

POS 4931 Sec 1B48
Judicial Politics
University of Florida
Department of Political Science
Spring 2013

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Class Hours

Monday:
10:40 to 11:30am – Matherly Hall #018
Wednesday:
10:40 to 11:30am – Matherly Hall #018
Friday:
10:40 to 11:30am – Matherly Hall #018

Office Hours

Monday: 9:30 to 10:30am
11:30 to 1:30pm
Wednesday: 9:30 to 10:30am
11:30 to 1:30pm

Friday:

By Mutual Appointment

I. Course Description

This course offering will offer a broad overview of how the third branch of government fits into the American political system. It will start by covering theories of judicial decision making, including the legal model of precedent, and the competing attitudinal and strategic approaches. Consideration of agenda formation and the success of certain litigant types will follow, as well as an in-depth look at the selection processes of federal and state judges. The course will close out with a number of contextual topics, including the role of courts as venues of social change, separation of powers and compliance, public perceptions of judicial legitimacy, and disparities and bias in the criminal justice system. The course will be of interest to any student of political science, those who are considering pursuit of a law degree, or those who simply are interested in the role of courts in American society.

II. Potential Readings and Required Texts

The majority of readings for this course will be from an edited volume that is a required text:

Murphy, Walter F., C. Herman Pritchett, Lee Epstein, and Jack Knight. 2006. *Courts, Judges, and Politics: An Introduction to the Judicial Process*. 6th ed. New York: McGraw Hill. ISBN 9780072977059

Grisham, John. 2007. *The Innocent Man: Murder and Injustice in a Small Town*. New York: Dell Publishing. ISBN 9780440243830

Both texts have been in print for some time, so used copies should be readily available. These texts will be supplemented with topical readings from newspapers, books, journal articles and academic papers. These materials will be made available to students in the Adobe PDF format through the E-Learning system. This system provides a web based resource for the course that will act as the current calendar of readings and will also be used to submit any assignments.

E-Learning: <http://lss.at.ufl.edu/> [Gatorlink ID and password]

III. Calendar of Topics and Readings

Monday	01/07/2013	Introduction to the Course
Wednesday	01/09/2013	Film “The Supreme Court – One Nation Under Law” <i>Disk 1</i>
Friday	01/11/2013	Theoretical Approaches & Legal Systems Murphy, et al. 2006. – Ch 1 1.1 Blackstone - Commentaries on the Laws of England 1.2 Hamilton - Federalist #78 1.3 Tocqueville - Judicial Power in the United States
Monday	01/14/2013	Murphy, et al. 2006. – Ch 2 1.4 Holmes - The Path of the Law 1.5 Cardozo – The Nature of the Judicial Process
Wednesday	01/16/2013	Murphy, et al. 2006. – Ch 2 2.2 Case - Marbury v. Madison 2.3 Case - Eakin v. Raub
Friday	01/18/2013	Film “The Supreme Court – A New Kind of Justice” <i>Disk 2</i>
Monday	01/21/2013	<i>M.L. King Day – No Class</i>
Wednesday	01/23/2013	Statutory and Constitutional Interpretation Murphy, et al. 2006. – Ch 11 11.1 Frankfurter - Some Reflections on the Reading of Statutes 11.4 Posner - The Federal Courts 11.8 Eskridge - Dynamic Statutory Interpretation
Friday	01/25/2013	Murphy, et al. 2006. – Ch 12 12.2 Scalia - Originalism: The Lesser Evil 12.3 Bork - The Tempting of America 12.4 Marshall - Reflections on the Bicentennial of the US Constitution
Monday	01/28/2013	The Role of Precedent and Attitudes Murphy, et al. 2006. – Ch 10 10.6 Segal and Spaeth - The Influence of Stare Decisis 10.6 Knight and Epstein - The Norm of Stare Decisis 10.7 Powell - Stare Decisis and Judicial Restraint
Wednesday	01/30/2013	Segal, Jeffrey A. 1984. “Predicting Supreme Court Cases Probabilistically: The Search and Seizure Cases, 1962-1981.” <i>American Political Science Review</i> , 78-4 (December): 891-900.
Friday	02/01/2013	Segal, Jeffrey A., and Albert D. Cover. 1989. “Ideological Values and the Votes of U.S. Supreme Court Justices.” <i>American Political Science Review</i> , 83-2 (June): 557-565. Murphy, et al. 2006. 3.3 Rowland and Carp - Politics and Judgment on the Federal District Courts

