

Political Science 291: Judicial Politics Spring 2023

Professor: Miranda Yaver
Email: yaver_miranda@wheatoncollege.edu
Class Time: Tuesday/Thursday 12:30-1:50pm
Class Location: Meneely Hall 302
Office Hours: Tuesdays 2:30-5 or by appointment
Office Location: Knapton 204

Course Description:

“It is emphatically the province and the duty of the judicial department to say what the law is.” – John Marshall, *Marbury v. Madison* (1803)

This course is designed to provide a broad introduction to the American judicial system: How courts work, the function of law and courts in the greater political system, and how different features of courts influence outcomes. These topics will help to focus our exploration of federal and state legal systems in the United States. We will consider what factors – including law, politics, and ideology – influence the decisions that federal and state judges make, and the impact of those decisions on public policy over time. This class will be aimed at mastering a deeper knowledge of law and legal systems, engaging critical concepts regarding judicial politics, and developing independent research.

Course Requirements:

- Two short response papers (approximately 5 page, double-spaced, 12-point font, submitted through OnCourse by 11:59pm on the due date): 15% each
 1. Response to *Federalist 78*
 2. Judicial independence and state judicial elections
- Annotated bibliography of 4 sources for longer paper: 5%
- One-page outline for longer paper: 5%
- Longer paper (approximately 12-15 pages): 20%
 - Select a state, federal district, federal appellate, or Supreme Court case of your choosing and analyze it in terms of themes of the course.
- Final Exam: 25%
 - Students will have 72 hours to do a take-home (open-book, open-note) final exam comprised of a set of short essay questions and one longer essay question.
- Attendance and participation in class: 15%

Final Course Grading: The final grade for the course will be assigned based on the following scale:

A: 93+%	A-: 90-92%	B+: 87-89%
B: 83-86%	B-: 80-82%	C+: 77-79%
C: 73-76%	C-: 70-72%	D+: 67-69%
D: 63-66%	D-: 60-62%	F: > 60%

Policy Regarding Late Assignments: It is imperative that students turn in work at the specified deadlines. Failure to do so will result in a third letter grade reduction per day late unless you have received an extension in advance. Work will not be accepted at all more than one week late unless said extension was granted in advance. All students take the final exam at the assigned day and time, with the only exception of college-approved absences. If you have concerns regarding your ability to complete your work on time due to physical or mental health reasons, you are encouraged to seek appropriate treatment from campus services and to discuss with me *in advance* whether an extension is needed.

All members of the academic community should be able to engage fully in the academic opportunities and services provided, regardless of disability status, and to that end accommodations to this course can be made if necessary. Please feel free to discuss with me any concerns you may have.

Statement on Academic Integrity: It is expected that all students will work in accordance with the student honor code. Thus, plagiarism, cheating, and receiving unauthorized assistance with the work in this course will not be tolerated. Should a student violate academic integrity in this class, the matter will be reported to the university administration. If you have questions about citations of sources, ask prior to submitting the given assignment. Students are encouraged to consult Writing Support services for additional assistance on writing and citation so as to avoid plagiarism.

Helpful Campus Resources: There are a number of resources on campus that may help you in your physical, emotional, and academic wellbeing.

- Student Health Center: 14 Taunton Avenue, 508-285-9500
- Student Counseling Center: 42 Howard Street, 508-286-3905
- Peer Tutoring: Scholars Lab at Wallace Library

Textbooks

The following textbooks are required:

- *Judicial Process in America, 10th edition*, by Robert Carp, Ronald Stidham, and Kenneth Manning.
- *The Choices Justices Make*, by Lee Epstein and Jack Knight.
- *New Directions in Judicial Politics*, by Kevin McGuire, ed.

Students will be expected to come to class having read the material and being prepared to engage in the arguments that they present. Students will be alerted in advance to what readings are recommended rather than required, or are skim-worthy. It is imperative that students check their email regularly, as that is how class announcements will be made.

Useful websites on law and the Supreme Court:

- <https://www.oyez.org/>
- <https://www.supremecourt.gov/>
- <http://www.scotusblog.com>
- <https://www.lawfareblog.com/>
- <http://electionlawblog.org/>
- <https://abovethelaw.com/>
- <https://constitutioncenter.org/>

Useful podcasts on law and the Supreme Court: What Trump Can Teach Us About Con Law, First Mondays, We the People, At Liberty, Amicus, Strict Scrutiny

Course Outline:

January 26: Syllabus

- United States Constitution

January 31: Introduction

- *Judicial Process in America*, Ch. 1
- *Federalist 51*, 78

February 2: The Federal Judicial System

- *Judicial Process in America*, Ch. 2
- Gilber, Douglas and Kirk Randazzo. “Can the courts protect democracy? Yes, but they need these three supports.” *The Washington Post Monkey Cage*, February 17, 2017.

