brief to convince the reader that your position on the question(s) posed by the Court in your case is the only logical position, given the text of the Constitution and any applicable laws, prior precedents, and the degree to which a decision in your favor will serve universal social objectives. Remember that your classmates are a diverse lot with different judicial philosophies, so don’t rely too much on an overly-narrow view of how the Constitution must be interpreted.
      - Begin with a paragraph recounting the basic facts of the case, so the reader is familiar with who did what and what was decided in the lower courts.
      - Now address the question(s) posed by the Court, in order.
        - For each question, try to come up with at least three independent reasons the Court should rule in your favor.
          - For example, you might emphasize that the plain meaning of the Constitution supports your answer, that one (preferably many) previous cases have interpreted the Constitutional provision at issue in the manner you recommend, and that the alternatives to your answer have unacceptable social costs (like undermining one or more of the social objectives listed above).
          - Then move on to the next question.
      - Finally, include a closing paragraph where you tie together your arguments to show the Justices (your classmates) the positive implications of voting for your client and the negative implications of voting for opposing counsel’s client.



- Actual briefs use a unique system of citation, but all I ask is that when you cite a case, you provide the case name in italics and the year of the decision (and page number for direct quotes) in parentheses. If you cite secondary sources, be sure to use APSA format for them (APSA guidelines are available on Canvas), attaching a Works Cited page.
  - Opening Argument (20 points): Your opening argument should last about 10-15 minutes when you practice it. When actually delivered, expect to be periodically interrupted by questions from Justices. Answer the questions as best you can (again, preparation is your friend) and then continue with your argument. You will be cut off at the 25-minute mark, which may mean that not all of your arguments can be deployed, so focus on the best ones first.
  - Rebuttal and Closing Argument (20 points): After listening to your opponent's argument, you have five minutes to respond. Justices may ask questions during this time as well. The best way to prepare your rebuttal is to have a series of notes about the most likely arguments your opponent will make (just take a peek at the publically-available briefs for the other side, or from the opinion/dissents in the case, to get an idea of what arguments they might make) and prepare a response to each (ideally, a case that rejects the point, or a legal distinction between their precedent and the present case).
  - Professionalism (10 points):
    - Dress up a little for your day in court. In general, don't wear jeans (although khakis – even khaki shorts – are okay), wear a button-up shirt (not a t-shirt), and tuck it in. Dresses are fine as well. Ties are fine but not needed. In general, you should remove your hat.
    - Use respectful language when referring to the Court and your opponent. Never interrupt your opponent, since they are speaking on their own time.
- Opinions (18%): For each debate, there is an opinion due the next class session (post it as an attachment on Canvas in the discussion forum for the relevant case). In your opinion, you should briefly summarize the facts of the case, identify the legal questions at issue, state how you ruled on each such question and why (legal reasoning that addresses counterarguments made by the losing side), and finally either affirm or reverse the court below (technically, you can also vacate a ruling of a lower court and send the case back for rehearing under the legal principles you established, but this is effectively a reversal anyway).
  - Opinions should be typed.
  - There are no maximum length limits on opinions (the longest majority opinion was the *per curiam* opinion in *Buckley v. Valeo*, which ran to 31,000 words and nearly 300 pages); as for minimum length, you should write enough to have clearly accomplished each of the above elements (which will vary from case to case, depending on the number and complexity of questions presented and arguments made).
  - Each opinion is worth the same number of points, even though some will no doubt be easier to write than others.
- Participation (15%). This will be graded on a simple system of 10 points (recorded as percentages) per day. A student who attends and does little else will receive 4 points (40% credit). A student who constructively participates in about half of the class will receive 7 points (70% credit). A student who constructively participates throughout class will receive the full 10 points (100% credit).
  - Constructive participation means making several comments or asking questions that demonstrate familiarity with the assigned readings for the week. It also means actively engaging in any in-class exercises.