Monday	02/04/2013	The Strategic Model and the Judicial Agenda Murphy, et al. 2006. – Ch 8 Epstein, Lee, and Jack Knight. 1998. <i>The Choices Justices Make</i> . Washington D.C., Congressional Quarterly Press. Ch 1
Wednesday	02/06/2013	Murphy, et al. 2006. 8.3 Segal et al – Decision Making on the U.S. Courts of Appeals
Friday	02/08/2013	Perry, H.W. Jr. 1991. <i>Deciding to Decide: Agenda Setting in the United States Supreme Court</i> . Cambridge, MA: Harvard University Press. Ch 3
Monday	02/11/2013	The Judicial Agenda and Compliance Murphy, et al. 2006. – Ch 6 6.4 Galanter - Why the Haves Come Out Ahead 6.5 Vose - Litigation as a Form of Pressure Group Activity 6.6 Caldeira and Wright - Organized Interests and Agenda Setting
Wednesday	02/13/2013	Murphy, et al. 2006 – Ch 13 13.3 Cross and Tiller - Judicial Partisanship and Obedience to the Legal Doctrine 13.6 Danelski - The Influence of the Chief Justice in the Decisional Process
Friday	02/15/2013	<i>Supreme Court Case Analysis Due</i> Film “The Supreme Court – A Nation of Liberties” <i>Disk 3</i>
Monday	02/18/2013	The Norm of Consensus Walker, Thomas G., Lee Epstein, William J. Dixon. 1988. “On the Mysterious Demise of Consensual Norms in the United States Supreme Court.” <i>Journal of Politics</i> , 50-2 (May): 361-89.
Wednesday	02/20/2013	Hendershot, Marcus E., Mark S. Hurwitz, Drew Noble Lanier, and Richard L. Pacelle, Jr. 2013. “Dissensual Decision-Making: Revisiting the Demise of Consensual Norms within the U.S. Supreme Court.” <i>Political Research Quarterly</i> , forthcoming.
Friday	02/22/2013	The Politics of Judicial Appointments Murphy, et al. 2006. – Ch 4 4.2 Goldman - Picking Federal Judges 4.4 Roberts - Parties Presidents and Procedures 4.5 Caldeira and Wright - Lobbying for Justice
Monday	02/25/2013	[open date / course overflow]
Wednesday	02/27/2013	Midterm Exam – Time / Place TBA
Friday	03/01/2013	[open date]
Monday	03/04/2013	<i>Spring Break – No Class</i>
Wednesday	03/06/2013	<i>Spring Break – No Class</i>
Friday	03/08/2013	<i>Spring Break – No Class</i>

Monday	03/11/2013	<p>The Politicization of State Supreme Court Elections Gibson, James L. 2008. "Challenges to the Impartiality of State Supreme Courts: Legitimacy Theory and 'New-Style' Judicial Campaigns." <i>American Political Science Review</i>, 102-1 (February): 59-75.</p> <p>4.8 Marshall - Comments on the Missouri Plan 4.9 Wold and Culver - The Defeat of the California Justices</p>
Wednesday	03/13/2013	Film "The Last Campaign"
Friday	03/15/2013	Film "The Last Campaign"
Monday	03/18/2013	<p>Judicial Organization and State Courts Murphy, et al. 2006. – Ch 3</p> <p>3.1 Legislation - Judiciary Act of 1789, sec 25 3.2 Cohen - Inside Appellate Courts 3.4 Wyzanski - The Importance of the Trial Judge 3.5 Howard - Litigation Flow in Three United State Courts of Appeals 3.6 Williams - Solutions to Federal Judicial Gridlock</p>
Wednesday	03/20/2013	<p>Murphy, et al. 2006.</p> <p>3.7 Kagan et al - The Evolution of State Supreme Courts 3.8 Brennan - Guardians of our Liberties - State Courts no Less than Federal 13.4 Gann Hall - Constituent Influence in State Supreme Courts</p>
Friday	03/22/2013	Uhlman, Thomas M., and N. Darlene Walker. 1980. "'He Takes Some of My Time; I Take Some of His': An Analysis of Judicial Sentencing Patterns in Jury Cases." <i>Law and Society Review</i> , 14-2 (Winter): 323-41.
Monday	03/25/2013	<p>The Bar: Attorneys and Law Clerks Murphy, et al. 2006. – Ch 5</p> <p>5.1 Turrow - One L: An Inside Account of Life in the First Year at Harvard</p> <p>Haas, Aaron S. 2006. "The Rationality of Law Students' Career Choices." Harvard Law School Student Scholarship Series, Paper 8</p> <p>Sander, Richard, and Jane Yakowitz. 2010. "The Secret of My Success: How Status, Prestige, and School Performance Shape Legal Careers." SSRN Abstract# 1640058</p>
Wednesday	03/27/2013	Ward, Artimus, and David L. Weiden. 2006. <i>Sorcerers' Apprentices: 100 Years of Law Clerks at the United States Supreme Court</i> . New York: New York University Press. Ch 2
Friday	03/29/2013	<p>Murphy, et al. 2006.</p> <p>5.3 Blumberg - The Practice of Law as a Confidence Game 5.4 Bailey - The Defense Never Rests 5.5 O'Connor - Professionalism</p>

