

POL 744: Constitutional Law II—Civil Rights

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Office Hours: M-W 10:00am-11:30am
T-Th 1:30-3:30pm
By Appointment

In this course, we will examine the definition and content of civil rights. These rights are summed up as life, liberty, and property. But what do these rights mean? What protections are included in them? Who is the threat to them—the government, individuals, private groups, all of the above? These questions we will consider in this class. We will do so through studying court cases dealing with the subjects of life, liberty, and property as well as the writings of two 18th century jurists, Englishman William Blackstone and American Founder James Wilson.

Assignments

Paper I: 10 pages (25%)

Final Exam : (35%)

Paper II: 10 pages (30%)

Participation: 10%

Please note that assignments turned in late will be penalized five points for every day late. You may substitute two shorter papers for one longer paper (20 pages in length). Papers must engage with at least one secondary source which in some way diverges from your argument.

Grading Scale

A	93-100	C	73-77
A-	90-92	C-	70-72
B+	88-89	D+	68-69
B	83-87	D	63-67
B-	80-82	D-	60-62
C+	78-79	F	0-59

Readings

Reading Packets I-III

Democracy and Distrust: A Theory of Judicial Review by John Hart Ely

Beyond the Constitution by Hadley Arkes

The Tempting of America by Robert Bork

The Lost Constitution by Randy Barnett

Reading Schedule

9/2 Introduction: Nature of Rights

Readings: Wilson and Blackstone on Rights

Right to Life

9/4 Right to Life

Readings: Wilson and Blackstone on the Right to Life

9/7 Death Penalty

Readings: *Glossip v. Gross*; *Adkins v. Virginia*

9/9 Death Penalty:

Readings: *Roper v. Simmons*; *Kennedy v. Louisiana*

9/11 Assisted Suicide

Readings: *Cruzan v. MO Dept. of Health*; *Washington v. Glucksberg*

9/14 Approaches to the Constitution I

Readings: Bork, Chapters 6-8

9/16 Approaches to the Constitution I

Readings: Bork, Chapters 9-13

9/18 Right to Liberty

Readings:

9/21 Abortion

Readings: *Planned Parenthood v. Casey*; *Harris v. McRae*

9/23 Abortion

Readings: *Gonzalez v. Carhart*; *Edwards v. Beck*

9/25 Race and the Law

Readings: *Civil Rights Cases*; *Ex Parte Virginia*

9/28 Race and the Law

Readings: *Plessy v. Ferguson*; *Brown v. Board of Education*

9/30 Race and the Law

Readings: *California Board of Regents v. Bakke*

10/2 Race and the Law

Readings: *Texas Dept. of Housing v. ICP*

10/5 Sexual Orientation

Readings: *Bowers v. Hardwick*; *Lawrence v. Texas*

10/7 Sexual Orientation

Readings: Wilson on Marriage; *Obergefell v. Hodges* (Majority opinion)

10/9 Sexual Orientation

Readings: *Obergefell v. Hodges* (Roberts and Thomas dissents)

10/12 Approaches to the Constitution II

Barnett, Chapters 1-3

10/14 Approaches to the Constitution II

Barnett, Chapters 8-10

10/16 Fall Break

10/19 Religious Liberty

Readings: *Reynolds v. U.S.*; *Davis v. Beason*

10/21 Religious Liberty

Readings: *Sherbert v. Verner*; *Employment Division v. Smith*

10/23 Religious Liberty

Readings: *Church of Lukumi Babalu v. City of Hialeah*; *Holt v. Hobbs*

10/26 Religious Liberty

Readings: *Christian Legal Society v. Martinez*; *Masterpiece Cake Shop-*

10/28 Freedom of Association

Readings: *NAACP v. Alabama*; *Boy Scouts v. Dale*

10/30 Free Speech

Readings: *Abrams v. U.S.*; *Chaplinsky v. New Hampshire*

11/2 Free speech

Readings: *Miller v. CA*; *U.S. v. Stevens*

11/4 Approaches to the Constitution III

Readings: Ely, Chapters 1-4

11/6 Approaches to the Constitution IV

Readings: Ely Chapters 5-6

11/9 Education

Readings: *Bob Jones University v. U.S.*; *Grove City v. Bell*

11/11 Parenting

Readings: *Pierce v. Society of Sisters*; *Jacobson v. MA*

11/13 Right to Property

Readings: Wilson & Blackstone on Property

11/16 Economic Due Process

Readings: *Munn v. Illinois*

11/18 Economic Due Process

Readings: *Allgeyer v. LA*; *Adkins v. Childrens' Hospital*

11/20 Economic Due Process

Readings: *West Coast Hotel v. Parrish*

11/23 Contracts' Clause:

Readings: *Fletcher v. Peck*; *Dartmouth College v. Woodward*

11/25 Thanksgiving

11/27 Thanksgiving

11/30 Contracts' Clause (Bankruptcy):

Readings: *Sturges v. Crowninshield*; *Ogden v. Saunders*

12/2 Contracts' Clause (Bankruptcy):

Readings: *Home Building & Loan v. Blaisdell*

12/4 Contract Clause

Readings: *New Jersey v. Wilson*; *Charles River Bridge v. Warren Bridge*

12/7 Contracts' Clause (Unions)

Readings: *Adair v. United States*; *NLRB v. Jones*; *J.I. Case Co. v. Labor Board*

12/9 Approaches to the Constitution IV

Readings: Arkes, Chapters 1-4

12/11 Approaches to the Constitution IV

Readings, Arkes, Chapters 5-9