

FEDERAL HABEAS CORPUS
Mr. Mitchell
Fall 2009
Syllabus

Course Materials: There are several materials required for this class. **First**, our casebook is Wells, Marshall, and Yackle, Cases and Materials on Federal Courts (“Casebook”). **Second**, you will need the 2009 supplement to that casebook. (“Supp.”). Both of these books can be ordered online at: <http://astore.amazon.com/habeas-20>

(When the 2009 supplement arrives, I will provide an updated syllabus to include assignments from that supplement.)

Third, you will need the federal habeas corpus statutes, codified at 28 U.S.C. §§ 2241 *et seq.* I have provided a .pdf file of those statutes on TWEN. Please download and print that .pdf file, and bring it to our first class. You will need those statutes for every class.

You will be responsible for all of the statutory provisions in 28 U.S.C. §§ 2241 *et seq.* The provisions listed on the syllabus for certain assignments are the statutory provisions most relevant to that assignment; please give those an especially close read prior to the relevant class.

Finally, I have assigned cases that are not included in the textbook; those are noted on the syllabus and are all available on TWEN for download. Please use the files that I uploaded on TWEN; I will refer to specific page numbers during class, and it will be helpful if everyone’s printouts have the same pagination.

First Class: For our first class, please read Assignment #1. You can download the habeas statutes, *Felker*, and *Rumsfeld* from TWEN.

Attendance and Participation: If you are unprepared for class, you must inform me by e-mail prior to the start of that class. Laptop computers are welcome in class, but they may be used only for class-related work.

The law school’s attendance policy prohibits any student that misses more than 20 percent of the class sessions from receiving credit for the course. See AR 4-1.1.

Grading and credits: Your grade will be based solely on the final exam, which will be three hours, in class, and open book.

Contact information: My office is Room 403; e-mail is jmitchen@gmu.edu.

The syllabus is tentative and subject to change. (8/13/09).

1. Federal-court jurisdiction over habeas petitions.

U.S. Const. art. III.
28 U.S.C. §§ 2241; 2242; 2243; 2444.
28 U.S.C. §§ 2254(a); 2255(a).
28 U.S.C. §§ 1251; 1254; 1257.
Casebook, pages 628-664.
Felker v. Turpin, 518 U.S. 651 (1996).
Rumsfeld v. Padilla 542 U.S. 426 (2004).

2. Collateral attacks on state-court convictions.

28 U.S.C. § 1738.
28 U.S.C. § 2241.
28 U.S.C. §§ 2254(a); 2254(d); 2254(e)(1); 2255(a); 2255(e).
Casebook, pages 664-716.
Strickland v. Washington, 466 U.S. 668 (1984) (**skim**).
Lindh v. Murphy, 96 F.3d 856 (7th Cir. 1996) (**only** sections I.D., II.B).
Irons v. Carey, 479 F.3d 658 (9th Cir. 2007) (**only** Noonan concurrence)

3. Custody requirement

28 U.S.C. § 2241(c).
Casebook, pages 716-718.

4. Procedural default and Exhaustion.

28 U.S.C. §§ 2244(b)(2); 2254(b)-(c); 2254(d); 2254(e)(2); 2264.
Casebook, pages 734-751.
Casebook, pages 719-734.
O'Sullivan v. Boerckel, 526 U.S. 838 (1999).
Coleman v. Thompson, 501 U.S. 722 (1991).

5. Statutes of Limitation.

28 U.S.C. §§ 2244(d); 2255(f); 2263.
Casebook, pages 751-763.
Johnson v. McBride, 381 F.3d 587 (7th Cir. 2004) (**skim**).
Lawrence v. Florida, 127 S. Ct. 1079 (2007).
United States v. Brannigan, 249 F.3d 584 (7th Cir. 2001).

6. Evidentiary Hearings.

28 U.S.C. § 2254(e)(2).
Casebook, pages 763-767.

7. Certificates of Appealability.

28 U.S.C. § 2253.
Casebook, pages 767-770.

8. Second or Successive Petitions.

28 U.S.C. §§ 2244(b); 2255(h).

Casebook, 770-775.

McCleskey v. Zant, 499 U.S. 467 (1991) (**skim**).

Gomez v. U.S. Dist. Ct for Northern District of California, 503 U.S. 653 (1992).

Grey-Bey v. United States, 201 F.3d 866 (7th Cir. 2000).

United States v. Brannigan, 249 F.3d 584 (7th Cir. 2001).

Panetti v. Quarterman, 127 S. Ct. 2842 (2007) (**read only** section II).

Castro v. United States, 540 U.S. 375 (2003).

28 U.S.C. § 1631.

9. Habeas Corpus and section 1983.

Casebook, 775-784.

10. Actual Innocence.

Herrera v. Collins, 506 U.S. 390 (1993) (**skim** p. 406-416, **skim** the dissent).

Bousley v. United States, 523 U.S. 614 (1998) (**read only** the majority opinion).

Hamdi v. Rumsfeld, 542 U.S. 507 (2004) (**read only** the O'Connor opinion).

11. The Suspension Clause.

Boumediene v. Bush, 128 S. Ct. 2229 (2008).

12. Successful Habeas Petitioners – Case Studies.

TBA.