

POLS 3315 – JUDICIAL PROCESS

MTWRF: 11:40- 1:50 pm in EDUC 301

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OFFICE: 307 Benedict Hall
OFFICE HOURS: By appointment only

COURSE DESCRIPTION

This course is a general introduction to the American judicial process. The course will cover the major institutions, actors, and processes that comprise the American legal system from a social science perspective. Areas covered include: the judicial decision making processes and behavior, participant processes, state and federal court structures, recruitment and selection of judges, and impact of judicial decisions.

UTEP EDGE

This course encompasses activities associated with UTEP EDGE, including 1) teamwork through a variety of group assignments and discussions as well as the mini moot court simulation, 2) communication through class discussion and moot court simulation, and 3) problem-solving and critical thinking through class discussion, short papers, working groups, and the moot court simulation.

LEARNING OUTCOMES

In addition to these EDGE experiences, over the course of the semester students will have:

- Developed an understanding of how the American judiciary operates.
- Gained an understanding of a variety of areas of law and how courts operate within each jurisdiction.
- Developed and enhanced the skills necessary to understand judicial decision making.
- Learned to think critically and analytically about legal issues and articulate arguments in response to specific legal questions.
- Learned to evaluate how courts and the rule of law impact democracy, rights, and individual lives.
- Developed effective teamwork skills for collaborative work while demonstrating respect and value for a diversity of opinions, viewpoints, and perspectives.

REQUIRED READING

Corley, Pamela A., Artemus Ward & Wendy L. Martinek. 2016. *American Judicial Process: Myth and Reality in Law and Courts*. Routledge, New York. 978-0-415-53298-3

--Includes access to online student resources at companion website: <http://www.routledgetextbooks.com/textbooks/9780415532983/student.php> (no access code required)

RECOMMENDED READING

- Baum, Lawrence. 2009. *The Supreme Court, 10th Edition*. Washington, DC: CQ Press.
- van Geel, T.R. 2007. *Understanding Supreme Court Opinions, 6th Edition*. New York: Longman Publishers.
- Legal writing manuals: Bryan Garner

COURSE REQUIREMENTS AND GRADING

Evaluation in this course will be based on the following components:

Attendance & Participation	20%
Resume/ CV	10%
Short Papers	15%
Quizzes	15%
Mini Moot Court Simulation	20%
Final Examination	20%

The grading scale is as follows:

90-100	A
80-89	B
70-79	C
60-69	D
59 and below	F

Participation: Attendance and participation are essential and thus mandatory. Students are responsible for answering questions as well as offer their thoughts, opinions, and questions without requiring solicitation from the instructor. Needless to say, these thoughts should have merit and be based upon the readings. Students are expected to be in class punctually and stay for the entirety of the class. Students with scheduling conflicts, excused absences, etc. must contact me directly *prior* to class.

Quizzes: Students should expect regularly administered chapter quizzes covering the reading due that day. This material includes vocabulary and themes derived from the readings. In addition to ensuring chapter reading, these quizzes provide regular testing, which is empirically shown to improve learning and knowledge retention—as well as prepare students for exams. ***Under no circumstances are students able to make up quizzes due to absence or tardiness.*** The highest six quiz grades will be calculated into the final grade.

Moot Court Simulation: Students will participate in a mini moot court simulation and will be evaluated upon the quality of arguments, teamwork, communication effectiveness, and use of law/class themes. Students who do not sufficiently contribute or participate should expect to have points deducted. This simulation will include a case that challenges students to apply class themes to a real case or controversy as well as practice legal argumentation.

Exam: There will be a final exam at the end of this course. The exam is closed book and covers the entirety of the course. The exam will cover class and textbook materials. As a general rule, **make up exams will NOT be offered;** although make up exams will be permitted only under the gravest of circumstances, and I reserve the right to determine whether a make up exam is offered to individuals based upon their situation and timely request. I reserve the right to alter the questions for such make up exams. **Grade challenges must be in written form and submitted within one week of taking the exam.** *I highly recommend consistent studying of all vocabulary and core themes through the use of regularly testing using flash cards.*

SPECIAL ACCOMMODATIONS

If you have a disability and need classroom accommodations, please contact The Center for Accommodations and Support Services (CASS) at 747-5148, or by email to cass@utep.edu, or visit their office located in UTEP Union East, Room 106. For additional information, please visit the CASS website at www.sa.utep.edu/cass. *CASS' Staff are the only individuals who can validate and if need be, authorize accommodations for students with disabilities.*

