

Background (with references to the Constitution)

As we begin this class in January 2024, democracy seems to be holding its breath. For more than three years, former president Donald Trump and his followers have loudly claimed that the election that was held in November 2020 was so corrupt that the results should be thrown out and a new election should be held at once. **(Note: the procedure for holding a presidential election is outlined in the Constitution. There is no provision for a “do-over”.)**

Trump insisted that Vice President Mike Pence had the authority to overturn the results of the popular vote by rejecting presidential electors **(electors are described in the Constitution)** who were pledged to vote for Joe Biden and only counting electors pledged to vote for Trump. **(Note: the vice president’s duties regarding the Electoral College are outlined in the Constitution and are entirely ministerial. As a result, the Vice President does not have the power to reject votes from presidential electors.)**

In pursuit of Trump’s claim that he actually won the presidential election, some 60 lawsuits were filed by Trump’s lawyers around the country seeking to overturn the results of the election. All were dismissed by judges—in many cases, judges appointed by Trump—for lack of evidence. Now, a number of the lawyers who brought these cases (including Jenna Ellis and Rudy Giuliani) are facing the loss of their license to practice law for acting in bad faith and lying to various courts about the strength of the evidence in these cases. **(Note: the judicial power of the United States—the authority of judges to decide cases—is established in the Constitution.)**

Trump’s claims about a stolen election came to a head on January 6, 2021, the day when Congress was scheduled to meet to certify the results of the election **(specified in the Constitution)**. On that day, Trump gave a speech to thousands of his supporters, telling them ““And we fight. We fight like hell. And if you don’t fight like hell, you’re not going to have a country anymore.” (Trump has since said that he thinks those words were “extremely calming.”)

Following the speech, the audience marched down Constitution Avenue to the Capitol and attacked the building. Lives were lost, people were seriously injured, the building was defaced, congressional offices were ransacked, and members of Congress had to be hastily evacuated from the building. Trump’s followers, under the Trump-inspired delusion that the Vice President could single-handedly overturn the results of the election, erected a gallows which they planned to use to hang the Vice President for his failure to reinstate Trump to the presidency.

The response throughout the country was outrage and a belief that the assault on the Capitol was not a spontaneous event. Trump was impeached for this behavior—earning the twisted distinction of becoming the first president ever to be impeached twice—but the Senate, then split 50-50 between Democrats and Republicans, could not reach the Constitutionally-mandated two-thirds vote to convict. **(Note: the impeachment process is outlined in the Constitution.)**

Shortly before July 4, 2021, Nancy Pelosi, the Speaker of the House, appointed a special committee to investigate the Jan. 6 assault on the Capitol. **(The authority of Congress to conduct oversight hearings and serve as a check on the President is outlined in the Constitution.)** The committee, under the leadership of chairman Bennie G. Thompson, Democrat of Mississippi, and vice-chairman Liz Cheney, Republican of Wyoming, issued an 845-page report in early January 2023 specifying Trump’s violations of the law and the Constitution and sent four criminal referrals (recommendations for prosecution) of Trump to the Justice Department. **(The legal principle that the President has to obey the law just like everyone else is derived from the Constitution.)**

Trump is also facing other legal peril. The Attorney General of the United States appointed a Special Counsel, Jack Smith, to investigate Trump’s seizure of and refusal to return several hundred pages of classified documents that were found in Trump’s home pursuant to a search warrant **(search warrants are described in the Constitution)**.

Additionally, the District Attorney of Fulton County, Georgia, convened a special grand jury to investigate whether a taped phone call that Trump made to the Georgia Secretary of State shortly after the election asking the official to “find” enough votes in Georgia to overturn Biden’s win in the state constituted election fraud. The special grand jury concluded its work and sent a report to the presiding judge. Thereafter, a regular grand jury was convened to hear evidence and returned an indictment **(described in the Constitution)** against Trump.

From the first election of President George Washington in 1789 to the summer of 2023, no President of the United States has ever been indicted. (President Nixon left office in 1974 rather than face impeachment, possible conviction, and possible criminal prosecution related to his activities involving the burglary of the Democratic National Committee offices in the Watergate building.)

Then, over a five-month period in 2023, Trump was indicted in four criminal cases on a total of 91 counts – in other words, he was charged with committing a total of 91 crimes, as follows:

- 1) In Washington, DC, Trump faces four felony counts for his efforts to overturn the 2020 election.
- 2) In Georgia, Trump faces 13 felony counts for his efforts to overturn the 2020 election.
- 3) In Florida, Trump faces 40 counts for retaining classified documents that belong to the federal government and resisting the government's efforts to retrieve the documents.
- 4) In New York, Trump faces 34 felony counts for paying hush money to a porn star.

