

**POL 302 A**  
**CIVIL RIGHTS LAW**  
**Spring 2018 MWF 9-9:50 AM**

**Instructor: Whitney Manzo**

**Office Hours: MWF 1-2, T 11-12, or by appointment**

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**Course Description**

This course is an examination of the development of United States civil rights law in the areas of gender, sexuality, and race. We will read Supreme Court opinions and analyze how these decisions might be applied to modern racial and gender issues. We also will study how American society both influences and is influenced by race, gender, and sexuality law.

**Course Goals**

As a result of taking this course students will

1. Understand the development of civil rights law through examination of major cases in the Supreme Court's history. (Social Science learning outcome #1)
2. Understand theories of judicial decision making and to be able to apply those theories to past and current Supreme Court cases. (Social Science learning outcome #3)
3. Identify aspects of American society and experiences in terms of culture, institutions, and diversity. (US Perspectives learning outcome #1)
4. Be able to critically analyze racial and gender controversies in the United States throughout history and today using relevant disciplinary methods. (US Perspectives learning outcome #2)
5. Understand the workings of actual Supreme Court actors by participating in a mock trial.

**Texts**

1. *Supreme Court Decisions and Women's Rights: Milestones to Equality* (2<sup>nd</sup> ed) edited by Clare Cushman. CQ Press, 2011.
2. *Inherently Unequal: The Betrayal of Equal Rights by the Supreme Court, 1865-1903* by Lawrence Goldstone. Walker & Co., 2011.
3. *The Civil Rights Movement: Revised Edition* by Bruce J. Dierenfield. Routledge, 2008.
4. *Prisoners Without Trial: Japanese Americans in World War II* by Roger Daniels. Hill and Wang, 2004.

A small amount of material may be placed on Blackboard.

**Other Required Materials**

Access to the internet, a word processing program, and Meredith gmail (you should check this every morning)  
3 blue books for written exams

**Grades and Assignments**

10%	Attendance
20%	Class Participation
20%	Case Briefs
25%	Written Exams (3)
<u>25%</u>	Mock Trial Paper
100%	Total

**Attendance:** Attendance is expected at all class meetings, and I will be taking attendance each class period. If you miss class, you will miss important material that may be on an essay prompt and you can't participate in class discussion. The attendance portion of your grade will be allocated as follows:

0 absences or 1 unexcused absence: Full 10/10

2 unexcused absences: 9/10

3-4 unexcused absences: 7/10

More than 4 unexcused absences: 0/10

To possibly have an absence excused, you must email me a note with the date and reason for absence by the beginning of the next class (I will not accept paper notes).

*Class Participation:* This grade includes but is not limited to contribution to class discussion, active participation in group work/group assignments, and short papers.

*Case Briefs:* For each class meeting in which cases are assigned, you will bring **two** paper copies of a brief of the case that is in **bold:** one to be graded, and one for you to take notes on as we discuss it. I strongly encourage you to brief every case we will discuss, as these are the only notes that you may use to assist you during exams, but only the bolded one is required. Most of the cases I ask you to brief will be found in your textbook, but some may only be found in other sources: Justia, Oyez, SCOTUSBlog, or the Supreme Court's website. My personal preference is Justia, but choose the site that presents the material in a way that makes the most sense to you. You may NOT copy a brief from site and turn it in; these need to be your original work. Briefs will be graded on a scale of 1 (lowest) to 10 (highest).

## HOW TO BRIEF A CASE

Briefing cases is the key to success in this course and in learning legal reasoning. The first step is to read the case carefully, underlining things that seem to be significant and placing a question mark where you don't understand. Difficult cases will require repeated readings before you brief them. A brief is a brief summary of the important elements of a case. Brevity is important and over-long briefs will be graded down; you should aim for two pages or less.

Please use the following form as a guide for your brief and number the sections as they are numbered here. You will not necessarily be able to answer every question for each case. Do as much as you can. Issues, holdings and precedent are the most important elements of the brief and should be included for every case.

STYLE , CITE & DATE– This should be the title of your brief. For example:

*Schenck v United States* - Parties to the case - plaintiff v defendant (on appeal)  
249 US 47 - Legal citation – volume 249 of the official US Reports at page 47  
1919 - Year the decision was handed down

1-FACTS OF THE CASE & LAW THAT APPLIES - Summarize the key facts which are central to the dispute between the parties. Also include relevant laws or parts of the Constitution. The specific language of the law, precisely what it makes illegal, generally determines what the key facts are. You should generally include short quotations from the law. In free speech cases you should quote precisely what the defendant said that makes their speech potentially a violation of the law involved.