ACADEMIC DISHONESTY

Absolutely no form of academic dishonesty will be tolerated. The University of Texas at El Paso prides itself on its standards of academic excellence. In all matters of intellectual pursuit, UTEP faculty and students must strive to achieve excellence based on the quality of work produced by the individual. In the classroom and in all other academic activities, students are expected to uphold the highest standards of academic integrity. Any form of scholastic dishonesty is an affront to the pursuit of knowledge and jeopardizes the quality of the degree awarded to all graduates of UTEP. It is imperative, therefore, that the members of this academic community understand the regulations pertaining to academic integrity and that all faculty insist on adherence to these standards.

Any student who commits an act of scholastic dishonesty is subject to discipline. Scholastic dishonesty includes, but is not limited to, cheating, plagiarism, collusion, the submission for credit of any work or materials that are attributable in whole or in part to another person, taking an examination for another person, and any act designed to give unfair advantage to a student or the attempt to commit such acts. Proven violations of the detailed regulations, as printed in the Handbook of Operating Procedures (HOP) and available in the Office of the Dean of Students and the homepage of The Dean of Students at www.utep.edu/dos, may result in sanctions ranging from disciplinary probation, to failing a grade on the work in question, to a failing grade in the course, to suspension or dismissal, among others.

UNIVERSITY WRITING CENTER

The University Writing Center is a useful tool each of student should take advantage of in for all written/paper assignments. While not required, your paper will be improved following a consultation with the staff. The staff sees students through appointments or walk-ins, though appointments are preferred. For more information, go to: <http://uwc.utep.edu/index.php/hours-location>. For additional incentive, I offer up to 10 points extra credit if you consult the writing center. In order to be eligible for this credit, you must show evidence of your consultation and evidence of the revisions suggested and those you made. You must also provide a reflection as to what you learned from the experience (for instance, what types of errors do you systematically make and how can you correct them). Hence, credit will only be possible with adequate evidence and thoughtful reflection of the writing and revision process.

COUNSELING AND PSYCHOLOGICAL SERVICES

The center, located at 202 Union West, offers confidential counseling services in English or in Spanish. They also provide group and individual counseling for currently enrolled UTEP students. For more information, go to: <https://www.utep.edu/student-affairs/counsel/>.

ADELANTE CHILD DEVELOPMENT CENTER

Child care is available for children of all students of the University. The Adelante Child Development Center is located at 314 W. Schuster and is managed and operated by Adelante Childcare, Inc. Children aged three months to 12 years are accepted, depending on space availability (Hourly, daily and weekly care are available and the Center offers a Summer Camp for school-age children). Age-appropriate early childhood developmental programs are offered in the curriculum. The Adelante Child Development Center is licensed by the Texas Department of Protective and Regulatory Services. Financial assistance is available for qualifying parents through Child Care Services. For more information, please call: **915-532-1114** or contact: studentaffairs.utep.edu/childcare. If, for any reason, you cannot find a care-taker for your child(ren), you are welcome to bring them to class.

GENERAL EXPECTATIONS

I expect all students to behave professionally in this class. You will be held responsible for all material covered in the textbooks, articles, videos, and the class discussions. If you miss a class, you are still responsible for the content of that day's information. I will not tolerate disruptive behavior, including (but not limited to) inappropriate computer use, reading newspapers, talking during lectures, using cell phones or pagers, and disrespecting classmates or the instructor. Additionally, I expect all students to attend class prepared and to show up on time. It is disrespectful to the instructor and the other students when individuals show up late or are not prepared to participate in the class discussion. I allow the use of laptops for class purposes only; however, should laptop usage become disruptive, I reserve the right to prohibit laptops and other electronic devices.

This class is designed to provide information and challenge students with new, and sometimes controversial, ideas and arguments. This class is designed to be a safe, open environment to express ideas, arguments, and opinions for learning purposes. This class does not *give* you knowledge—i.e. knowledge and understanding is not transfused to students by simply sitting in class. Learning is an interactive process that is the primary responsibility of each student.

Late assignments will receive no credit.

All grades are earned and reflect your reflect the mastery of material through the adequate completion of assignments by their deadline. As such, they do not reflect level of effort, interest, or intention. As a general policy, I do not offer incompletes, and **I will not change final grades for the course under any circumstances**, with the single exception of where an error occurred on my part.