- A good rule of thumb is to be sure to contribute something relevant (even just a question that shows engagement with the course material) at least twice an hour if there is no lecture or in-class exercise.
- As the amount of class time devoted to lecture increases, the amount of participation expected from students decreases proportionally.
- Lateness/Leaving Early: These things can be disruptive to class. Moreover, they are missed opportunities to participate in class and to understand the development of the conversation. Therefore, participation credit will be reduced for lateness/leaving early in proportion to how much class time is missed (rounding up to the next 10%).
- Final Exam (30%). There will be a comprehensive final exam. The exam will be focused on two hypothetical (or perhaps actual) cases which allow you to make use of your judicial philosophy and the precedents we have discussed and debated in class. You must choose one of the hypotheticals and spend the entire exam on it. If you answer both of them, only the first answer will be graded.
  - It is generally best to outline and defend your judicial philosophy first and then to apply it to the hypothetical in a detailed and consistent manner.
  - The exam is both open-notes and open-book. You are free to use class handouts, your notes, and all of the assigned readings. You are **not** permitted to use other resources (such as online material) during the exam.
  - Exam grading rubric. Being able to cite particular authors is less important than synthesizing their findings into a coherent argument. Grading is primarily based upon your demonstrated knowledge of and ability to synthesize and apply the material, rather than spelling/grammar issues. Having said this, atrocious grammar can make it impossible for the reader to understand your argument.

### POLI 5303 Final Exam Question Grading Rubric

Grade	Judicial Philosophy (30%)	Argument Structure (10%)	Evidence (50%)	Counter-Arguments (10%)
<b>A</b>	Clear, detailed, and defended. No <i>ad hoc</i> elements present; rather, everything fits together consistently from principles you defend.	The proposed ruling is built up from arguments about each element of the question, each with its own support, and consistent with the judicial philosophy.	The decision applies all legally relevant standards, texts, and precedents to the facts of the case, providing support of the type needed by your judicial philosophy.	Addressed, with flaws spotlighted.
<b>B</b>	Detailed and defended, but vague or includes some <i>ad hoc</i> elements.	Some elements of the proposed ruling do not correspond to the question posed or judicial philosophy used.	The decision applies most but not all legally relevant standards, texts, and precedents to the facts of the case, providing support of the type needed by your judicial philosophy.	Addressed, with mixed results.



Grade	Judicial Philosophy (30%)	Argument Structure (10%)	Evidence (50%)	Counter-Arguments (10%)
<b>C</b>	Partially defended, but important principles appear disconnected from each other, such as an <i>ad hoc</i> collection of conflicting ideas, rather than a complete judicial philosophy.	The ruling is a set of arguments that proceed without logical order.	The decision applies some legally relevant standards, texts, and precedents to the facts of the case, providing support of the type needed by your judicial philosophy. Important evidence and lines of argumentation are ignored <b>OR</b> the evidence used to support the ruling is not consistent with the type required by the judicial philosophy.	Some addressed, with mixed results.
<b>D</b>	Partially defended, but unclear or self-contradictory. It appears to be an <i>ad hoc</i> collection of conflicting ideas, not a coherent judicial philosophy.	Most of the ruling is devoid of actual argument, instead following a stream-of-consciousness or “data dump” strategy.	At least one major element of the ruling has substantial evidence from the course that supports it. However, the other elements are supported by generally vague, irrelevant (to your judicial philosophy), or “naked” claims (i.e. ones without evidence and/or warrants).	Most unmentioned; remainder are dismissed with vague statements or similar avoidance strategies
<b>F</b>	Unclear or undefended.	The ruling is devoid of structure.	Little if any evidence from the course is used in the answer. It fails to synthesize the law.	Not addressed

### Attendance, Make-Up Work, and Late Work

- **Excused Absences:** Attendance is required. Students must inform the instructor *prior to an absence*. Send me an email stating the dates(s) you will be missing and the reason(s). (Protect yourself! Don't rely on my memory – send me something written that I can keep in my files).
  - If all else fails, you or a friend may call my office and speak to me or my voicemail. There are very few situations in life that preclude making a phone call or having a friend do so; failure to contact the instructor *prior to class* will normally rule out any sort of make-up.
  - See the lateness policy under Participation above. If you do have to leave early, please remember to get any in-class assignments first.
- **Late Work:** Late opinions are only accepted in the case of excused absences. *If you must email me something to prove you have it done on time, then you need to bring a hard copy for me to grade the next class session.*
- **Make-Up Work (Excused Absences Only):**
  - We will try to make up for a missed debate (if you have a medical or similar emergency) by having you debate another issue on another day, but there is **no guarantee that a missed debate can be made up.**



