

Jurisprudence

Prof. Fletcher

Fall 2016

MW 4:00-5:15 PM

Room 345

Syllabus

Text: Jurisprudence by Hayman, Levit, and Delgado (2d ed. 2002) + online materials + film or TV clips

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Office Hours: by appointment

Introduction

Jurisprudence is an opportunity for students to explore varying modes of legal reasoning through intensive reading and writing. While we will be using the textbook as a framework for our labor this semester, we will also be repeatedly focusing on interesting and important cases. We will be selecting the cases in the first few weeks of class, but I anticipate that the cases we choose will include two or three major cases pending before the Supreme Court or other lower courts. At the first class or soon after, we will select additional cases. Students will study, analyze, and apply tools and theories of legal reasoning to each of these cases. You will get to know them incredibly well and will be writing about them individually and with a partner. Hopefully, we will choose cases that will attract our continuing interest.

Assessment will be based on student's written assignments through the semester. Students will prepare weekly written assignments. These will be graded. During class, we will be doing a lot of role playing and other kinds of discussion. I don't intend to lecture.

There will be a final paper assignment. Students may elect to complete a paper that meets the ULWR requirement. Alternatively, instead of a final paper requirement, students may choose to engage in a moot court, including briefing and oral argument, involving a case discussed in class.

Assessment

There are 100 points possible in this class.

- Final project (either a final paper or moot court materials and performance; due date to be determined; ULWR eligible) – 50 points
- Ten short graded writing assignments – 5 points each, 50 points total

There also will be several additional ungraded written assignments scattered throughout the semester. Students that do not complete the ungraded assignments in good faith will lose five points. Students may have one free pass an ungraded assignment.

Schedule

Monday, August 29, 2016

Read Introduction at ix-xii of Hayman et al.

Bring to class a copy of two judicial opinions that interest you, either from your previous studies or from your general interest. Be prepared to describe these cases in very general terms and your interest in those cases. These cases can be from any American federal, state, or tribal court, or from an administrative proceeding, or any other adversarial proceeding, so long as there is a written opinion. We will be using many of these opinions chosen by the class for various purposes during the semester.

Wednesday, August 31, 2016

We will continue our discussion of the cases brought to us on day one. Also, suggest a film or TV show to watch relating to the law, lawyers, and ... well, jurisprudence. NOT *Legally Blonde*.

Monday, September 5, 2016

LABOR DAY – NO CLASS

Wednesday, September 7, 2016

Be prepared to discuss (1) *Fisher v. University of Texas*; (2) *Whole Woman's Health v. Hellerstedt*; (3) *United States v. Texas*; (4) *Utah v. Streiff*; and (5) *United States v. Bryant* (assuming students did not choose one or more of these cases in the first week). Today, we will be most interested in these cases as potential cases for the class to focus upon in the rest of the semester. All of these cases are available on the Supreme Court slip opinions page: <https://www.supremecourt.gov/opinions/slipopinions.aspx>.

Ungraded writing assignment (due at Noon): Draft a short memo to the class focusing on one of the cases we have discussed. Identify one or more reasons why you view the case as a vehicle for further discussion in Jurisprudence.

Monday, September 12, 2016

Graded writing assignment #1 (due at Noon): Draft a short one or two page answer to the Civil Disobedience Problem on pages 53-54, or write a one or two page comment arguing whether the majority or dissent or neither was correct in *United States v. Calley*, pp. 55-58. Be prepared to discuss your commentaries in the appropriate class.

Read Chapter 1 and be prepared to discuss in class.

Wednesday, September 14, 2016

NO CLASS

Monday, September 19, 2016

Graded writing assignment #2 (due at Noon): Write a one or two page concurrence or dissent to the majority opinion in either *PGA Tour v. Martin* or a case previously discussed and approved by the prof applying principles discussed in Chapter 2.

Read Chapter 2 and be prepared to discuss in class.

Wednesday, September 21, 2016

Continue discussion of Chapter 2.

Monday, September 26, 2016

Graded writing assignment #3 (due at Noon): Write a short concurrence or dissent to the majority opinion in either *Employment Division v. Smith* or a case previously discussed and approved by the prof applying principles discussed in Chapter 3.

Read Chapter 3 and be prepared to discuss in class.

Wednesday, September 28, 2016

Continue discussion of Chapter 3.

Monday, October 3, 2016

Graded writing assignment #4 (due at Noon): Write a short paper arguing how *Tee-Hit-Ton Indians v. United States* should be decided today applying principles discussed in Chapter 4.

Read Chapter 4 and be prepared to discuss in class.

Wednesday, October 5, 2016

Ungraded writing assignment (due at Noon): Write two haikus about critical legal studies.

Read Chapter 5 and be prepared to discuss in class.

NO Class Monday, October 10, 2016

Wednesday, October 12, 2016

Graded writing assignment #5 (due at Noon): Write a short paper arguing in favor of the position that custom in “The Lottery” was legitimate.

Read “The Lottery” by Shirley Jackson Also, read chapter 6 and be prepared to discuss all in class.

Monday, October 17, 2016

Graded writing assignment #6 (due at Noon): Write a short paper arguing how *Santa Clara Pueblo v. Martinez* should be decided today.

Read Chapter 7 and the *Martinez* materials and be prepared to discuss in class.

Wednesday, October 19, 2016

Continue discussion of Chapter 7.

Monday, October 24, 2016

Graded writing assignment #7 (due at Noon): Write a short paper supporting or disapproving of jury nullification or another topic preapproved by the prof.

Read Chapter 8 and be prepared to discuss.

Wednesday, October 26, 2016

Read “The Space Traders” and be prepared to discuss.

Monday, October 31, 2016

Graded writing assignment #8 (due at Noon): Write a short judicial opinion concurring or dissenting in *Obergefell v. Hodges*.

Read Chapter 9 and *Obergefell v. Hodges*.

Wednesday, November 2, 2016

Continue discussion of Chapter 9 and *Obergefell*.

Monday, November 7, 2016

Graded writing assignment #9 (due at Noon): Identify a case that we have discussed this semester that you found difficult, and write a short paper explaining why or why not you would agree to represent one of the clients in the case.

Read Chapter 11 and be prepared to discuss.

Wednesday, November 9, 2016

Ungraded writing assignment (due at Noon): Write a short treatment and perhaps a key scene for a sequel to the movie *V for Vendetta*.

Be prepared to discuss *V for Vendetta*.

Monday, November 14, 2016

Read “On Bullshit” by Harry Frankfurt.

Ungraded writing assignment (due at Noon): Write some bullshit that would impress Harry Frankfurt.

Wednesday, November 16, 2016

Read “Legal Education and the Reproduction of Hierarchy” by Duncan Kennedy

FALL BREAK

Monday, November 28, 2016

Graded writing assignment #10 (due at Noon): Write a dissent to a case we have discussed that draws exclusively from one or two theories of jurisprudence.

Wednesday, November 30, 2016

TBD

Monday, December 5, 2016

TBD