Death Penalty in America: Law, History and Policy (Law 138)

Summer 2016

Dennis M. Fitzpatrick

Syllabus

Class Schedule:

Class meets Mondays and Wednesdays from 6:00 to 7:50 p.m.

Contact Information and Availability:

I will announce my contact information on the first day of class. Do not hesitate to contact me with any class-related questions, concerns or with requests to schedule a meeting. While I will not have set office hours, I am happy to meet with anyone before class, after class, or at the law school at another time, if needed. Please be mindful that my work schedule is often chaotic. It may take me several hours or even overnight to return a call or email, but I always return calls or emails.

Required Course Materials and Assignments:


On rare occasions I may supplement the casebook with outside materials, which will be made available to you with sufficient advance notice and other disclaimers (i.e., not mandatory but for informational purposes only). The assignments may be adjusted from time to time given the pace of the course, and in consideration of certain subjects or topics that require more attention or less attention, as the case may be. Further information about the expectations for reading assignments will be provided during the first class.

Classroom Participation and Attendance:

Classroom participation is part of the course requirements. As this is a seminar in a very thought provoking subject matter, I want to place more emphasis on class participation. Naturally, the purpose of class participation is never to cause embarrassment and I’ll never do that. However, class participation is beneficial to everyone and helps everyone “think like a lawyer.” Everyone should get in the habit of reciting facts, applying the facts to the law, and arriving at a plausible analysis. This is a skill you will continue to develop for the remainder of your career.
Class attendance is obviously important and will be monitored. If you fail to attend class with some frequency without sufficient explanation, you may be precluded from taking the final exam.

Internet, Phone and Recording Policies:

Use of the internet in any form is prohibited during class. Also, please “silent” or turn off your phones during class – “texting” or any other phone use is prohibited during class. Recording of the class in any way is prohibited.

Grading and Final Exam:

The exam for this class is scheduled for July 7, 2016, at 6:00 p.m. However, we will discuss the course requirements during the first class and I’ll confirm the class requirements during the first week.

CLASS ASSIGNMENTS:

1. **05/16/2016**  Introduction
   - Rivkind Shatz pps. 1-40

2. **05/18/2016**  Introduction and Seminal Cases
   - Rivkind Shatz pps. 41-53; 55-86

3. **05/23/2016**  Seminal Cases
   - Rivkind Shatz pps. 87-134

4. **05/25/2016**  Constitution and Death Penalty Schemes
   - Rivkind Shatz pps. 137-183 (limiting the risk of arbitrariness)

5. **06/01/2016**  Constitution and Death Penalty Schemes
   - Rivkind Shatz pps. 184-220 (limiting the risk of arbitrariness)
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<thead>
<tr>
<th>Date</th>
<th>Title</th>
<th>Subtopics</th>
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<tbody>
<tr>
<td>06/06/16</td>
<td>Constitution and Death Penalty Schemes</td>
<td>- Rivkind Shatz pps. 221-265 (individualized penalty determinations)</td>
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<td>06/08/16</td>
<td>Constitution and Death Penalty Schemes</td>
<td>- Rivkind Shatz pps. 267-317 (proportionality)</td>
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<td>06/13/16</td>
<td>Constitution and Death Penalty Schemes</td>
<td>- Rivkind Shatz pps. 317-357 (Proportionality)</td>
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<td>- Rivkind Shatz pps. 360-372 (The Death Squad)</td>
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<td>06/15/16</td>
<td>Litigating the Capital Case</td>
<td>- Rivkind Shatz pps. 373-470 (the defendant and defense counsel)</td>
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<td>06/20/16</td>
<td>Litigating the Capital Case</td>
<td>- Rivkind Shatz pps. 471-507 (the prosecutor)</td>
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<td>06/22/16</td>
<td>Litigating the Capital Case</td>
<td>- Rivkind Shatz pps. 509-569 (selecting the jury)</td>
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<td>06/27/16</td>
<td>Trial and Trial Related Rights</td>
<td>- Rivkind Shatz pps. 571-607 (penalty hearing – procedural requisites)</td>
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<td>- Rivkind Shatz pps. 671-741 (Guiding the Sentencer)</td>
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<td>06/29/16</td>
<td>After the Death Judgment</td>
<td>- Rivkind Shatz pps. 929-1000 (execution)</td>
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14. 07/05/2016 The Death Penalty Reconsidered

- Rivkind Shatz pps. 1009-1034 (perspectives on the death penalty)

Thursday July 7, 2016 Scheduled Exam at 6:00 pm