- Written make-up work is required for every **excused** absence. It makes up for the inability of the student to participate in the class and write an opinion. It does **not** make up for a missed debate.
  - Look at the topic of the day and then write an outline of which cases (or articles) support which interpretations of that topic. For example, if you missed a session on “privacy and other unenumerated rights,” you would need to make an outline with at least two main points (privacy and other unenumerated rights) and then list the cases that established each of these rights and their parameters, describing the legal significance of each ruling.
- **When you return from an excused absence, be sure to do the make-up work. It is your duty to keep up, not the instructor’s duty to remind you.**
- Make-up work is due one week after you return to class.
- Grades of incomplete are not to be used when students simply fall behind. Instead, they are used when some event such as a hospitalization or deployment effectively takes the student out of the class after the drop deadline. By university policy, incompletes must be finished in the subsequent semester.

### **Regrade Policy**

It is possible for me to make a mistake when grading. So if you think that I graded part or all of an assignment incorrectly, you have one week to return it to me for regrading against the rubric. You may request that all or only part of the assignment be regraded. I take no offense at this. The same policy applies to the final exam; you have one week from when grades are posted to request a regrade of one or both questions. As for participation, I make the daily participation grades available both during the class break and after class, so if you need to remind me of something you said that didn’t receive credit, do so that night as I probably won’t remember who said what the next week.

### **Academic Integrity**

*University Code of Academic Honesty:* Texas A&M University -Central Texas values the integrity of the academic enterprise and strives for the highest standards of academic conduct. A&M-Central Texas expects its students, faculty, and staff to support the adherence to high standards of personal and scholarly conduct to preserve the honor and integrity of the creative community. Academic integrity is defined as a commitment to honesty, trust, fairness, respect, and responsibility. Any deviation by students from this expectation may result in a failing grade for the assignment and potentially a failing grade for the course. Academic misconduct is any act that improperly affects a true and honest evaluation of a student’s academic performance and includes, but is not limited to, cheating on an examination or other academic work, plagiarism and improper citation of sources, using another student’s work, collusion, and the abuse of resource materials. All academic misconduct concerns will be reported to the university’s Office of Student Conduct. Ignorance of the university’s standards and expectations is never an excuse to act with a lack of integrity. When in doubt on collaboration, citation, or any issue, please contact your instructor before taking a course of action.

Specific guidelines for this course, which supplement and do not replace University policy:

- *Violations:* There are plenty of ways to cheat listed by the Student Handbook. Some common violations of academic integrity that I have observed while teaching similar classes at TAMUCT are
  - Copying another student’s homework. I encourage study groups, but copying must be avoided. Discuss the readings as long as you wish, but don’t “share” the contents of your memos before they are due. You may not “jointly” complete any of the homework exercises in this course unless otherwise indicated on the assignment; these are to be completed by yourself alone. If you provide another student with a copy of your homework and they copy it, both you and the copier will be deemed to have violated the policy.
  - Using direct quotes without quotation marks. Even if you are just using three- or four-word phrases, you need to surround them with quotation marks if you didn’t create them yourself. This



is true even if you cite the source! Remember that changing a few words in a sentence does not transform a direct quote into a paraphrase; instead, it transforms one long direct quote into several shorter direct quotes with a word of your own between each. A true paraphrase is the expression of the cited source's ideas in your own words.

- Paraphrasing another person's words without citing the source
- **Penalties:**
  - The normal penalty for a violation of academic integrity (whether or not it is specifically listed above) in any of my classes is a grade of zero for the work or a deduction of 20% (two letter grades) from your course grade, whichever is **greater**. The infraction will be reported to the TAMUCT administration, with a recommendation for probation in the case of deliberate violation or no further action in the case of clearly inadvertent violation.
  - The (a) outright purchase, download, or completion by others of an exam, or (b) second or subsequent violation of academic integrity (in this course or other courses) display such serious disregard for academic integrity that either one of them will result in course failure **and** recommendation for expulsion to the TAMUCT administration.

### **Drop Policy**

If you discover that you need to drop this class, you must complete a [Drop Request Form](https://www.tamuct.edu/registrar/docs/Drop_Request_Form.pdf) [https://www.tamuct.edu/registrar/docs/Drop\_Request\_Form.pdf].