2- PRECEDENT- What are the controlling precedents in this case? Sometimes, the precedent is explicitly listed in the facts; other times, you will have to use your own knowledge of the law in the question to determine the proper precedent. Usually, the decision itself will reference many previous cases; you only need to write the 3-4 most important and very briefly what they said.

3-LEGAL HISTORY OF THE CASE - In order to understand cases you need to clarify their current procedural status. This depends on actions taken by earlier (usually lower) courts. Summarize previous trial and appellate court action. The key question is usually who won in the lower court. The loser will be the plaintiff on appeal and his/her name will appear first on the case. In *Schenck v US*, Schenck lost in lower courts and is the plaintiff on appeal. This case began in District court as *US v Schenck*.

4-ISSUE(S) - The aim is to incorporate key facts and legal rules (often including particular language) into a **one sentence statement** of the conflict between the parties. This is the key step in briefing a case and other steps depend on it (particularly steps 1 & 4).

If a case involves more than one issue, answer steps 3, 4 & 5 separately for each issue. Label the first issue 3A then immediately do steps 4 and 5 as they apply to that issue. Then return to the second issue 3B and follow it with 4B and 5B, etc.

If you are having trouble understanding a case it may help you to formulate tentative questions and re-read the case closely with those questions in mind to see if it helps you pick out key facts and understand the holdings.

**Tip: The issue should take the form of a question and the more specific the better. Rather than asking, “Can this speech be punished?” ask “Does it violate the 1<sup>st</sup> amendment to punish the defendant for saying/publishing ... on the grounds that ...?”**

5-HOLDING(S) & VOTE - This is the court's answer to the question or issue posed by the case. Your aim is to write a **one sentence statement** which identifies the crux of the legal issues in dispute and the rule which forms the legal basis of the decision. You will often be tempted to simply write yes or no for your holding; resist the temptation and write a complete sentence which may repeat some of your issue.

**Tip: The holding and issue should always match. The holding answers the question posed by the issue.**

Include the vote on Supreme Court decisions. Examples: 9-0, 5-4, etc.

6-REASONING - Identify the major reasons which the court gives for its holding. This places this case in context and helps you predict actions of the court in other cases. Identify each line of reasoning used to justify a holding and summarize it. Do not reproduce the entire decision. It can be extremely difficult to distinguish holdings from reasoning and even experts sometimes disagree. Do the best you can.

**Tip: The holding resolves the issue, reasoning justifies the holding.**

Be sure not to report a dictum as reasoning. Dicta are statements in decisions that look like holdings, but which are not necessary to resolve this particular case. This is another difficult distinction to make, but important because dicta are not legally binding.

7-JUDGMENT - This is the result of the case and is usually found at the end of the opinion. It is generally stated in terms of whether the lower court action is affirmed or overruled.

8-CONCUR/DISSENT- These opinions have no legal force, but they can help you understand the holdings and the reasoning. Your aim is to summarize what is distinctive about each of these opinions in a sentence or two.

**Tip: Always try to answer the question, "Why didn't this justice join the majority opinion?"**

Because briefs will be collected and graded, it is important that they be your own work. You are encouraged to discuss cases with other students, but briefs must be entirely your own work. Copied briefs are honor code violations and will be treated as such.

*Written Exams:* There will be three short answer/essay exams throughout the semester, each covering the material preceding it (the final will not be cumulative). It is your responsibility to provide the blue books for these exams, and you must write them in pen.

*Mock Trial Paper:* At the end of the course, we will have two mock trials that will debate current civil rights cases. You will be assigned to your role shortly following spring break. You may choose one of two roles: lawyer or Supreme Court justice (we will need far more justices than lawyers). Whether you are a lawyer or a justice, you will write six pages and have a speaking role as part of this assignment. Further instructions will be forthcoming.

Grade Breakdown

- A: 91-100%
- B: 81-90%
- C: 71-80%
- D: 61-70%
- F: 60% or lower

#### Class Policies

*Makeup Work:* You may make up a missed exam if you have a valid excuse and notify me (preferably at least 24 hours in advance) that you will be absent. Late papers will be accepted with a letter grade dropped for every day the paper is late. Participation in the mock trial cannot be made up.

*Inclement Weather:* You can expect for us to hold class unless the school closes due to unsafe conditions. You can check Meredith social media and/or your Meredith email for school closure messages. I do not want you to risk your life to get to class, but I will not allow make up work for anything you miss, so final judgment on this matter rests in your hands.

*Food and Drink:* Food and drink will be allowed so long as they do not become distracting.

