

**The Supreme Court
PSCI 3210.001 Fall 2012
MWF 8:00 am – 8:50 am Sage 176**

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Office Hours: Mondays 1:00-4:00 pm
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Course Overview

The United States Supreme Court plays an important role in American democracy. As the highest court in the federal judiciary, its decisions do more than resolve disputes between litigants; they announce important public policies that govern relationships between and among citizens and governments. The Supreme Court plays an important role in determining the scope of freedoms enjoyed in the United States and its decisions frequently alter the balance of power between political actors and institutions, including citizens, the president, Congress, the states, and the Court itself.

In this course, we will focus on the processes by which cases before the Supreme Court are decided and the factors that influence the decisions of Supreme Court justices. Additionally, we will consider the relationships between the Supreme Court and other actors, including the elected branches of government, lobbyists and the public.

Attendance Policy

Your attendance and participation are expected. Each student's attendance is critical for the success of the group assignments (described below). Lectures are intended to prepare you for the group research project. In addition, our Friday class sessions will be devoted to group discussions and group meeting time; your group will not be able to function adequately if you are absent. Accordingly, *students will be dropped for non-attendance with a grade of WF upon the accumulation of either 4 Friday absences or 12 total absences.*

Blackboard

A Blackboard conference is maintained for this course at <https://learn.unt.edu/>. Students are responsible for checking Blackboard regularly for assignments and notices. Student grades will be posted on Blackboard and some assignments will be submitted through Blackboard.

Communication, E-mail, and Office Hours

If you need to contact me about class, you may email me through Blackboard or at my UNT email address (blackstone@unt.edu) or see me during my office hours. When you email me, please include the course number (PSCI 3210) in the subject line of your messages. Also, please sign your emails with your first and last name, and include an appropriate salutation. (Hint: you can't go wrong with "Hi Professor Blackstone.") Articulate the content of your message clearly—do not use text message or instant message speak.

If I need to contact you, I will send you a message to through Blackboard. Messages initiated in Blackboard are automatically delivered to your UNT email account. Please check Blackboard and your university email account regularly so you will receive all course-related information.

Office Hours. I will hold office hours on Monday afternoons between 1:00 and 4:00 pm and on Thursday mornings between 9:00 am and 12:00 pm. Mr. Lowe will hold office hours on Wednesday afternoons between 3:00 and 6:00 pm. You may stop by our offices without an appointment during these hours; come with questions, concerns, or a desire for further discussion. We hold office hours for your benefit. If these times are not convenient for you, please email one of us to schedule an appointment at another time. We can also schedule a time to “chat” about the course through Blackboard’s instant messenger client, Blackboard IM. (You can download Blackboard IM from the course Blackboard page and use it to chat with me or other students.)

Facebook

I have created a closed Facebook group for students enrolled in PSCI 3210. I will post links to news stories related to the Supreme Court and reminders related to the course. Students are also invited to post information relevant to the course. Joining the group is optional and will not impact your grade. Be advised that information you share in the course Facebook page is governed by Facebook’s privacy policies. Also, note that I do not guarantee that I will read and respond to every post in the Facebook group; if you have an important class-related question for me, email me or see me in my office.

Course Materials

The following items are required and are available at the UNT bookstore.

1. Lawrence Baum. *2010. The Supreme Court*, Tenth edition. Washington, D.C.: CQ Press. (Hereinafter Baum.)

This text is available new at the UNT bookstore for \$45.00 or used for \$33.75. You can rent the text for \$15.75. You may also purchase it from another retailer if you prefer. If you buy the book elsewhere or obtain a used copy, ensure that you purchase the 10th edition.

2. Turning Point Response Card RF-LCD, referred to as “clickers.” Each student must purchase (or rent) a Turning Point Response Card. New clickers at the UNT bookstore cost \$42.75; used clickers cost \$32.25.

Other assigned readings will be available on the course Blackboard site.