Professors cannot drop students; this is always the responsibility of the student. The Registrar's Office will provide a deadline on the Academic Calendar for which the form must be completed, signed and returned. Once you return the signed form to the Registrar's Office, you must go into Warrior Web and confirm that you are no longer enrolled. If you still show as enrolled, FOLLOW-UP with the Registrar's Office immediately. You are to attend class until the procedure is complete to avoid penalty for absence. Should you miss the drop deadline or fail to follow the procedure, you will receive an F in the course, which may affect your financial aid and/or VA educational benefits.

### **Student Resources**

- **911 Cellular:** Emergency Warning System for Texas A&M University-Central Texas. 911Cellular is an emergency notification service that gives Texas A&M University-Central Texas the ability to communicate health and safety emergency information quickly via email, text message, and social media. All students are automatically enrolled in 911Cellular through their myCT email account. Connect at 911Cellular [https://portal.publicsafetycloud.net/Texas-AM-Central/alert-management] to change where you receive your alerts or to opt out. By staying enrolled in 911Cellular, university officials can quickly pass on safety-related information, regardless of your location.
- **Academic Accommodations:** At Texas A&M University-Central Texas, we value an inclusive learning environment where every student has an equal chance to succeed and has the right to a barrier-free education. The Department of Access and Inclusion is responsible for ensuring that students with a disability receive equal access to the university's programs, services and activities. If you believe you have a disability requiring reasonable accommodation(s), please contact the Department of Access and Inclusion at (254) 501-5831. Any information you provide is private and confidential and will be treated as such. For more information please visit our [Access & Inclusion](https://www.tamuct.edu/student-affairs/access-inclusion.html) web page [https://www.tamuct.edu/student-affairs/access-inclusion.html].
  - Texas A&M University-Central Texas supports students who are pregnant and/or parenting. In accordance with requirements of Title IX and related guidance from US Department of Education's Office of Civil Rights, the Dean of Student Affairs' Office can assist students who are



pregnant and/or parenting in seeking accommodations related to pregnancy and/or parenting. Students should seek out assistance as early in the pregnancy as possible. For more information, please visit the [Student Affairs](https://www.tamuct.edu/student-affairs/index.html) web page [https://www.tamuct.edu/student-affairs/index.html]. Students may also contact the institution's Title IX Coordinator. If you would like to read more about these [requirements and guidelines online](http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf), please visit the website [http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf].

- Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex and gender—including pregnancy, parenting, and all related conditions. A&M-Central Texas is able to provide flexible and individualized reasonable accommodation to pregnant and parenting students. All pregnant and parenting students should contact the Division of Student Affairs at (254) 501-5909 to seek out assistance. Students may also contact the University's Title IX Coordinator.
- **Tutoring** is available to all A&M-Central Texas students, both on-campus and online. On-campus subjects tutored include Accounting, Advanced Math, Biology, Finance, Statistics, Mathematics, and Study Skills. Tutors are available at the Tutoring Center in Warrior Hall, Suite 111.
  - If you have a question regarding tutor schedules, need to schedule a tutoring session, are interested in becoming a tutor, or any other question, contact Academic Support Programs at 254-519-5796, or by emailing Dr. DeEadra Albert-Green at deeadra.albertgreen@tamuct.edu.
  - Chat live with a tutor 24/7 for almost any subject on your computer! Tutor.com is an online tutoring platform that enables A&M-Central Texas students to log-in and receive FREE online tutoring and writing support. This tool provides tutoring in over forty subject areas. Access Tutor.com through Canvas.
- **University Writing Center:** Located in 416 Warrior Hall, the University Writing Center (UWC) at Texas A&M University-Central Texas is a free workspace open to all TAMUCT students from 10am-5pm Monday-Thursday with satellite hours in the University Library Monday-Thursday from 6:00-9:00pm. Students may arrange a one-on-one session with a trained and experienced writing tutor by visiting the UWC during normal operating hours (both half-hour and hour sessions are available) or by making an appointment via WOnline at [https://tamuct.mywconline.com/]. In addition, you can email Dr. Bruce Bowles Jr. at bruce.bowles@tamuct.edu to schedule an online tutoring session. Tutors are prepared to help writers of all levels and abilities at any stage of the writing process.
  - While tutors will not write, edit, or grade papers, they will assist students in developing more effective composing practices. By providing a practice audience for students' ideas and writing, our tutors highlight the ways in which they read and interpret students' texts, offering guidance and support throughout the various stages of the writing process. In addition, students may work independently in the UWC by checking out a laptop that runs the Microsoft Office suite and connects to WIFI, or by consulting our resources on writing, including all of the relevant style guides. Whether you need help brainstorming ideas, organizing an essay, proofreading, understanding proper citation practices, or just want a quiet place to work, the University Writing Center is here to help!
  - If you have any questions about the University Writing Center, please do not hesitate to contact Dr. Bruce Bowles Jr. at bruce.bowles@tamuct.edu.
- **The University Library** provides many services in support of research across campus and at a distance. We offer over 200 electronic databases containing approximately 250,000 eBooks and 82,000 journals, in addition to the 85,000 items in our print collection, which can be mailed to students who live more than 50 miles from campus. Research guides for each subject taught at A&M-Central Texas are available through our website to help students navigate these resources. On-campus, the library offers technology including cameras, laptops, microphones, webcams, and digital sound recorders.



