POL SCI 417: THE SUPREME COURT  
*(Satisfies the research experience requirement for the POL SCI Major)*  
Fall 2019  MW 12:30 – 1:45p BOL B95

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**NOTE:** We'll use the new CANVAS course management software for this course – do everything necessary to gain access to it, and visit it soon!  
https://uwm.edu/canvas/

**COURSE DESCRIPTION**

This is an advanced seminar on the Supreme Court of the United States of America. We'll intensively study the institution and its membership, and will simulate all of the processes undertaken at the Court. We will consider the role of the Court in society; the current and past membership of the Court and judicial selection; the legal system and how cases arrive at the Court; how the justices choose the cases they wish to hear (and why they have that power); how the justices make their decisions; the opinion-writing process; the role of clerks in the Court's process; and the impact of the Court as an institution of American government. In order to more fully understand the different stages of decision making on the Court and in order to introduce you to the methods of legal research (as well as work on oral and written communications skills), we will also simulate the Supreme Court's process. We will simulate the certiorari process (deciding to decide), the writing and submission of legal briefs (using legal research), the oral argument process (attorney pleas for a particular decision and justice questioning of attorneys), the conference process (discussing who wins and who loses and why), and the opinion-writing process (conducting legal research and drafting majority and minority opinions). Because of these simulations, student participation and attendance are crucial and so are both required and included in your grade.

**REQUIRED TEXTS**

The following books are required for the course and are available in the University ebookstore:


**OTHER REQUIRED READING**

Other articles and book chapters will be made available via CANVAS and are noted in the schedule. Each student will also do some additional outside reading about one of the current justices in order to further our understanding of the justices we'll portray in the simulations.  (Details on requirements for this assignment will be discussed in a separate handout.)

**A CAVEAT**

One note before addressing course requirements and required readings: you will be expected to behave professionally in this class. That is to say, you will be expected to arrive on time and to attend all meetings.
You will be prepared for each class and actively participate in discussion. I will not tolerate disruptive behavior, including, but not limited to, reading newspapers, conversing during lectures, insulting classmates or the instructor, leaving early, or eating lunch (though I know we’re meeting right around that time!). I also will not tolerate students who do not put forth every effort. Late work will not be accepted nor will make-up exams be given unless there is a major and substantiated complication which prevents completion, of which I am made aware immediately and prior to the scheduled presentation or due date of the assignment. The determination about whether or not it is a “major and substantiated” excuse will be made solely at the discretion of the instructor. Do note that full documentation of illness or death in the family is necessary for excused absences and extensions/make-ups.

To repeat, I require notification BEFORE the missed assignment/exam unless that is impossible due to documented emergency and I require appropriate documentation. Sincerely-held religious beliefs are exempt from the documentation policy, though I still require advance notification of absence/conflict with a religious observance. (See https://www4.uwm.edu/secu/docs/other/S1.5.htm for UWM's policy on accommodation.)

**ACADEMIC INTEGRITY**

No form of academic dishonesty will be tolerated in this class. **Anyone found guilty of cheating or plagiarism or of any other violation of academic integrity will be assigned an automatic grade of F IN THE COURSE and will be prosecuted to the fullest extent through University channels.** Notes on plagiarism can be found here [https://wts.indiana.edu/writing-guides/plagiarism.html](https://wts.indiana.edu/writing-guides/plagiarism.html) and here [http://guides.library.uwm.edu/noplagiarism](http://guides.library.uwm.edu/noplagiarism). UWM’s policy can be found here: [https://uwm.edu/deanofstudents/conduct/conduct_procedures/academic-misconduct/](https://uwm.edu/deanofstudents/conduct/conduct_procedures/academic-misconduct/).