Grading

Your grade will be based on the following factors:

<i>Group Assignments</i>		<i>Individual Assignments</i>	
1. Theory Paper	8%	1. Oral Argument Assignment	2%
2. Case Research Dossier	4%	2. Justice Research Assignment	3%
3. Case Paper	8%	3. In-Class Points	20%
4. Prediction Paper	30%	4. Final Exam	25%
Group Assignments Total	50%	Individual Assignments Total	50%

Course grades will be rounded to the nearest percent and assigned according to the scale below:

90-100%	A
80-89%	B
70-79%	C
60-69%	D
<60%	F

Group Research Project

A group research project is an important component of this course. Students will work in groups of 3. Each group will be assigned a case that the Supreme Court has scheduled for oral argument and decision in the 2012 term and write a paper predicting the positions that three justices will take in the case.¹ The paper will require integration of what you learn about Supreme Court decision-making with what you learn about the case and the justices through independent research.

To help you develop the best possible prediction paper, the assignment is broken down into several components. Your group will submit two preliminary papers and a compilation of preliminary research, parts of which will ultimately be integrated into your final paper. Individual group members will also submit research summaries that will be assigned individual grades but that can then be used by the group.

The key components of your research and the prediction paper are reviewed below:

1. **A Theory of the Supreme Court**
Each prediction paper will begin by laying out a theory of the Court: your theory should explain what factors determine the positions that justices take in cases and their relative importance. The theory is important because it provides the framework for your research and ultimately for your predictions. In other words, you will make predictions on the basis of what you think is relevant to the justices' choices. There is disagreement among scholars and other people about why the justices do what they do, and we will read articles and book chapters that take competing positions on this issue. We will discuss the various theories in class sessions as well. You should use these sources to build your theory and to offer support for it in your paper.
2. **The Case**
The second section of the prediction paper will analyze the issues in the case you have chosen, both in the case itself and in relation to prior decisions. How you analyze issues in your prediction paper will depend in part on your theory of the Court, but any set of predictions must rest on an understanding of what a case is about and what the Court has said in past decisions that involved similar issues. Readings and material presented in class sessions will provide you with the tools to understand Supreme Court cases and to think about the issues in those cases as well as ways to do research on cases.
3. **The Justices**
The third section of the prediction paper will analyze evidence on the three justices that is relevant to predicting their positions in the case. This part of the paper requires an understanding of the three justices and analysis of evidence about the justices' positions on the issues that the Court will address in this specific case. For most of the justices, that evidence will come primarily from their votes and opinions in decisions in past terms of the Court. A resource called

¹ Lawrence Baum, Professor of Political Science at The Ohio State University is the original architect of the prediction assignment. I am grateful to him for allowing me to adopt and adapt the assignment for inclusion in this course.

the Supreme Court Database can be used to identify relevant decisions and the justices' votes in those decisions. We will work through the Database to help students in utilizing it.

Writing a high-quality prediction paper requires students to know a great deal about the Supreme Court, legal analysis, and research methods. Students in the course differ a good deal in their backgrounds, so some students will have a head start. Much of what you need to know will be new to nearly everyone. Importantly, the course is designed to provide you with all the information and skills you need to succeed, even if you start out knowing nothing about the subject. Don't panic!

The components of the research project to be completed by the group and individually are listed below. It is important (and required) that you complete all assignments by the time they are due. Without my prior approval, late assignments will be penalized 10% of their value if submitted after the 8:00 am deadline on the due date and an additional 10% for every additional 24 hours that the assignment is late. (In other words, an additional 10% penalty accrues at 8:01 am each day.) Papers must be submitted in hard copy and electronically through Blackboard. You agree by taking this course that all required assignments are subject to submission for textual similarity review to www.turnitin.com or a similar plagiarism identification system.

