

Ilya Somin  
Professor of Law  
Scalia Law School  
George Mason University  
Office: Rm. 322  
Ph: 703-993-8069  
[isomin@gmu.edu](mailto:isomin@gmu.edu)  
Office Hours: Monday 11:45-1:45 PM or  
by appointment.

## **Constitution Law II Spring 2026**

### **Course Time and Location**

Monday and Wednesday: 1:50-3:15 PM  
Room \_\_\_\_\_

### **Reading Materials**

Textbook: Levinson, Balkin, Amar, Siegel, and Rodriguez, *Processes of Constitutional Decisionmaking* (8th Ed. 2022) (LBASR)

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. Unless otherwise noted, students are required to read any case assigned through TWEN in its entirety. A few readings are to be found in the course materials section of the class TWEN site (CM). Some are in the 2024 Supplement to the textbook posted to the class TWEN site, and labeled as “Supp” on the syllabus.

### **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. Further details on this will be forthcoming in the first week of class.

### **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.

## **Learning Outcomes**

Students will learn the legal doctrine of the Fourteenth Amendment, study how it has evolved over time, and come to understand competing perspectives on various contentious issues decided by court decisions interpreting the Amendment.

## **AI Use**

Students may use AI for background research and reading. But be aware that it sometimes hallucinates. AI may not be used on the final exam.

## **Contingency Plans**

In the event that class is cancelled due to weather issues or some other emergency, I will consult with the class as to whether we prefer to hold class online at the pre-set time, or in person at a makeup time.

## **Permission to Record Classes**

I hereby formally permit students to use any video or audio equipment of their choice to record classes, so long as the resulting video or audio is not used for commercial purposes or financial gain.

### **January 14 Introduction**

Constitution of the United States LBASR xliii-lix (focus on 14th Amendment)  
*Dred Scott v. Sandford* LBASR 263-95 (focus on issues of rights of free African-Americans).

### **January 21 Race and Equal Protection after the Civil War**

*Strauder v. West Virginia* LBASR 413-19  
*Civil Rights Cases* LBASR (brief rereading of material many have studied in Con Law I).  
*Plessy v. Ferguson* LBASR 436-49

### **January 26 Race and Equal Protection (Continued)**

[\*Buchanan v. Warley\* 245 U.S. 60 \(1917\)](#) (Westlaw/TWEN)  
*Korematsu v. United States* LBASR 1136-43

## **January 28**

### **Race and Equal Protection: *Brown* and its Aftermath**

*Brown v. Board of Education I* LBASR 1105-21  
*Bolling v. Sharpe* LBASR 1105-1108  
*Brown v. Board of Education II* and the impact of the *Brown* decision LBASR 1121-25

## **February 2**

### **Desegregation (Continued)/Interracial Marriage**

*Swann v. Charlotte-Mecklenburg* LBASR 1125-27  
*Keyes v. School District No. 1* LBASR 1127-31  
[\*Pace v. Alabama\* 106 U.S. 583 \(1883\)](#) (Westlaw/TWEN).  
*Loving v. Virginia* LBASR 1146-55

## **February 4**

### **State Action/Facially Neutral, but Potentially Discriminatory Policies**

[\*Shelley v. Kraemer\*, 334 U.S. 1 \(1948\)](#) (Westlaw/TWEN)  
[\*Yick Wo v. Hopkins\* 118 U.S. 356 \(1886\)](#) (Westlaw/TWEN)  
*Washington v. Davis* LBASR 1175-79

## **February 9**

### **Facially Neutral, but Potentially Discriminatory Policies (Continued)**

[\*Village of Arlington Heights v. Metropolitan Housing Authority\*, 429 U.S. 252 \(1977\)](#)  
(Westlaw/TWEN).  
*McCleskey v. Kemp* LBASR 1203-11  
Racial Profiling and Equal Protection LBASR 1211-15

## **February 11**

### **Congressional Power Under Section 5/Affirmative Action I: Government Contracting**

*City of Boerne v. Flores* LBASR 748-760 (brief coverage of case many covered in Constitutional Law I)  
*City of Richmond v. Croson* LBASR 1225-39  
*Adarand Construction v. Pena* LBASR 1240-47

**February 16****Affirmative Action II: Education**

*Grutter v. Bollinger* LBASR 1248-66

*Gratz v. Bollinger* LBASR 1266-68

*SFFA v. Harvard* LBASR Supp 129-200

**February 18****Affirmative Action in Education (Continued) /Racial Classifications in Prison/Sex Discrimination**

*Parents Involved in Community Schools v. Seattle School District No. 1* LBASR 1273-1303

*Johnson v. California* LBASR 1157-58

*Bradwell v. Illinois* LBASR 399-403

**February 23****Sex Discrimination (Continued)**

*Reed v. Reed* and the women's rights movement LBASR 1330-31

*Frontiero v. Richardson* LBASR 1336-42

[\*Craig v. Boren\* 429 U.S. 190 \(1976\)](#) (Westlaw/TWEN).