*Classroom Etiquette:* We will have lots of discussion in this course, and politics is by nature highly contentious. However, it is essential that every student be polite and courteous to other students, even if they are expressing views that offend or anger you. I will encourage scholarly debate of justifiable opinions, but not disparaging remarks or personal attacks. If I feel you have crossed the line, you will be asked to leave class and your participation points will be marked down.

*Laptops and Cell Phones:* Laptops will NOT be allowed in this class. This is a discussion-heavy course and all attention will need to be focused on our conversations and analyzing cases. Similarly, cell phone usage is banned during class time except for extreme emergencies.

*Extra Credit:* Any extra credit offered will be at my discretion.

*Academic Dishonesty:* Cheating on any assignment, quiz, or exam in this class is **absolutely forbidden** under the Meredith Code of Honor, which is printed below. If any academic dishonesty is discovered, I will not hesitate to take appropriate action. Possible punishments for this class include a failing grade on the assignment/quiz/exam, failing grade for the course, and a mark on your permanent record. There may also be additional punishments from the Meredith Honor Council. Long story short- **DON'T DO IT!**

#### Meredith Honor Code

We, the Meredith Community, are committed to developing and affirming in each student a sense of personal honor and responsibility. Uncompromising honesty and forthrightness are essential elements of this commitment. The Honor System is a method by which individual honors are protected and maintained. Any dishonorable action will be regarded as a violation of this commitment, and corrective action will be taken.

If I am in violation of the Honor Code, to prevent jeopardizing the Honor System or weakening our system of self-government, I have an obligation to report myself to the proper authorities. If I am aware of a violation of the Honor System by another student, I shall call this matter to the attention of that student as a violation of responsibility to the community.

In choosing Meredith College, I am accepting the Honor System as a way of life. As a Meredith student, I am responsible for insuring that the Honor System is at all times carried out.

#### Disability Statement

Reasonable accommodations will be made for students with documented disabilities. In order to receive accommodations, students must go through the Counseling Center/Disability Services office. Disability Services is located in Carroll Hall and can be reached at (919)760-8427 or [disabilityservices@meredith.edu](mailto:disabilityservices@meredith.edu). For additional information see the website at

[http://www.meredith.edu/on\\_campus\\_services/academic\\_and\\_support\\_services/disability\\_services/](http://www.meredith.edu/on_campus_services/academic_and_support_services/disability_services/)

#### Course Drop Dates

If you decide you cannot complete this course for whatever reason, you may withdraw. You must initiate this process with the Registrar's Office, I cannot do it for you. If you fail to meet the last drop date, you will receive a grade for this course, usually an "F".

Last day to drop without a "W": Wednesday, January 17, 2018

Last day to drop with a "W": Wednesday, March 14, 2018

#### Course Outline

Date	Topic	Readings and/or Assignments
January 10	Introduction	
January 12	Powers and Constraints of the Judiciary	
January 15	NO CLASS- MLK Day	
January 17	Judicial Decision Making Part I	Epstein and Walker pg. 10-31 on Blackboard
January 19	Judicial Decision Making Part II	Segal and Cover (1989) article on Blackboard