Project Components: Overview and Due Dates (all assignments are due by 8:00 am on their due dates)			
<i>Assignment</i>	<i>Group or Individual Submission</i>	<i>Percent of Course Grade</i>	<i>Due Date</i>
Theory Paper	Group	8%	Monday, October 15
Case Research Dossier	Group	4%	Monday, October 29
Case Paper	Group	8%	Monday, November 12
Oral Argument Assignment	Individual	2%	Monday, November 19
Justice Research Assignment	Individual	3%	Monday, November 26
Prediction Paper	Group	30%	Thursday, December 6

Peer evaluations will be used to weight each individual's grade for group assignments. Accordingly, students are required to submit peer evaluation forms for each assignment on the assignment due date. Students that do not submit complete peer evaluations for an assignment will not receive a grade for that assignment.

In-Class Points—20%

Twenty percent of your course grade will be earned in the classroom. You will earn class points for quizzes on the assigned readings, for answering questions presented in lecture with your clicker and for participating in in-class activities. Missed class points cannot be made up. If you have a university-excused absence, you will not be penalized for missing points offered in class if you provide appropriate documentation to verify your absence.

In order to earn points with your clicker, you must register it in Blackboard. Register your clicker prior to our class meeting on Friday, September 7.

Final Exam—25%

There will be one exam in the course. The exam is cumulative and will consist of multiple choice, short answer, and essay questions. The exam will be an online, at-home exam (in Blackboard). The exam will be due by 12 :00 pm (noon) on Friday, December 14.

Grade Disputes

A significant amount of time is invested in grading student assignments. If you wish to dispute a grade, you must do so in writing within one week of the date that grades are made available to the class. When requesting reconsideration of a grade, you should provide a clear explanation as to why a different grade is in order. You should also indicate what grade you believe is appropriate for your work. Please be advised that I will not change a grade simply because someone ``wants" or ``needs" a higher grade. Also, when work is reviewed for a grade dispute, the grade may be left unchanged, raised or lowered. All grade disputes are due in hard copy within one week of the date that grades are posted in Blackboard. Grade disputes will not be considered if submitted past the one-week statute of limitations.

For course drop information: see schedule at <http://essc.unt.edu/registrar/schedule/scheduleclass.html>.

Policies on academic dishonesty are available at <http://www.vpaa.unt.edu/academic-integrity.htm>.

Department of Political Science Statement of ADA Compliance

The Political Science Department cooperates with the Office of Disability Accommodation to make reasonable accommodations for qualified students with disabilities. Please present your written accommodation request on or before the sixth class day (beginning of the second week of classes).

Department of Political Science Policy on Cheating and Plagiarism

The UNT Code of Student Conduct and Discipline defines cheating and plagiarism as the use of unauthorized books, notes, or otherwise securing help in a test; copying others' tests, assignments, reports, or term papers; representing the work of another as one's own; collaborating without authority with another student during an examination or in preparing academic work; or otherwise practicing scholastic dishonesty.

Normally, the minimum penalty for cheating or plagiarism is a grade of ``F" in the course. In the case of graduate departmental exams, the minimum penalty shall be failure of all fields of the exam.

Determination of cheating or plagiarism shall be made by the instructor in the course, or by the field faculty in the case of departmental exams. Cases of cheating or plagiarism on graduate departmental exams, theses, or dissertations shall automatically be referred to the departmental Graduate Studies Committee. Cases of cheating or plagiarism in ordinary coursework may, at the discretion of the instructor, be referred to the Undergraduate Studies Committee in the case of undergraduate students, or the Graduate Studies Committee in the case of graduate students. These committees, acting as agents of the department Chair, shall impose further penalties, or recommend further penalties to the Dean of Students, if they determine that the case warrants it. In all cases, the Dean of Students shall be informed in writing of the case. Students may appeal any decision under this policy by following the procedures laid down in the UNT Code of Student Conduct and Discipline.