[\*Personnel Administrator v. Feeney\*, 442 U.S. 256 \(1979\)](#) (Westlaw/TWEN)

**February 25****Sex Discrimination (Continued)/Sexual Orientation Discrimination/Discrimination against the Mentally Handicapped**

*US v. Virginia* LBASR 1366-85

*Romer v. Evans* LBASR 1596-1605

*City of Cleburne v. Cleburne Living Center* LBASR 1442-53

**March 2****Discrimination Against Non-citizens**

*Bernal v. Fainter* LBASR 1312-22

[\*Trump v. Hawaii\*, 138 S.Ct. 2392 \(2018\)](#) Westlaw/TWEN

[\*United States v. Wong Kim Ark\*, 169 U.S. 649 \(1898\)](#) TWEN

[\*Washington v. Trump\*](#), 145 F.4th 1013 (9th Cir. 2025) TWEN, pp. 1019-21, 1026-36.

**March 4****Frameworks for Equal Protection/Voting Rights**

*US v. Carolene Products* (focus on Footnote 4) LBASR 584-87  
Bruce Ackerman, *Beyond Carolene Products*, 98 Harv. L. Rev. 713 (1985) (Westlaw/TWEN).  
[\*Reynolds v. Sims\*, 377 U.S. 533 \(1964\)](#) (Westlaw/TWEN)

## **March 16**

### **Section 3 Disqualification**

[\*Trump v. Anderson\*, 601 U.S. 100 \(2024\)](#) Westlaw/TWEN  
[\*Anderson v. Griswold\*](#) (Colorado Supreme Court, Dec. 2023), pp. 1-3, 49-61, 69-87, 97-116  
Kurt Lash, “[Trump Should Not Be Disqualified by an Ambiguous Clause](#),” NY Times, Dec. 29  
Samuel Moyn, “[The Supreme Court Should Overturn the Colorado Ruling Unanimously](#),” NY Times, Dec. 22, 2023

## **March 18**

### **“Substantive Due Process” I: Economic Liberties**

*Slaughterhouse Cases* LBASR 382-97  
*Lochner v. New York* LBASR 485-94

## **March 23**

### **Substantive Due Process I: Economic Liberties (Continued)**

*West Coast Hotel v. Parrish* LBASR 582-84  
*Williamson v. Lee Optical*, LBASR 592-98  
[\*Craigsmiles v. Giles\*, 312 F.3d 220 \(6th Cir. 2002\)](#) (Westlaw/TWEN)

## **March 25**

### **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)

## **March 30**

### **Incorporation of the Bill of Rights**

Incorporation of the Bill of Rights LBASR 481-85  
[\*Adamson v. California\*, 332 U.S. 46 \(1947\)](#) (Westlaw/TWEN)  
[\*McDonald v. City of Chicago\* 561 U.S. 742 \(2010\)](#) (Westlaw/TWEN)

## **April 1**

### **Substantive Due Process III: Public Health/The Right to Privacy**

[\*Jacobson v. Massachusetts\*, 197 U.S. 11 \(1905\)](#) (Westlaw/TWEN)  
[\*Buck v. Bell\*, 274 U.S. 200 \(1927\)](#) (Westlaw/TWEN)

[Roman Catholic Diocese of Brooklyn v. Cuomo 141 S.Ct. 63 \(2020\)](#) (Westlaw/TWEN)

## **April 6**

### **Substantive Due Process IV: Right to Privacy/Abortion**

*Griswold v. Connecticut* LBASR 1461-76

*Eisenstadt v. Baird* 1482-83

*Roe v. Wade* LBASR 1497-1509

## **April 8**

### **Substantive Due Process IV: Abortion (Continued)**

*Planned Parenthood of Penn. v. Casey* LBASR Supp 201-09

*Dobbs v. Whole Women's Health* LBASR Supp 209-74

## **April 13**

### **Sexual Privacy and LGBT Rights**

*Bowers v. Hardwick* LBASR 1586-94

*Lawrence v. Texas* LBASR 1606-26

*United States v. Windsor* LBASR 1640-44

*Obergefell v. Hodges* LBASR 1645-75

## **April 15**

### **LGBT Rights (continued)/Right to Die**

[Adams v. School Board of St. Johns County, 57 F.4th 791 \(11th Cir. 2022\)](#) (en banc)  
(Westlaw/TWEN)

*United States v. Skrametti* CM/TWEN

[Cruzan v. Director, Missouri Dept. of Health, 497 U.S. 261 \(1990\)](#) (Westlaw/TWEN)

*Washington v. Glucksberg* LBASR

## **April 20**

### **Right to Travel**

*Crandall v. Nevada*, LBASR 242-44

[Shapiro v. Thompson, 394 U.S. 618 \(1969\)](#) (Westlaw/TWEN)

[Saenz v. Roe, 526 U.S. 489 \(1999\)](#) (Westlaw/TWEN)

## **April 22 Procedural Due Process**

[Goldberg v. Kelly, 397 U.S. 254 \(1970\)](#) (Westlaw/TWEN)

[Matthews v. Eldridge, 424 U.S. 319 \(1976\)](#) (Westlaw/TWEN)

Discussion of Final Exam