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Office Hours: Monday, 4-6 PM, or by
appointment.

Constitutional Law II

Spring 2009

Course Time and Location

Monday: 8-9:50 PM
Room: 221

Reading Materials

Textbook: Brest, Levinson, Balkin, Amar, and Siegel, *Processes of Constitutional Decisionmaking* (5th Ed. 2006) (BLBAS) & 2008 Supplement.

Some supplemental reading materials can be found on Westlaw/Lexis and TWEN, and will be so listed on the syllabus. All pagination for cases on Westlaw and TWEN refers to the U.S. Reports page numbers, not to the pagination systems used by Westlaw or Lexis.

Grading

Grades will be based on a combination of the final exam and class participation. The final exam will consist of one or more essay questions and an “issue spotter” question. Further details of the final exam will be announced later in the semester. Class participation will be assessed on a combination of quantity and quality.

Assignments

Although I will try to stick to the schedule, we may occasionally fall behind. In such an unfortunate case, we will begin the following class with the next case on the syllabus, while also covering that day’s originally assigned readings, unless I say otherwise.

January 12
Introduction

Constitution of the United States (BLBAS 1-15) (focus on 14th Amendment)
Dred Scott v. Sandford BLBAS 229-45 (focus on issues of rights of free African-Americans).

January 26
Race and Equal Protection After the Civil War

Strauder v. West Virginia BLBAS 351-57
Pace v. Alabama 106 U.S. 583 (1883) (Westlaw/TWEN).
Civil Rights Cases BLBAS 373-82 (brief rereading of material many have studied in Con Law I).
Plessy v. Ferguson BLBAS 357-68

February 2
The Road to *Brown v. Board of Education*

Buchanan v. Warley 245 U.S. 60 (1917) (Westlaw/TWEN)
Korematsu v. United States (briefly review) BLBAS 966-75
Brown I BLBAS 893-913
Bolling v. Sharpe BLBAS 913-15.

February 9
***Brown's* Progeny and Legacy**

Brown II and the impact of the *Brown* decision BLBAS 925-32.
Swann v. Charlotte-Mecklenburg BLBAS 935-36
Keyes v. School District No. 1 BLBAS 937-41
Loving v. Virginia BLBAS 959-66 (reread *Pace v. Alabama*).

February 16
Facially neutral legislation with discriminatory impact

Yick Wo v. Hopkins 118 U.S. 356 (1886) (Westlaw/TWEN)
Washington v. Davis BLBAS 1026-32
Village of Arlington Heights v. Metropolitan Housing Authority, 429 U.S. 252 (1977)
(Westlaw/TWEN).
McCleskey v. Kemp BLBAS 1055-64

February 23

Affirmative Action and Strict Scrutiny ????

City of Richmond v. Croson BLBAS 1081-1103

Adarand Constr. v. Peña BLBAS 1109-1113

Grutter v. Bollinger BLBAS 1120-42

Gratz v. Bollinger BLBAS 1142-47

Parents Involved in Community Schools v. Seattle School District No. 1 BLBAS Supp 127-71

March 2

Race Discrimination (conclusion) & Sex Discrimination

Johnson v. California BLBAS 991-93

Reed v. Reed and the women's rights movement BLBAS 1182-87

Craig v. Boren BLBAS 429 U.S. 190 (1976) (Westlaw/TWEN).

Personnel Administrator v. Feeney, 442 U.S. 256 (1979) (majority opinion only).

March 16

Sex Discrimination (conclusion) & Other Classifications

US v. Virginia BLBAS 1229-46

City of Cleburne v. Cleburne Living Center BLBAS 1327-37

Romer v. Evans BLBAS 1505-15

US v. Carolene Products, (focus on Footnote 4) BLBAS 513-16

Bruce Ackerman, *Beyond Carolene Products*, 98 Harv. L. Rev. 713 (1985) (Westlaw/TWEN).

March 23

Substantive Due Process I: Economic Liberties

Slaughterhouse Cases BLBAS 320-31

Lochner v. New York BLBAS 417-27, 429-431

West Coast Hotel v. Parrish BLBAS 511-13

Williamson v. Lee Optical, BLBAS 520-24

March 30

Substantive Due Process II: Parental Rights

Meyer v. Nebraska, 262 U.S. 390 (1923) (Westlaw/TWEN)

Pierce v. Society of Sisters, 268 U.S. 510 (1925) (Westlaw/TWEN)

Troxel v. Granville 530 U.S. 57 (2000) (Westlaw/TWEN)

April 6
Right to Privacy I

Griswold v. Connecticut BLBAS 1342-53
Eisenstadt v. Baird BLBAS 1353-55
Roe v. Wade BLBAS 1388-1406
Planned Parenthood of Penn. v. Casey BLBAS 1424-55

April 13
Right to Privacy II

Stenberg v. Carhart BLBAS 1456-65
Gonzales v. Carhart BLBAS Supp 173-96
Bowers v. Hardwick BLBAS 1466-75
Lawrence v. Texas BLBAS 1482-1501

April 20
Substantive Due Process: The Right to Die and the Right to Travel

Cruzan v. Dir., Missouri Dept. of Health BLBAS 1569-79
Washington v. Glucksberg BLBAS 1579-90
Crandall v. Nevada, 73 U.S. 35 (1868) (TWEN)
Shapiro v. Thompson BLBAS 1674-83
Saenz v. Roe BLBAS 1684-88