I have linked to a plagiarism test on the front page of our CANVAS site that you must complete before turning in any assignments or viewing any other material beyond this course syllabus. The folks at the Indiana University School of Education have put together an excellent tutorial on plagiarism along with a test (labeled *New and improved test* on their website, which is at [https://www.indiana.edu/~academy/firstPrinciples/index.html](https://www.indiana.edu/~academy/firstPrinciples/index.html)) and we’ll use it to ensure knowledge of plagiarism and how to avoid it. Once you complete the test successfully, you should SAVE the certificate that you earn (as a pdf or txt or jpeg file), and turn it on CANVAS (under Assignments). You can try the test without the tutorial, but I’d suggest going through the tutorial before trying the test. You need to get 8/10 to get the certificate.

*I am absolutely serious about this policy.* Take pride in your work and do it yourself. I will notice the plagiarism and you will fail the course. Consider this your ONLY warning.

**SPECIAL NEEDS**

Any students with special needs due to a physical or learning disability should see me as soon as possible. Every effort will be made to accommodate your needs. See [https://uwm.edu/arc/](https://uwm.edu/arc/) for more information.

**OTHER UNIVERSITY POLICIES**

GRADING

The course grade will be determined by your performance on two exams, two legal research exercises, a judicial biography project, and the simulations. Class attendance is mandatory.

Legal Research Exercises: 5%
Judicial Biography: 10%
Midterm: 10%
Final: 15%
Certiorari exercise: 15%
Oral arguments exercise: 15%
Decision making exercise: 20%
Participation and Attendance: 10%

Each component is briefly detailed below with more information forthcoming. The Grading Scale I use is the standard one:

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<thead>
<tr>
<th>Score Range</th>
<th>Grade</th>
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<tbody>
<tr>
<td>100 – 93</td>
<td>A</td>
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<td>92 – 90</td>
<td>A-</td>
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<tr>
<td>89 – 88</td>
<td>B+</td>
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<td>87 – 83</td>
<td>B</td>
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<td>82 – 80</td>
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<td>D-</td>
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<td>59 – 0</td>
<td>F</td>
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</tbody>
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LEGAL RESEARCH EXERCISES

We will complete two research exercises, each worth 2.5% of your grade. We’ll go over the first one in great detail in class – you’ll just need to then go carry it out at home or in a campus computer lab. The second will be more independent. Given the importance of legal research to this course and given past course evaluations that stressed a need for more guidance on the process of research, you should approach these as valuable learning experiences. If you turn in the completed assignments and demonstrate every effort in each, you will obtain full credit on them. More information on these assignments is available via CANVAS.

JUDICIAL BIOGRAPHY PROJECT

Each student will also complete a judicial biography, completed throughout the term (see dates on syllabus). This project will supplement what we learn in class by having students read about the current justices and then share what they learn about those justices with the rest of the class. (We’ll also watch speeches and talks by each of the current justices, to get a greater feel for them.)

THE EXAMS

The exams will be essay in nature, with some identifications (I give you a term, and you explain what it is and how it relates). The first is worth less than the second so that you might obtain an understanding of the sorts of questions I ask in the first and not be penalized as much for doing poorly there. I also greatly encourage progress and if you improve, you will be rewarded. In order to allow for and reward that improvement, the final IS CUMULATIVE.

CERTIORARI EXERCISE

As noted in the introduction, we will conduct a simulation of the certiorari decision stage, acting as attorneys,
interest groups, clerks, and justices. Students will prepare cert petitions or amicus briefs as to cert as attorneys; cert pool memos as a clerk to a justice; and then will vote on the disposition of cert petitions as a particular justice. All of these activities will be done using actual cases pending acceptance or decision by the U.S. Supreme Court. While the cert component has one oral component (wherein justices will vote on cert petitions), the grade is mostly based on written materials including those listed above. All students will write either a petition or an amicus brief, all students will write a cert pool memo, and all students will act as a justice in voting on certiorari. More information on the certiorari exercise will be available on CANVAS.