- Research assistance from a librarian is also available twenty-four hours a day through our online chat service, and at the reference desk when the library is open. Research sessions can be scheduled for more comprehensive assistance, and may take place on Skype or in-person at the library. Assistance may cover many topics, including how to find articles in peer-reviewed journals, how to cite resources, and how to piece together research for written assignments.
- Our 27,000-square-foot facility on the A&M-Central Texas main campus includes student lounges, private study rooms, group work spaces, computer labs, family areas suitable for all ages, and many other features. Services such as interlibrary loan, TexShare, binding, and laminating are available. The library frequently offers workshops, tours, readings, and other events. For more information, please visit our Library website [<https://tamuct.libguides.com/>].

### **Amendments**

Not all exigencies can be foreseen. I reserve the right to amend the syllabus at any time. Any such amendment will be provided to the students in writing.



# Course Schedule

Note that all readings outside of Vile's book are on Canvas.

## June 5 – The Rule of Law or Politics by Other Means? Myths and Realities of Legal Formalism

### June 7 – Beyond *Stare Decisis*: Originalism, Textualism, and the Living Constitution

Whittington, "Originalism: A Critical Introduction"

Baude and Doerfler, "The (Not So) Plain Meaning Rule"

Reinhardt, "Life or Death: Our Constitution and How It Grows"

### June 12 – Standing and the Judicial Power in Times of War, Peace, and Secrecy

*Constitution of the United States of America* (in Vile)

Vile, Chapters 4 and 3

*DaimlerChrysler v. Cuno* (Syllabus Only)

*Totten v. US* (Opinion)

*US v. Reynolds* (Syllabus Only)

*Tenet v. Doe* (Syllabus Only)

*General Dynamics Corp. v. US* (Syllabus Only)

DUE: Academic Integrity Exercise

DUE: Judicial Philosophy and Constitutional Scavenger Hunt Exercise

### June 14 – Legislative Power

Vile, Chapters 1 (pp. 1-2 and 21-59) and 6

*Feist Publications, Inc. v. Rural Telephone Services Co.* (Syllabus Only)

*Eldred v. Ashcroft* (Syllabus and Stevens Dissent)

DEBATE	<i>US Term Limits, Inc v. Thornton</i>
Question:	Can states alter those qualifications for the U.S. Congress that are specifically enumerated in the Constitution?

### June 19 – Executive Power

Vile, Chapter 2

*Chevron USA Inc. v. Natural Resources Defense Fund Inc.* (Opinion – Sections I, II, and VII only)

*Lucia v. SEC* (Syllabus Only)

*Trump v. Hawaii* (Syllabus and Dissent)

*Blumenthal et al v. Trump* (Abridged Complaint Only)

DEBATE	<i>Rathbun, Humphrey's Executor v. United States</i>
Question:	Did Section 1 of the Federal Trade Commission Act unconstitutionally interfere with the executive power of the President?

### June 21 -- Federalism

Vile, Chapters 5, 1 (pp. 2-21) and 8

DEBATE	<i>Gonzales v. Raich</i>
Question:	Does the Controlled Substances Act (21 U.S.C. 801) exceed Congress' power under the commerce clause as applied to the intrastate cultivation and possession of marijuana for medical use?