Department of Political Science Policy on Academic Integrity

The Political Science Department adheres to and enforces UNT's policy on academic integrity (cheating, plagiarism, forgery, fabrication, facilitating academic dishonesty and sabotage). Students in this class should review the policy (UNT Policy Manual Section 18.1.16), which may be located at http://policy.unt.edu/sites/default/files/untpolicy/pdf/7-Student_Affairs-Academic_Integrity.pdf. Violations of academic integrity in this course will be addressed in compliance with the penalties and procedures laid out in this policy. Students may appeal any decision under this policy by following the procedures laid down in the UNT Policy Manual Section 18.1.16 ``Student Standards of Academic Integrity."

Department of Political Science Statement on Acceptable Student Behavior

Student behavior that interferes with an instructor's ability to conduct a class or other students' opportunity to learn is unacceptable and disruptive and will not be tolerated in any instructional forum at UNT. Students engaging in unacceptable behavior will be directed to leave the classroom and the instructor may refer the student to the Center for Student Rights and Responsibilities to consider whether the student's conduct violated the Code of Student Conduct. The university's expectations for student conduct apply to all instructional forums, including university and electronic classroom, labs, discussion groups, field trips, etc. The Code of Student Conduct can be found at www.unt.edu/csrr.

Section Descriptions and Complete Bibliographic Citations for Readings

For a daily schedule of class topics with assignment due dates, consult the **Course Outline** at the end of this document.

Section I: Introduction to the Court & the Class (August 29-September 14)

In order to understand the role of the Court in American society and the influences on the decisions that justices make, you must understand the work of the Court. In this section we will review the nuts and bolts of the operation of the Supreme Court. We will focus on the processes by which cases come to the Court and are handled by the Court and the characteristics of the cases heard by the Court.

- Lawrence Baum. 2010. *The Supreme Court*, Tenth edition. Washington, D.C.: CQ Press. Chapters 1, 3, 5, and 6

Section II: Theories of Judicial Decision-Making (September 17-October 5)

We will next consider the factors that influence the decisions that justices make. We will discuss the ways that political scientists approach the study of the Supreme Court and the primary theories of judicial behavior in the field of political science—the legal model, the attitudinal model and the strategic model. These theories will provide the building blocks for the theory you propose in your theory paper and later incorporate into your prediction paper.

- Handout: Understanding Statistical Analyses (in Blackboard)
- Lawrence Baum. 2010. *The Supreme Court*, Tenth edition. Washington, D.C.: CQ Press. Chapter 4.
- Jeffrey A. Segal and Harold J. Spaeth. 2002. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press, Chapters 2 and 3, pages 44-97.
- Lawrence Baum. 2011. “Law and Policy: More and Less than a Dichotomy” in *What’s Law Got To Do With It? What Judges Do, Why They Do It, and What’s At Stake*. Charles Gardner Geyh (ed.). Stanford, CA: Stanford University Press, pages 71-91.
- Lee Epstein and Jack Knight. 1998. *The Choices Justices Make*. Washington, D.C.: CQ Press. Chapter 1, pages 1-21.
- Paul J. Wahlbeck, James F. Spriggs, II, and Forrest Maltzman. 1998. “Marshalling the Court: Bargaining and Accommodation on the United States Supreme Court,”(pages 684-690) in *Courts, Judges and Politics* (6th edition), eds. Walter F. Murphy, C. Herman Pritchett, Lee Epstein and Jack Knight. New York, NY: McGraw Hill.
- David Glick. 2009. “Conditional Strategic Retreat: The Court’s Concession in the 1935 Gold Clause Cases,” *The Journal of Politics* 71(3): 800-816.
- Micheal W. Giles, Bethany Blackstone, and Richard L. Vining, Jr. 2008. “The Supreme Court in American Democracy: Unraveling the Linkages Between Public Opinion and Supreme Court Decision Making,” *The Journal of Politics* 70(2): 293-306.