COURSE SCHEDULE

The following is a list of topics to be covered at each class meeting, and the readings which should be completed in order to fully participate in class that day. I ***require*** you to read the material prior to the class since you will be expected to participate in the discussion. Literature not included in the textbook but listed on syllabus are the responsibility of students to locate (online) and read. Academic articles can often be found via the UTEP library's website under the "Articles and Database" tab, where you can search repositories like JSTOR and Sage as well as individual journal titles. Finally, while I give specific days on which certain topics will be discussed, the calendar is subject to change. Any alterations to the course schedule will be clearly announced. As a general rule the course will follow this order of topics, regardless of date changes, unless otherwise announced.

June	11	<p>Introduction Chapter 1: Myth and Reality in the Judicial Process</p> <p>Discussion: What is law? Is law a tool to oppress or to protect freedoms?</p> <p>Short paper: Why do people ‘follow’ the law? What are the sources of law, and what grants it legitimacy?</p> <p>Discussion: When, if ever, is it acceptable to not follow the law? Why?</p>
	12	<p>Myth and Reality in the Judicial Process (continued) Quiz</p> <p>Judicial review: origins and implications</p> <p>How to study law: legal studies versus political science</p> <p>Bellinger, III, John B. and R. Reeves Anderson. 2014. “Tort Tourism: The Case for a Federal Law on Foreign Judgment Recognition.” <i>Virginia Journal on International Law</i> 54 (3): 501-544.</p> <p>Tate, C. Neal, and Stacia L. Haynie. 1993. “Authoritarianism and the Function of Courts: A Time Series Analysis of the Philippine Supreme Court, 1961-1987.” <i>LSR</i> 27(4): 707-740.</p>
	13	<p>Chapter 2: Thinking Like a Lawyer Quiz</p> <p>Short paper: Why do I want to be a lawyer? (Or not)</p> <p>Resume/ cv building</p> <p>Law school versus graduate school: how to decide</p> <p>Working groups: What are the moral dilemmas lawyers face? How do you respond to them?</p>

14 Chapter 3: The Legal Profession: Lawyers and the Practice of Law
Quiz

Mini Moot Court simulation:
45 minute prep
10 minutes each side

Group 1: *State of Rhode Island v. Michael Patino*

Plaintiff: Chipp, De La Riva, Fierro, A. Galindo, M. Galindo,
Defendant: Gonzalez, Guerra, Gutierrez, Herrera, Justus, Lara

Group 2: *Kent v. United States*

Plaintiff: Longoria, Lozano, Juna-Saenz, Macias, Martinez,
Defendant: McNeil, Mendoza, Reyes, Sexton, Vizcaino

15 Chapter 4: Organization of Courts
Quiz
Lecture

Due: Resume/CV

18 Organization of Courts (continued)

Discussion: Does the organization of courts impact judicial
behavior? How?

Black, Ryan C. & Ryan J. Owens. 2015. "Courting the President:
How Circuit Court Judges Alter Their Behavior for Promotion to
the Supreme Court." *American Journal of Political Science* 60: 30-
43.

19 Chapter 5: Choosing Judges
Quiz

Discussion: Last Week Tonight clip (13:26)
(<https://www.youtube.com/watch?v=poL7l-Uk318>)

Hall, Melinda Gann. 2009. "The Controversy Over Electing Judges
and Advocacy in Political Science." *Justice System Journal* 30 (3):
284-291.

- 20 Chapter 6: Civil Law
Quiz
- Extra Credit: *Hot Coffee* documentary; 2-3 page evaluation due (hard copy); worth up to 10 points on lowest quiz
- Short papers: What aspects hinder or enable access to courts? What does this mean for the rule of law and justice?
- 21 Chapter 7: Criminal Law
Quiz
- Working groups: When does procedural justice not lead to substantive justice outcomes? Why? How can proceedings be amended to better lend itself to substantive justice?
- 22 Chapter 8: Trials
Quiz
- Working groups: Can judges or jurors be unbiased in proceedings? What biases are likely to influence them? Which is most likely to be influenced? Who are most likely to be affected by biased outcomes? How can bias be reduced in proceedings?
- 25 Chapter 9: Appeals
Quiz
Lecture
- 26 Appeals (continued)
- Discussion: How does party capability impact the rule of law? Identify the winners and the losers based upon party capability.