January 22	Judicial Decision Making Part III	Wahlbeck, Spriggs, and Maltzman (1998) article on Blackboard
January 24	How to Write a Case Brief	<i>Marbury v. Madison</i> (1803)
<b>UNIT 1</b>	<b>RACE LAW</b>	
January 26	Civil War Amendments	Goldstone Prologue, Ch. 1, 3
January 29	Civil War Amendments, cont.	Goldstone Ch. 5-6 <i>The Slaughterhouse Cases</i> (1873)
January 31	Civil War Amendments, cont.	Goldstone Ch. 7 <i>United States v. Cruikshank</i> (1876)
February 2	Civil War Amendments, cont.	Goldstone Ch. 9 <i>Strauder v. West Virginia</i> (1880); <i>Virginia v. Rives</i> (1880)
February 5	Civil War Amendments, cont.	Goldstone Ch. 10 <i>Civil Rights Cases</i> (1883)
February 7	Civil War Amendments, cont.	Goldstone Ch. 11, 13 <i>Hall v. DeCuir</i> (1877); <i>Plessy v. Ferguson</i> (1896)
February 9	Civil War Amendments, cont.	Goldstone Ch. 14-16 <i>Williams v. Mississippi</i> (1898)
February 12	Catch up and Review	
February 14	<b>Written Exam #1</b>	
February 16	Japanese Internment	Daniels Chapters 1-2
February 19	Japanese Internment, cont.	Daniels Chapter 3 <i>Hirabayashi v. US</i> (1943); <i>Korematsu v. US</i> (1944); <i>Ex parte Endo</i> (1944)
February 21	Japanese Internment, cont.	Daniels Chapters 4-7
February 23	NO CLASS- NCPA Conference	
February 26	Civil Rights Movement	<i>Sipuel v. Board of Regents of the University of Oklahoma</i> (1948); <i>Sweatt v. Painter</i> (1950)
February 28	Civil Rights Movement, cont.	Dierenfield Ch. 2-3 <i>Brown v. Board of Education</i> (1954); <i>Brown v. Board of Education II</i> (1955)
March 2	Civil Rights Movement, cont.	Dierenfield Ch. 4-5, 7 <i>Cooper v. Aaron</i> (1958); <i>Browder v. Gayle</i> (1956); <i>Boynton v. Virginia</i> (1960)
March 5-9	NO CLASS- Spring Break	
March 12	Civil Rights Movement, cont.	Dierenfield Ch. 10 <i>Heart of Atlanta Motel v. United States</i> (1964); <i>Swann v. Charlotte-Mecklenburg Board of Education</i> (1970); <i>Batson v. Kentucky</i> (1986)
March 14	Civil Rights Movement, cont.	Dierenfield Ch. 11-12
March 16	Affirmative Action	<i>Regents of the University of California v. Bakke</i> (1978); <i>Grutter v. Bollinger</i> (2003)
March 19	Affirmative Action, cont.	<i>United Steelworkers of America v. Weber</i> (1979); <i>Ricci v. DeStefano</i> (2009); <i>Fisher v. University of Texas</i> (2013)
March 21	Catch up and Review	
March 23	<b>Written Exam #2</b>	
<b>UNIT 2</b>	<b>GENDER AND SEXUALITY LAW</b>	
March 26	Romantic Paternalism	Cushman Chapter 1

		<i>Bradwell v. Illinois</i> (1873); <b><i>Muller v. Oregon</i></b> (1908); <i>Goesaert v. Cleary</i> (1948)
March 28	Sex Discrimination	Cushman Chapter 3 <i>Reed v. Reed</i> (1971); <b><i>Frontiero v. Richardson</i></b> (1973); <i>Craig v. Boren</i> (1976)
March 30	NO CLASS- Easter	
April 2	Single-Sex Schools	Cushman Chapter 5 <i>Mississippi University for Women v. Hogan</i> (1982); <b><i>United States v. Virginia</i></b> (1996)
April 4	Different Treatment	Cushman Chapter 6 <i>Rostker v. Goldberg</i> (1981); <i>Stanley v. Illinois</i> (1972); <b><i>Michael M. v. Superior Court of Sonoma City</i></b> (1981)
April 6	NO CLASS- Professor at Conference	
April 9	Workplace Discrimination	Cushman Ch. 7 <i>Phillips v. Martin Marietta Corp.</i> (1971); <i>Dothard v. Rawlinson</i> (1977); <b><i>Price Waterhouse v. Hopkins</i></b> (1989)
April 11	Workplace Discrimination, cont.	<i>Corning Glass Works v. Brennan</i> (1974); <b><i>Los Angeles Dept. of Water &amp; Power v. Manhart</i></b> (1978); <i>Ledbetter v. Goodyear Rubber &amp; Tire Co.</i> (2007)
April 13	Pregnancy Discrimination	Cushman Ch. 9 <b><i>Geduldig v. Aiello</i></b> (1974); <i>California Federal S&amp;L Association v. Guerra</i> (1987); <i>Young v. UPS</i> (2015)
April 16	Sexual Harassment	Cushman Ch. 8 <i>Meritor Savings Bank, FSB v. Vinson</i> (1986); <b><i>Harris v. Forklift Systems, Inc.</i></b> (1993); <i>Oncale v. Sundowner Offshore Services, Inc.</i> (1998)
April 18	LGBT Rights	<i>Bowers v. Hardwick</i> (1986); <b><i>Lawrence v. Texas</i></b> (2003)
April 20	LBGT Rights, cont.	<b><i>Romer v. Evans</i></b> (1996); <i>Centola v. Potter</i> (2002); <i>Glenn v. Brumby</i> (2011)
April 23	LGBT Rights, cont.	<i>United States v. Windsor</i> (2013); <i>Latta v. Otter</i> (2014); <b><i>Obergefell v. Hodges</i></b> (2015)
April 25	Mock Trial Day One	
April 27	Mock Trial Day Two	
April 30	Catch up and Review	
May 8 from 9-12	<b>Written Exam #3</b>	

The instructor reserves the right to amend this syllabus as necessary.