Syllabus & First Assignment

Required Materials


2) I will occasionally post supplemental material on the class’s WISE site, so you should make sure you can access it (go to wise.willamette.edu).

Course Goals

This course is intended to be (A) an introduction to the institution, processes, and people of the US Supreme Court, as well as an investigation into its role in the legal, political, and constitutional structure of the nation, and (B) an examination of recent, pending, and possibly pending cases of the Court’s current term. By the end of the course, you should have developed a sophisticated understanding of the processes and structure of the Court, as well as a sense of the role that various parties play in its work. You should have a strong sense of what makes a petition for certiorari “cert-worthy,” and have a good grasp of the kinds of cases that the Court is likely to consider out of the many petitions filed with the court each term. Finally, you will have had the opportunity to consider pending Supreme Court cases from the perspective of both advocates and the justices, and to have presented oral argument to the court in at least one case. Not only should this exercise improve your oral presentation skills, but it should prepare you to make informed decisions about any future cases you may face that are (or may be) pending before the US Supreme Court.

Grading and Assignments

Your grade in this course will be based on five components:

1) 25%: A “cert memo” of approximately 10 pages on a pending petition for certiorari, drafted and written in a form similar to one that would be used by a law clerk to a justice in the “cert pool.” You will briefly present your case to the class. Due Oct. 4.

2) 10%: A 2-3 page written outline of the arguments you anticipate making in the case at issue in assignment (3) below. Due week before your presentation.

3) 35%: Your preparation for, and presentation of, oral argument for one side in a case currently pending before the U.S. Supreme Court. This presentation will be made in “true” oral argument format, in front of me and the other students in class acting as the Justices. Presentations in weeks 9-12 of class.

4) 25%: Your preparation for, and participation in, questioning and discussion in the role of a particular assigned Justice. (I’ll leave out Justice Thomas…)

5) 5%: General other participation in discussions in class.

Attendance and Participation

The law school attendance policy applies. However, your presence in and preparation for class will affect your grade on the participation portions of the course. Unless you take a "pass" (you can have one, announced to me in advance by email, on weeks other than presentation weeks), I expect you to be prepared for class and to participate in the discussion.
Feedback & Office Hours

I welcome feedback at any time (anonymous or otherwise) about the amount and nature of work in the class, about what topics you do and don’t understand, as well as about my own approach in trying to teach those topics.

If you have any comments or questions at all, please don’t hesitate to contact me by email (best) or in person (office hours, noted above, are the best time, though I’m often around otherwise).

Class Schedule & Readings (subject to change)

August 23 – Introductions and the Institution. As you read, consider this question: What makes the Supreme Court unique among the federal (and state) courts of the United States? Reading: BJK 1-7 & 75-87. In addition, read at least ONE of the following: From pages 7-75, excerpts from (a) Casey or (b) Lawrence, or (c) from the WISE site (resources section), an edited version of the decision in Citizens United. In reading these cases, think about the above question, and also consider the role of precedent in the Supreme Court’s work.

August 30 – Appointments and Nominations. Reading: I’ll announce further details in class on the 23rd, if not before. At the very least, plan to read BJK 88-148.

Other classes as follows (this is my plan at the moment, but is subject to change):
August 23 – Introduction; Role of the Supreme Court in Constitutional System; Stare Decisis
August 30 – Appointments & Nominations; Judge Garland; Court as a Political Participant
Sept. 6 – Jurisdiction and Process
Sept. 13 – Certiorari Standards & Practice (Stern & Gressman chapter on Certiorari; Pool memos)
Sept. 20 – Cases pending and recent past / Cert memo choices
Sept. 27 – Decisionmaking process & opinion writing
Oct. 4 – Certiorari Pool Memos Due / Presentations of Same
Oct. 11 – Oral Argument technique; Oral Argument OT 2015 cases (listen)
Oct. 18 – Current Justices; Other players at the Court (clerks, staff, counsel, etc.)
Oct. 25 – Oral Argument Presentations Case 1 & 2
Nov. 1 – Oral Argument Presentations Case 3 & 4
Nov. 8 – Oral Argument Presentations Case 5 & 6
Nov. 15 – Wrap up