27 Chapter 10: Supreme Court
Quiz
Lecture

28 Supreme Court (continued)

Working groups: What are the implications of the legal, attitudinal, and strategic models on the rule of law? Which is the most accurate or useful? Why? What are each model's strengths and limitations?

29 Judicial decision making

Bailey, Michael A. and Forrest Maltzman. 2008. "Does Legal Doctrine Matter? Unpacking Law and Policy Preferences on the U.S. Supreme Court." *APSR* 102(Aug.): 369-384

Hall, M. 2014. "The Semiconstrained Court: Public Opinion, the Separation of Powers, and the U.S. Supreme Court's Fear of Nonimplementation." *American Journal of Political Science* 58 (2), 352-366.

July 2 Judicial decision making (continued)

Casillas, C., Enns, P., and Wohlfarth, P. 2011. "How Public Opinion Constrains the U.S. Supreme Court." *American Journal of Political Science* 55 (1), 74-88.

Johnson, Timothy R., Paul J. Wahlbeck, and James F. Spriggs, II. 2006. "The Influence of Oral Arguments on the U.S. Supreme Court." *APSR* 100: 99-113.

3 Judicial decision making (continued)

Bailey, Michael A., Brian Kamoie, and Forrest Maltzman. 2005. "Signals from the Tenth Justice: The Political Role of the Solicitor General in Supreme Court Decision Making." *AJPS* 49(Jan.): 72-85.

Collins, Paul M. Jr. 2004. "Friends of the Court: Examining the Influence of Amicus Curiae Participation in U.S. Supreme Court Litigation." *LSR* 38(4): 807-832.

Discussion: How does judicial decision making impact the role of courts?

4 Chapter 11: Implementation and Impact Quiz

Discussion: Can the Supreme Court, by itself, cause social or political change? How do we know?

5 Implementation and Impact (continued)

Short paper and discussion: What is the rule of law? How does judicial decision making impact the rule of law? How does the rule of law impact your life?

Discussion: Where does justice fit in? What is, and how can we identify, a just society?

Exam

The exam is multiple choice with an essay due at the beginning of class. The essay must be 1-2 pages, typed, with required references and in-text citations (not counting as part of the page limit), and turned in during class. The essay counts for 50% of your exam grade. The essay will be evaluated based upon the clarity of the articulated arguments synthesizing class themes and outside research, organization and grammar, and appropriateness of references and citations. The essay should respond to the following prompt:

How do institutional and individual features impact judicial decision making? What are the implications of these influences?

NOTES ON HOW TO “BRIEF” A CASE

All students are encouraged to take notes on each case in the form of a “brief.” Taking notes following the outline below will not only help you understand the essential points of each case, but they will also assist you in preparing for the exams. Success in this course can be greatly enhanced by following the guidelines below.

1. *Background Information and Case Facts:* Note the litigants in each case as well as the citation of the case. State the facts of a particular case in as much detail as possible and necessary. Be sure to include key statutes or portions of the Constitution that are at issue.
2. *Central Issues:* State the central issue(s) in the case in the form of a question that can be answered “yes” or “no.” For example,
 - (a) Is it legitimate for a state to ban all abortions in public hospitals?
 - (b) Does the President of the United States have absolute immunity from all civil suits?
3. *Why:* Why did the Court decide the case this way? Here you should note the reasons given by the majority for their decision. Take careful note to make sure the opinion is a majority opinion and not a plurality opinion. A majority opinion is one agreed to by a majority of the Court, whereas a plurality opinion is one agreed to by more justices than agree with another opinion. You should note which justices join the majority (or plurality) opinion.
4. *Other Opinions:* Is there a concurring opinion (or more than one) or a dissenting opinion (or more than one)? A concurring opinion is one where a justice agrees with the outcome of a particular case but disagrees with the reasons given by the Court. A dissenting opinion is one where the justice disagrees with the outcome of the case and writes to express this disagreement. You should note what these opinions say. You should also note if other justices join a concurring opinion or dissenting opinion.
5. *Principles of Law:* You should try to summarize the principles of law in the case in one statement. For example, in (b): The President of the United States is absolutely immune from civil suits concerning his activities as President.
6. *Put the Case in Perspective:* Put the case in context: How is it similar to previous cases on the issue? How does it differ? Did the Court overrule a previous decision (precedent) or did it just not extend a previous ruling? What are the implications of the Courts decision? That is, how will this case affect future rulings?