**ORAL ARGUMENTS EXERCISE**

The second simulation is of the oral arguments process wherein those students acting as attorneys and amici will argue their cases (chosen from among those used in the cert exercise) to the Court and those acting as Justices will interrupt attorneys with questions. Hence, the oral arguments grade is a grade based on preparation, role play, and oral presentation. More information on the oral argument exercise will be available on CANVAS.

**DECISION MAKING EXERCISE**

The final simulation exercise is designed to illustrate the process through which Supreme Court decisions are made. Students will act as justices engaging in conference deliberations and opinion writing. Given that justices are unlikely to make decisions without the written arguments of the attorneys, legal briefs and amicus briefs on the merits, written by students playing the role of attorneys, are also counted under this exercise. Hence, some students will write opinions as justices, others will write legal briefs on the merits as attorneys, and still others will write briefs amicus curiae as an assigned interest group. More information on the decision making exercise will be available on CANVAS.

**PARTICIPATION**

The participation grade will be based on class attendance and participation as well as performance on the simulations.

**COURSE SCHEDULE**

This schedule is tentative, and the instructor reserves the right to make changes as needed. Students are expected to read the assigned material prior to the class period during which the material will be discussed.

**WEDNESDAY, SEPTEMBER 4:**  
**WELCOME!**

**MONDAY, SEPTEMBER 9:**  
**THE COURT**

Baum, Chapter 1

**WEDNESDAY, SEPTEMBER 11:**  
**THE JUSTICES**

Baum, Chapter 2

**MONDAY, SEPTEMBER 16:**  
**SELECTION AND CONFIRMATION**

Readings on Supreme Court confirmation (CANVAS): What Americans Want, Hollow Ritual, Confirmation Messes, Old and New, Farganis & Wedeking
WEDNESDAY, SEPTEMBER 18:  **SELECTION AND CONFIRMATION**

Skim Sterns et al on Cert Procedure (CANVAS)
Skim sample cert petition (CANVAS)
View portions of confirmation hearings in class
**DISCUSS CERT SIMULATION AND ASSIGN ROLES**

MONDAY, SEPTEMBER 23: **LEGAL RESEARCH**

**CANVAS LEGAL RESEARCH**: Shepard’s, Getting a Case, Searching, Melone Chapters 1 and 2,
Citing Cases Handout
**LEGAL EXERCISE #1 DUE, by midnight (CANVAS ASSIGNMENT)**

WEDNESDAY, SEPTEMBER 25: **THE CASES**

Baum, Chapter 3
CANVAS Reading: Sample Case, writ for certiorari

MONDAY, SEPTEMBER 30: **THE CASES**

*(Last day to drop without W)*

Readings on clerks (CANVAS): The Advice of Law Clerks
Reading on amici at cert (CANVAS): Organized Interests and Agenda Setting
Skim Sterns et al, Supreme Court Practice Chapters (CANVAS): Chapter 4, 5
Sample Case, amicus brief for certiorari
**LEGAL EXERCISE #2 DUE, by midnight (CANVAS ASSIGNMENTS, HOME)**

WEDNESDAY, OCTOBER 2: **THE CASES**

Readings on Attorney participation (CANVAS): Lawyers, Organized Interests and the Law of Obscenity, Repeat Players in the Supreme Court
Sample Cert Pool Memo, On Cert Pool Memos (CANVAS)
**ATTORNEY PETITIONS FOR/AGAINST CERT DUE**
**(TO DISCUSSIONS ON CANVAS)**
**BRIEFS AMICUS CURIAE REGARDING CERT DUE**
**(TO DISCUSSIONS ON CANVAS)**

MONDAY, OCTOBER 7: **THE CASES**

Reading/Viewing on the OT 2019 Docket (CANVAS): Preview of Term, SCOTUSBlog List of
Docketed Cases OT 2019
Read Colleagues’ Attorney Writs and Amicus Briefs (CANVAS)

WEDNESDAY, OCTOBER 9: **THE JUSTICES**

Presentations on Chief Justice Roberts, and Justices Thomas and Ginsburg
**VIDEO**
MONDAY, OCTOBER 14:  THE JUSTICES