February 7: The Federal Judicial System

- *New Directions in Judicial Politics*, Ch. 7

February 9: The State Judicial System

- *Judicial Process in America*, Ch. 3

February 14: The State Judicial System

- *New Directions in Judicial Politics*, Ch. 6

February 16: The State Judicial System, Jurisdiction and Boundaries

- *Judicial Process*, Ch. 4

February 21: Jurisdiction and Boundaries

- *New Directions in Judicial Politics*, Ch. 9

February 23: State Judges

- *Judicial Process in America*, Ch. 5
- *New Directions in Judicial Politics*, Ch. 3

February 28: Federal Judges

- *Judicial Process in America*, Ch. 6
- Binder, Sarah and Forrest Maltzmann. “The Struggle to Shape the Federal Judiciary.”
- George, Sarah Fair. “There Are Too Many Prosecutors On the Bench. Take It from Me, A Prosecutor.” *The Appeal*

March 2: Federal Judges

- *New Directions in Judicial Politics*, Ch. 1-2
- Krause, Kevin. “A look at the low-key Texas judge who tossed Obamacare shows a history of notable conservative cases.” *The Dallas Morning News*, December 18, 2018.

March 7: Supreme Court

- *The Choices Justices Make*, Ch. 1-3
- Ethan Bronner. 2012. “Robert Bork, 1927-2012: A Conservative whose Supreme Court Bid Set the Senate Afire.” *NY Times* Dec 19.

March 9: Supreme Court

- *The Choices Justices Make*, Ch. 4-6
- Brandon Bartels. 2018. “It took conservatives 50 years to get a reliable majority on the Supreme Court. Here are 3 reasons why.” *The Washington Post Monkey Cage*, June 29.

SPRING BREAK

March 21: The Supreme Court

- *Shelby County v. Holder* (2013) (excerpt online)
- *Dobbs v. Jackson* (2022) (excerpt online)

March 23: Policy Links

- *Judicial Process in America*, Ch. 7

March 28: Policy Links

- *New Directions in Judicial Politics*, Ch. 11

March 30: Lawyers and Litigants

- *New Directions in Judicial Politics*, Ch. 12
- *Judicial Process in America*, Ch. 8

April 4: Criminal Law

- *Judicial Process in America*, Ch. 9, 10

April 6: Criminal Law

- *New Directions in Judicial Politics*, Ch. 4

April 11: Civil Law

- *Judicial Process in America*, Ch. 11

April 13: Trial Courts

- *Judicial Process in America*, Ch. 12

April 18: Collegial Courts

- *Judicial Process in America*, Ch. 13
- Kastellec, “Hierarchical and Collegial Politics on the U.S. Courts of Appeals”

April 20: Collegial Courts

- *New Directions in Judicial Politics*, Ch. 10
- Kastellec, “Racial Diversity and Judicial Influence on Appellate Courts”

April 25: The Impact of Judicial Decisions

- *Judicial Process in America*, Ch. 14
- *New Directions in Judicial Politics*, Ch. 14

April 27: The Impact of Judicial Decisions

- *New Directions in Judicial Politics*, Ch. 15
- Kirstein, Marielle, Joerg Dreweke, Rachel K. Jones, and Jesse Philbin. “100 Days Post-Roe: At Least 66 Clinics Across 15 US States Have Stopped Offering Abortion Care.” The Guttmacher Institute. October 6, 2022.
- Brennan Center for Justice. 2018. “The Effects of *Shelby County v. Holder*.”

May 2: Public Opinion and Supreme Court Confirmations

- Kastellec, Lax & Phillips. “The Role of Public Opinion in Supreme Court Confirmations”
- Thomas, Dan, Craig McCoy, and Allan McBride. 1993. “Deconstructing the Political Spectacle: Sex, Race, and Subjectivity in Public Response to the Clarence Thomas/Anita Hill ‘Sexual Harassment’ Hearings.” *American Journal of Political Science*. 37(3): 699-720.
- Binder, Sarah. “Americans supported Jackson. Why didn’t more Republican senators?” *The Washington Post Monkey Cage*, April 8, 2022.

May 4: The Supreme Court and Responsiveness to Public Opinion, Wrap-Up

- Caldeira, Gregory. 1987. “Public Opinion and the U.S. Supreme Court: FDR’s Court-Packing Plan.” *American Political Science Review* 81(4): 1139-53.
- Davis, Richard and Vincent James Strickler. “The Invisible Dance: The Supreme Court and the Press.” *Perspectives on Political Science*.
- Johnson, Ben and Logan Strother. “The Supreme Court hasn’t followed public opinion for 50 years. Why would it start now?” *The Washington Post Monkey Cage* October 17, 2018.
- Hollis-Brusky, Amanda. “Making sense of the Supreme Court’s historic year.” *The Washington Post Monkey Cage*, December 28, 2022.

72-hour take-home final exam due at end of college-designated exam period