PSC 3192W: SUPREME COURT DECISION MAKING
Department of Political Science ● George Washington University
Fall 2014 ● Tuesdays, 12:45 – 3:15 ● Monroe Hall 252

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Office hours: Best to make an appointment: https://pscdgs.youcanbook.me

Note: I will post course materials and announcements on Blackboard.

COURSE DESCRIPTION
In this course, we will confront the following questions: What explains how Supreme Court justices make decisions on the cases that come before them? Are they driven by their ideological leanings? Or do they simply do what the law requires? Are justices strategic in their decision making, anticipating what their colleagues as well as the other branches of government might do as a result of their choices? Political science and legal scholarship provides varying and conflicting responses to these questions. We will address those debates by engaging some of the relevant academic scholarship and by engaging in Supreme Court simulation where students will play the roles of litigants and Supreme Court justices and experience what it is like to argue and decide difficult legal issues. This course is a WID (Writing in the Discipline) course, so there will be several writing assignments directly related to the simulation component of the course.

LEARNING OBJECTIVES
As a result of completing this course, students will:
- possess an in-depth and well-rounded understanding of how the U.S. Supreme Court does its business and how the justices go about deciding cases the way they do.
- have a greater understanding of the inner workings of the Court, as a result of attending the Court’s oral arguments for a case and engaging in the simulation component of the course.

REQUIRED TEXTBOOK
There is one required book for the course:


There is also a newer, 11th edition out, which you can feel free to purchase. But getting the 10th is fine. We will also read some articles and excerpts from books. I will post the readings on Blackboard

COURSE REQUIREMENTS

General structure of Supreme Court simulation: Each of you will participate in the role of a Supreme Court justice and a litigant. You will take on the role of one of the current or retired justices. We will talk about role assignments later. There will be four cases in the simulation. In two of the cases, there will be five justices, and in the other two, there will be seven justices. For each case, there will be three litigants: one representing each side of the case, and the Solicitor General, the lawyer representing the U.S. government who frequently takes a role in cases (even
those in which the U.S. government is not a direct party, or litigant). Each student will participate as a justice in two cases. Each student will participate as a litigant in one case. So in total, each of you will participate in three out of the four cases.

Duties directly related to simulation:

**Litigants:** Prepare a brief designed to persuade the justices to vote in your favor. The brief will include relevant Court precedents that support your side in the case. The brief will be circulated to the justices in your case ahead of time. Each litigant will have roughly 20 minutes during oral argument to present your case.

- **Oral argument:** 10% of your grade
- **Litigant brief:** 15%; due Sun., Oct. 26

**Justices:** Justices will carefully read through the litigants’ briefs ahead of oral argument. During oral argument, litigants will present their side, but the justices will ask questions and present hypotheticals to the litigants to gain clarity on the briefs and the case more generally. After the case, the justices will conference and cast their votes. Each justice will write an opinion in each case, depending on whether s/he is in the majority or minority. Justices will circulate opinions amongst each other so they can respond to each others’ arguments.

- **Oral argument participation:** 5%
- **Written opinions (Final Paper):** 25%; due Finals Week (designated date of final exam)

In addition to the simulation-based grades, students will also complete the following course requirements:

1. **Class attendance and participation (15%):** Students are expected to come to class having done the required reading and/or preparation for simulation. Since we will be engaging in Supreme Court simulation, coming to class every week is particularly important for the ultimate success of the simulation. Simulation will ONLY work well if every student is sufficiently prepared each week. Some of the readings in the first half of the course will be challenging. But you should work through the hard parts and bring your questions to class.

2. **Oral arguments summary (10%):** You will attend a Supreme Court oral argument. Make sure you plan ahead for this. Oral argument schedules are available on the Court’s website: http://supremecourtus.gov. Attending oral argument is an incredible experience. Among other things, it will give you good preparation for our Supreme Court simulation. You will provide a short summary of the oral arguments you attend. Include the following information: (1) the name of the case and what issues and facts are involved in the case, (2) who argued the case for each side, (3) a brief summary of the arguments each attorney made, (4) a summary of some of the questions that the justices asked, and (5) a prediction for how you think the case will be decided.

3. **Midterm paper** (20%): You will write a paper analyzing the personal and professional background, judicial philosophy, and methods of interpretation of the justice whose role you will be undertaking during simulation. Students are expected to use primary (opinions and speeches) and secondary (articles, books, websites) sources in preparing their papers. I will
provide more details on the midterm paper in the beginning of the semester. I have no requirements for page length, but I envision the paper being roughly 15 pages. If you want to make it longer, that is fine. Due Fri., October 10.

GRADING SCHEME
93-100%: A 90-92.9: A-
87-89.9: B+ 83-86.9: B 80-82.9: B-
77-79.9: C+ 73-76.9: C 70-72.9: C-
67-69.9: D+ 60-66.9: D
<60: F

ACADEMIC INTEGRITY
I personally support the GW Code of Academic Integrity. It states: “Academic dishonesty is defined as cheating of any kind, including misrepresenting one's own work, taking credit for the work of others without crediting them and without appropriate authorization, and the fabrication of information.” For the remainder of the code, see: http://www.gwu.edu/~ntegrity/code.html

SUPPORT FOR STUDENTS OUTSIDE THE CLASSROOM
DISABILITY SUPPORT SERVICES (DSS)
Any student who may need an accommodation based on the potential impact of a disability should contact the Disability Support Services office at 202-994-8250 in the Marvin Center, Suite 242, to establish eligibility and to coordinate reasonable accommodations. For additional information please refer to: http://gwired.gwu.edu/dss/

UNIVERSITY COUNSELING CENTER (UCC) 202-994-5300
The University Counseling Center (UCC) offers 24/7 assistance and referral to address students' personal, social, career, and study skills problems. Services for students include:
- crisis and emergency mental health consultations
- confidential assessment, counseling services (individual and small group), and referrals
  http://gwired.gwu.edu/counsel/CounselingServices/AcademicSupportServices

SECURITY
In the case of an emergency, if at all possible, the class should shelter in place. If the building that the class is in is affected, follow the evacuation procedures for the building. After evacuation, seek shelter at a predetermined rendezvous location.

COURSE SCHEDULE (Subject to change)
Week 1, August 26: Course Introduction

Week 2, September 2: Supreme Court Basics, Part I
- Baum, Chapters 1-4

Week 3, September 9: Supreme Court Basics, Part II
- Baum, Chapters 5-6
Week 4, September 16: Explaining Supreme Court Decision Making: Law versus Politics


Week 5, September 23: Supreme Court Basics and Constitutional Law, Part I

Excerpts from:


Week 6, September 30: Supreme Court Basics and Constitutional Law, Part II

Week 7, October 7: Litigant Briefs and Oral Arguments; Simulation Cases

**Midterm paper due Friday, October 10**

Week 8, October 14: Small Group Discussion of Cases and Litigant Briefs (among the three lawyers in each case)

Week 9, October 21: Discussion Among the Justices About the Cases

**Litigant Briefs Due Sunday, Oct. 26**

Week 10, October 28: ORAL ARGUMENTS, DAY 1 (Cases 1 and 2)

Week 11, November 4: ORAL ARGUMENTS, DAY 2 (Cases 3 and 4)

Week 12, November 11: Conference Discussion of Cases; Casting Votes; Determine Majority and Minority Opinions; Discuss Written Opinions

Week 13, November 18: Circulation of Opinions, Discussion of Oral Arguments and Opinions

Week 14, November 25: Continue Circulation of Opinions; Course Wrap-up

**FINAL OPINION DUE DURING FINALS WEEK (on the day designated for our final exam)**