Presentations on Justices Breyer, Alito, and Sotomayor
VIDEO

WEDNESDAY, OCTOBER 16:  THE JUSTICES

Presentations on Justices Kagan, Gorsuch, and Kavanaugh
VIDEO
JUDICIAL BIOGRAPHY PROJECTS DUE BY 11:59PM TO CANVAS (DISCUSSIONS)

MONDAY, OCTOBER 21:  THE JUSTICES

VIDEO
CERT POOL MEMOS DUE BY 11:59PM TO CANVAS (DISCUSSIONS)

WEDNESDAY, OCTOBER 23:  CERTIORARI SIMULATIONS

Come to class prepared to vote on cert, AS YOUR JUSTICE.
Review for Midterm

MONDAY, OCTOBER 28:  MIDTERM

WEDNESDAY, OCTOBER 30:  DECISION MAKING

Baum, Chapter 4
Petitioner Brief in Sample Case (CANVAS)
Reply Brief in Sample Case (CANVAS)

MONDAY, NOVEMBER 4:  DECISION MAKING

Readings on Opinion Writing (CANVAS): Bargaining on the U.S. Supreme Court, Marshalling the Court, Recusal memo
Listen to arguments in class (Transcript available on CANVAS)
DISCUSS ORAL ARGUMENTS SIMULATION, ASSIGN ROLES

WEDNESDAY, NOVEMBER 6:  ORAL ARGUMENTS & AMICUS CURIAE

Readings on Oral Arguments (CANVAS): Influence of Oral Arguments, Laugh Track
Briefs Amicus Curiae in Sample Case (CANVAS)
Readings on influence of amici on the merits (CANVAS): Lobbyists Before the U.S. Supreme Court
Readings from Sterns et. al on the Brief on the Merits and on Oral Argument (CANVAS)
Skim Guide for Counsel (CANVAS)

MONDAY, NOVEMBER 11:  INFLUENCE OF BRIEFS, THE CONFERENCE, OPINION ASSIGNMENT

Readings on the influence of briefs on the merits (CANVAS): Supreme Court and Opinion Content
Readings on conference (CANVAS): The Supreme Court in Conference
Readings on Opinion Assignment (CANVAS): Opinion Assignment on the Rehnquist Court
WEDNESDAY, NOVEMBER 13:  OPINIONS IN SAMPLE CASE

Get opinions via LEXIS or Google Scholar:
Majority
Separate opinions

MONDAY, NOVEMBER 18:  ORAL ARGUMENTS SIMULATION & CONFERENCE SIMULATION, COURT 1

WEDNESDAY, NOVEMBER 20: ORAL ARGUMENTS SIMULATION & CONFERENCE SIMULATION, COURT 2

MONDAY, NOVEMBER 25:  ORAL ARGUMENTS SIMULATION & CONFERENCE SIMULATION, COURT 3

WEDNESDAY, NOVEMBER 27:  HAPPY THANKSGIVING! NO CLASS

MONDAY, DECEMBER 2:  POLICY OUTPUTS, IMPACT & POWER

Baum, Chapters 5 & 6

WEDNESDAY, DECEMBER 4:  POLICY OUTPUTS, IMPACT, & POWER

Additional impact reading (CANVAS Readings): Why we Comply, Hollow Hope Critics
Legitimacy as Power (CANVAS readings): Opportunity and Overrides

MONDAY, DECEMBER 9:  SEPARATION OF POWERS, WRAP-UP

The Separation of Powers (CANVAS readings): Semiconstrained Court
Questions on Papers

WEDNESDAY, DECEMBER 11:  REVIEW FOR FINAL

Questions on Papers
BRIEFS AND OPINIONS DUE BY MIDNIGHT TO CANVAS! (DISCUSSIONS)

FINAL EXAM: FRIDAY, DECEMBER 20TH, 12:30 – 2:30PM