Section III: Legal Arguments, Briefs and Opinions (October 8-November 5)

Legal briefs and opinions are the primary forms of currency for legal arguments. Litigants and interested parties submit their arguments to the Court in written briefs (as well as through oral presentation at oral argument) and the Court announces its decisions through lengthy opinions that say not only which litigant is the winner in a particular case, but also what legal principles and rules were used by the Court to reach its decisions. Opinions tell future Supreme Court justices and judges of lower courts how they ought to decide similar cases. This section will give you the background necessary to read and understand the opinions and briefs you identify as relevant for your prediction paper.

- Walter F. Murphy, C. Herman Pritchett, Lee Epstein, and Jack Knight. 2006. *Courts, Judges, & Politics: An Introduction to the Judicial Process*. New York, NY: McGraw-Hill. Chapter 10, “Precedents and Legal Reasoning,” pages 438-459, Chapter 11, “Statutory Interpretation,” pages 491-502, and Chapter 12, “Constitutional Interpretation,” pages 539-560.

- Antonin Scalia. 2009. "Originalism: The Lesser Evil," in *Judges on Judging: Views from the Bench*, 3rd edition. David M. O'Brien (ed.). Washington, D.C.: CQ Press, pages 198-206.
- Stephen G. Breyer. 2009. "Our Democratic Constitution," in *Judges on Judging: Views from the Bench*, 3rd edition. David M. O'Brien (ed.). Washington, D.C.: CQ Press, pages 231-245.
- Antonin Scalia and Bryan A. Garner. 2008. *Making Your Case: The Art of Persuading Judges*. St. Paul, MN: Thomson West, "Briefing," pages 82-101.
- William H. Rehnquist. 2001. *The Supreme Court*. New York: Vintage Books, Chapter 13, "How the Court Does Its Work: Oral Argument," pages 239-251.
- Timothy R. Johnson. 2001. "Information, Oral Arguments, and Supreme Court Decision-Making." *American Politics Research* 29(4): 331-351.
- Forrest Maltzman, James F. Spriggs, II, and Paul J. Wahlbeck. 2000. *Crafting Law on the Supreme Court: The Collegial Game*. New York, NY: Cambridge University Press. Chapter 2, "Selecting an Author," pages 29-56.

Section IV: Identifying the Justices' Positions (November 7-November 19)

In this section, we will review various tools that you can use in your research on your justices. We will focus on characterizing justices' legal and policy preferences based on their prior votes and opinions.

- Jeffrey A. Segal. 1986. "Supreme Court Justices as Human Decision Makers: An Individual-Level Analysis of the Search and Seizure Cases." *The Journal of Politics* 48(4): 938-955.

Section V. Staffing the Bench: Departures and Selection (November 21-November 28)

Among the most important decisions presidents make are their choices related to staffing the Supreme Court. We will consider the process by which justices are nominated and confirmed by the U.S. Senate and the ability of presidents to control the selection process. Because nominations cannot occur until a vacancy occurs on the Court, we will begin by considering the modes by which justices leave the bench. We will then review the nomination and confirmation processes before considering criticisms of the current system and proposals for reform.

- Lawrence Baum. 2010. *The Supreme Court*, Tenth edition. Washington, D.C.: CQ Press. Chapter 2.
- Christopher L. Eisbruger. 2007. *The Next Justice: Repairing the Supreme Court Appointments Process*. Princeton, NJ: Princeton University Press. Chapter 9, "How to Change the Hearings," pages 164-177.

Section VI. Considering Proposals for Reform (December 3-5)

For the last unit of the course, we will discuss criticisms levied at the Supreme Court and proposals that have been offered by commentators, politicians, and legal academics to remedy problems with the current institutional organization of the Court.