Monday	04/01/2013	<p>Criminal Justice and Prosecution Grisham, John. 2007. <i>The Innocent Man: Murder and Injustice in a Small Town</i>. New York: Dell Publishing.</p> <p>Feldman, Claudia, "Grieving Families Seek Answers," <i>Houston Chronicle</i>, 27 August, 2009.</p> <p>Texas v. Thompson</p>
Wednesday	04/03/2013	Film "Frontline – Real Justice"
Friday	04/05/2013	Film "Frontline – Real Justice"
Monday	04/08/2013	<p>Jury Trials Murphy, et al. 2006. – Ch 9</p> <p>9.1 Frankel - The Adversary Judge: The Experience of the Trial Judge</p> <p>9.2 Zeisel and Kalven - The American Experiment</p> <p>9.4 Darrow - How to Pick a Jury</p>
Wednesday	04/10/2013	<p>Murphy, et al. 2006.</p> <p>9.6 Saks - The Limits of Scientific Jury Selection</p> <p>9.7 Butler - Black Jurors: Right to Acquit?</p> <p>9.10 Baldus - The Death Penalty Dialogue Between Law and Social Science</p>
Friday	04/12/2013	Film "A Class Apart"
Monday	04/15/2013	<p>The Big Picture: Some Final Thoughts on Courts and Social Change Murphy, et al. 2006. – Ch 14</p> <p>Dahl, Robert A. 2001. "Decision Making in a Democracy: The Supreme Court as a National Policy Maker." <i>Honorary Reprint, Emory Law Journal</i>, 50-2 (Spring): 563-582.</p>
Wednesday	04/17/2013	Epstein, Lee, Jack Knight, and Andrew Martin. 2001. "The Supreme Court as a Strategic Policy Maker." <i>Emory Law Journal</i> , 50-2 (Spring): 583-611.
Friday	04/19/2013	<p>Murphy, et al. 2006</p> <p>14.5 Rosenberg - The Hollow Hope: Can Courts Bring About So- cial Change</p> <p>14.6 McCann - Reform Litigation on Trial: Review of the Hollow Hope</p>
Monday	04/22/2013	Film "The Supreme Court: The Rehnquist Revolution" <i>Disk 4</i>
Wednesday	04/24/2013	[open date / course overflow]

Friday	04/26/2013	<i>Reading Day – No Class</i>
Wednesday	05/01/2013	<u>Final Exam</u> ¹ Exam Group 1D 3:00 to 5:00 pm Matherly Hall #018

III. Course Requirements

The greatest component of the final grade will come from the midterm and final examinations that will be comprised of multiple choice, true/false, definition, short answer, diagram, and essay questions. The remainder of the grade will be attributed to participation and a paper assignment. We will have a written exercise is an analysis of a current Supreme Court controversy that will broaches a number of the weekly topics. This exercise will be assigned and submitted through the E-Learning system. Attendance of class sessions will be randomly recorded, and attendance expressed as a percentage rate will account for 8% of the final grade.

The breakdown of the course grade will be the following:

	Requirement	Weight
1.	Participation	8%
2.	Supreme Court Case Analysis	30%
3.	Midterm Exam	30%
4.	Final Exam	32%

Numerical	Letter
100-92	A
91-88	A-
87-85	B+
84-81	B
80-78	B-
77-75	C+
74-71	C
70-68	C- ²
67-65	D+
64-61	D
60-58	D-
57-0	E

IV. Policies and Guidelines

Student Conduct, Academic Integrity, and Policies

Conduct in this class is subject to University of Florida's *Academic Regulations* and *Student Honor Code*, which among other things includes guidelines for academic integrity. Plagiarism and any other forms of cheating will not be tolerated and will be handled according to the appropriate provision of the student honor code that can be found at the below link:

Academic Regulations

<https://catalog.ufl.edu/ugrad/current/Pages/academic-regulations.aspx>

Student Honor Code

<http://www.dso.ufl.edu/sccr/honorcodes/honorcode.php>

¹ Please note that the time and date of the final examination is scheduled according to the university calendar. No early exams are offered.

² Please note that according to the new UF grading scale a C- is not a satisfactory grade for major / minor or gen ed / Gordon rule courses. This standard means that a 71 is the benchmark for a passing grade in this course

Matters of Accommodation

Every effort will be made to make accommodations for those who fall under the *Americans with Disabilities Act of 1990* and the *Rehabilitation Act of 1973*. Please let me know of any issues that may possibly arise in this particular area and we will handle them in a discrete manner according to university guidelines. Additional information can be found at the following link:

<http://www.ehs.ufl.edu/programs/ada/>

Unanticipated Events and Incomplete Grades

On some occasions, a student will come down with an extended illness, or get called up for military duty, etc. These situations will be dealt with on a case by case basis, and they usually are resolved by dropping the course or an incomplete grade and working agreement between the student, academic advisor, and instructor. I am extremely reluctant to go forward with an incomplete grade in this course without a substantive cause. In the event that such a cause is present to do so, we will proceed through the guidelines listed at the below link. Otherwise another alternative is the university's medical withdrawal process, which can also be found below:

Incomplete Grades

<http://registrar.ufl.edu/staff/grades.html>

Medical Withdrawal

<http://www.dso.ufl.edu/withdrawals/details.php>