## June 26 – Property Rights

Vile, Chapter 7

### *Svein v. Melin* (Syllabus Only)

DEBATE	<i>The Slaughterhouse Cases</i>
Question:	Did Louisiana’s creation of the New Orleans monopoly on slaughterhouse operations violate Section I of the Fourteenth Amendment?

## June 28 – Political Speech

Vile Chapter 10 (pp. 289-301, 316-323, 325-326, 327-329, and 330)

### *Minnesota Voters Alliance v. Minsky* (Majority Opinion and Dissent)

DEBATE	<i>Citizens United v. FEC</i>
Question 1:	Do the Bipartisan Campaign Reform Act's disclosure requirements impose an unconstitutional burden when applied to electioneering requirements because they are protected "political speech" and not subject to regulation as "campaign speech?"
Question 2:	May political speech by corporations be treated differently than political speech by natural persons?

## July 3 – Freedoms of Assembly and the Press

Vile, Chapter 10 (pp. 267-289, 301-316, 326-327, 329-330)

*United States v. Paul Little* [11<sup>th</sup> Circuit] (Opinion)

### *Janus v. AFSCME* (Syllabus and Dissent)

### *National Institute of Family and Life Advocates v. Becerra* (Syllabus Only)

DEBATE	<i>United States v. Paul Little, aka Max Hardcore</i>
Question 1:	Does the “contemporary community standards” approach of <i>Miller v. California</i> apply to material posted on the Internet?
Question 2:	If so, what is the relevant “community” for the application of the <i>Miller</i> test to material posted on the Internet?

## July 5 -- Religion

Vile, Chapter 9 and Chapter 10 (pp. 323-325)

### *Masterpiece Cakeshop Limited v. Colorado Civil Rights Commission* (Majority Opinion and Dissent)

DEBATE	<i>Santa Fe School District v. Doe</i>
Question:	Does the Santa Fe Independent School District's policy permitting student-led, student-initiated prayer at football games violate the Establishment Clause of the First Amendment?

## July 10 – Searches and Seizures

Vile, Chapter 11 (pp. 345-347, 359-380)

*Camara v. Municipal Court* (Syllabus and Dissent)

*Hudson v. Michigan* (Summary)

*Georgia v. Randolph* (Syllabus, Stevens Concurrence, Roberts Dissent, Scalia Dissent)

*Arizona v. Johnson* (Syllabus Only)

*Kyllo v. United States* (Syllabus Only)

*Collins v. Virginia* (Syllabus Only)

DEBATE	<i>Weeks v. United States</i>
Question:	Must evidence obtained in violation of the Fourth Amendment be excluded from admissibility at trial?



## July 12 – Privacy and Other Unenumerated Rights

Vile, Chapter 11 (pp. 352-359)

*Hiibel v. Sixth Judicial District Court of Nevada* (Majority Opinion, Breyer Dissent, Stevens Dissent)

*Carpenter v. US* (Syllabus and Dissent)

Vile, Chapter 13

DEBATE	<i>Griswold v. Connecticut</i>
Question:	Does the Constitution protect the right of marital privacy against state restrictions on a couple's ability to be counseled in the use of contraceptives?

## July 17 – Due Process of Law

Vile, Chapter 12 (pp. 381-402)

*Brady v. United States* (Syllabus Only)

*McMann v. Richardson* (Syllabus Only)

*Santobello v. New York* (Syllabus Only)

*Class v. United States* (Syllabus and Dissent)

*Jones v. Flowers* (Syllabus Only)

DEBATE	<i>Bordenkircher v. Hayes</i>
Question:	Does the Fourteenth Amendment's Due Process Clause prohibit state prosecutors from carrying out a threat made during plea negotiations to re-indict the accused on more serious charges if he does not plead guilty to the offense with which he was originally charged?