Date	Meeting Topic	Readings <i>(Readings should be completed prior to class on the day they are listed.)</i>	Assignments Due
29-Aug	Course Introduction	Syllabus	
31-Aug	Project & Groupwork Overview	Handouts: Group Project Overview and Group Policies	
5-Sep	Understanding the Supreme Court	Baum, Chapter 1	Getting to Know You Survey Due by 8:00 am
7-Sep	Team Assignments and Initial Team Meetings		Register your clicker in Blackboard by 8:00 am
10-Sep	Understanding the Supreme Court	Baum, Chapter 3	Team Information and Expectations Forms Due by 8:00 am
12-Sep	Understanding the Supreme Court	Baum, Chapters 5 and 6	
14-Sep	Project Workshop / Team Work Period		
17-Sep	Understanding the Supreme Court as a Political Scientist in Training	Handout: Understanding Statistical Analyses	Case and Justice Preferences Form Due
19-Sep	Introduction to Decision-Making	Baum, Chapter 4	
21-Sep	Project Workshop / Team Work Period		
24-Sep	Law and Policy in Supreme Court Decision Making	Segal and Spaeth (2002), Chapters 2 and 3	
26-Sep	Law and Policy in Supreme Court Decision Making	Baum (2011), "Law and Policy"	
28-Sep	Project Workshop / Team Work Period		
1-Oct	Influences on Justices: Colleagues on the Court	Epstein and Knight (1998), Chapter 1 and Maltzman, Spriggs, and Wahlbeck (1998), "Marshalling the Court"	

3-Oct	Influences on Justices: The Separation of Powers	Glick (2009), "Conditional Strategic Retreat"	
5-Oct	Project Workshop / Team Work Period		
8-Oct	Influences on Justices: Public Opinion	Giles et al. (2008), "The Supreme Court in American Democracy"	
10-Oct	Legal Reasoning and Precedent	Murphy et al., "Precedents and Legal Reasoning," pages 438-459.	
12-Oct	Project Workshop / Team Work Period		
15-Oct	Statutory and Constitutional Interpretation	Murphy et al., "Statutory Interpretation," pages 491-502 and "Constitutional Interpretation," pages 539-560	Theory Paper Due by 8:00 am
17-Oct	Statutory and Constitutional Interpretation	Scalia (2009), "Originalism: The Lesser Evil," and Breyer (2009), "Our Democratic Constitution"	
19-Oct	Project Workshop / Team Work Period		
22-Oct	Understanding Legal Briefs and Opinions	Scalia and Garner (2008), "Briefing," pages 82-101	
24-Oct	Understanding Legal Briefs and Opinions	Petitioner and Respondent's Briefs on the Merits in Your Case (from SCOTUSblog.com)	
26-Oct	Project Workshop / Team Work Period		
29-Oct	Oral Argument	Rehnquist (2001), Chapter 13	Case Research Dossier Due by 8:00 am
31-Oct	Oral Argument	Johnson (2001), "Information, Oral Arguments, and Supreme Court Decision-Making"	
2-Nov	Project Workshop / Team Work Period		
5-Nov	Opinion Assignment	Maltzman et al. (2000), Chapter 2	

7-Nov	Identifying the Justices' Positions on Issues	Segal (1986), "Supreme Court Justices as Human Decision Makers"	
9-Nov	Project Workshop / Team Work Period		
12-Nov	Identifying the Justices' Positions on Issues		Case Paper Due by 8:00 am
14-Nov	Identifying the Justices' Positions on Issues		
16-Nov	Project Workshop / Team Work Period		
19-Nov	Utilizing Other Information on Justices		Oral Argument Assignment Due by 8:00 am
21-Nov	Staffing the Bench: Departures	Baum, Chapter 2	
26-Nov	Staffing the Bench: Nomination and Confirmation	Eisgruber (2007), Chapter 9	Justice Research Assignment Due by 8:00 am
28-Nov	Staffing the Bench: Nomination and Confirmation		
30-Nov	Project Workshop / Team Work Period		
3-Dec	Proposals for Reform		
5-Dec	Proposals for Reform		
6-Dec			Prediction Papers Due by 8:00 am
14-Dec			Final Exam Due by Noon in Blackboard