## July 19 – Arrests, Trials, and Punishments

Vile, Chapter 12 (pp. 403-427)

*Strickland v. Washington* (Syllabus Only)

*United States v. Ragin* [Fourth Circuit] (Summary Only)

*Crawford v. Washington* (Syllabus Only)

*Giles v. California* (Syllabus Only)

*McCoy v. Louisiana* (Syllabus Only)

DEBATE	<i>Crawford v. Washington</i>
Question:	Does playing out-of-court testimony to a jury, with no chance for cross-examination, violate a defendant's Sixth Amendment guarantee that "[i]n all criminal prosecutions, the accused shall enjoy the right...to be confronted with the witnesses against him?"

## July 24 – Self-Defense and the Second Amendment

*Bad Elk v. United States* (Opinion)

*Shane Allen Wilson v. State of Indiana* [Indiana Court of Appeals] (Opinion)

*Rowe v. DeBruyn* [7<sup>th</sup> Circuit Court of Appeals] (Majority Opinion and Dissent)

*US v. Miller* [1939] (Opinion)

*DC v. Heller* (Syllabus and Stevens Dissent; Majority Opinion and Breyer Dissent are Optional)

*McDonald v. Chicago* (Syllabus Only)

*Teixeira v. County of Alameda* [9<sup>th</sup> Circuit] (Summary Only)

*Kolbe v. Hogan* [4<sup>th</sup> Circuit] (Summary Only)

*Mance v. Sessions* [5<sup>th</sup> Circuit] (Opinion Only)

DEBATE	<i>DC v. Heller</i>
Question:	Do the provisions of the District of Columbia Code that restrict the licensing of handguns and require licensed firearms kept in the home to be kept nonfunctional violate the Second Amendment?



## July 26 -- Equal Protection

Vile, Chapter 14

*Plyler v. Doe* (Syllabus and Burger Dissent)

DEBATE	<i>Milliken v. Bradley</i>
Question:	Do federal courts have the authority to impose a multi-district racial desegregation plan requiring integration between adjacent school districts?

## July 31 – Voting Rights

Vile, Chapter 15

*Davis v. Bandemer* (Syllabus Only)

*LULAC v. Perry* (Syllabus Only)

**Redistricting Cases: *Abbot v. Perez* (TBA), *Gill v. Whitford* (TBA), and/or *Benisek v. Lamone* (TBA)**

DEBATE	<i>Shelby County v. Holder</i>
Question:	Does the renewal of Section 5 of the Voter Rights Act under the constraints of Section 4(b) exceed Congress' authority under the Fourteenth and Fifteenth Amendments, and therefore violate the Tenth Amendment and Article Four of the Constitution?

## August 2 – Enforcing the Constitution: Above the Law?

*Bradley v. Fisher* (Majority Opinion Only)

*Stump v. Sparkman* (Syllabus and Both Dissents)

*Brown v. Almond* (Hypothetical)

*Imbler v. Pachtman* (Syllabus)

*Nixon v. Fitzgerald* (Majority Opinion and Dissent)

DEBATE	<i>Brown v. Almond</i> (Hypothetical)
Question 1:	Does the doctrine of absolute judicial immunity enunciated by this Court in <i>Bradley v. Fisher</i> and restated in <i>Stump v. Sparkman</i> require the appellant's suit to be dismissed?
Question 2:	If the absolute doctrine of judicial immunity requires dismissal, should <i>Bradley v. Fisher</i> and/or <i>Stump v. Sparkman</i> be overruled?

## August 7 – Enforcing the Constitution: Rights without Remedies?

Forsythe, "A Guide to Civil Rights Liability Under 42 U.S.C. § 1983"

*Harlow v. Fitzgerald* (Syllabus Only)

*Hope v. Pelzer* (Syllabus Only)

*Kisela v. Hughes* (Per Curiam Opinion and Sotomayor Dissent)

*Bivens v. Six Unknown Named Agents* (Majority Opinion and Black Dissent)

*Ziglar v. Abbasi* (Syllabus and Breyer Dissent)

*Bell Atlantic Corp. v. Twombly* (Syllabus Only)

*Ashcroft v. Iqbal* (Majority Opinion Except Sections II and IV(C), Both Dissents)

MAKE UP DEBATE (if needed)	<i>Ziglar v. Abbasi</i>
Question 1:	How broadly should "context" be defined for the purpose of determining whether claims arose in a "new context" in regards to holding a government official as personally liable for committing a Constitutional violation?
Question 2:	Are the defendants in these cases entitled to qualified immunity from liability?

## August 9 – Final Exam