Trump is also facing various civil charges, including a case in New York involving tax fraud (which the Trump Organization lost), a second defamation case brought by the writer E. Jean Carroll (Trump lost the first case), and a case involving various financial crimes involving Trump real estate properties which Trump lost and is now awaiting the damages judgment from the court.

This alleged (and in many cases proven) lawbreaking by Trump proved to be too much for many voters who were appalled at the idea that Trump might be re-elected in 2024 and a movement to keep Trump off the ballot arose. The movement is based on the language of section 3 of the 14th Amendment:

“No Person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.”

III. **What will I learn in this course?**

You will read Supreme Court opinions closely and analyze legal arguments. You will develop your ability to write in a brief and clear style. You will learn the basics of oral advocacy, the legal term for public speaking. You will get a preview of law school. You will gain confidence in your ability to grasp complex legal concepts, construct effective arguments, and express yourself orally and in writing. The process will be demanding, challenging, frustrating, and deeply rewarding.

IV. **What are the course objectives?**

- 1) You will learn to write in a brief and clear style, read complex legal material, and understand how the legal system works. Another course objective is to help you understand how the Supreme Court does its job.
- 2) You will also learn a new skill: oral advocacy. As you undertake to learn this skill, remember that you are in a class of people who are just as nervous as you are. Remember also that I am here to support you.
- 3) I hope this class deepens your appreciation for the Constitution.

V. **Meeting with the professor**

I am happy to meet with you to talk about anything you want to talk about, whether related to the course or not.

I do not hold designated office hours because designated office hours often conflict with a student's availability. However, I will be happy to make an appointment to meet with you at almost any mutually convenient time. To make an appointment, send me your availability and I will get back to you as soon as possible with a meeting day and time. Things being what they are as I write this syllabus (January 2023), the meetings will probably take place over Zoom. Here is the link:

<https://gwu-edu.zoom.us/j/93182894234?pwd=V2ZrM1ZXM3VXS3Z0UzlrZVZub1pjQT09>

Sometimes students feel uncomfortable asking me questions – they don't want me to know that they're confused. Fortunately, this class has a secret weapon for dealing with this very situation: Elizabeth (Lizzie) Hahn.

When you go to Lizzie, she will let me know that a student has come to her for help but she will never tell me the name of the student who sought the help. So your visits are completely anonymous as far as I'm concerned. Lizzie's email is elizabethhahn@gwu.edu.

We also have a secret weapon for students who need help with their writing: Zach Benzaoui (zbenzaoui@gwu.edu), a tutor at the University Writing Center. Zach, a junior, took the class two years ago. He's a wonderful writer and, perhaps more to the point, he knows me and he knows what I'm looking for in your writing. I encourage you to get in touch with Zach early in the semester if you feel that your writing might need a tune-up. To schedule appointments at the Writing Center and book an appointment with Zach, use this link: <https://writingcenter2.drupal.gwu.edu/appointments#appointment-types/>

Tip: if you make an appointment with Kelsey or Zach or me, please keep the appointment. If you must cancel, send an email cancelling the appointment – you do not need to give a reason for the cancellation. The point is, do not ghost us – ghosting will have a negative effect on your standing in the class.

VI. Communicating with the professor

I try my best to respond to student emails within 24 hours and I would appreciate your doing the same with my emails to you.

VII. Grading Percentages:

Participation credit	25%
Midterm	25%
Final Exam	50%

Tip: I **strongly** discourage you from using the internet in this course. Here's why:

- 1) If you lift material from the Internet and use that material on any written work in this course, you've committed plagiarism.
- 2) There's a lot of writing about the law online. Some of the writing is good, some of the writing is bad, and some of the writing is just plain wrong. **Problem:** you won't know the difference. You're new to the study of law so you don't yet have the ability to discern accurate legal writing from inaccurate legal writing.

Suppose you lift something from the internet that's wrong and put that material on your paper. What do you suppose the result will be? (See above where reference is made to Professor Snape.)

- 3) Some phrases in the law—such as standard of review, which we talk about a lot in this course--have two meanings. If you go online to find the definition of standard of review, you could easily find the “wrong” definition but, again, you’re new to the study of law so you won’t know that the definition you’ve taken from the internet is the wrong one. Result: a low grade on an exam.

VIII. Readings

Wednesday, January 17 - Introduction to the class

This class will be divided into three modules. In each module, students will brief and argue a case currently before the Supreme Court. The three cases are the mifepristone case (*Alliance for Hippocratic Medicine v. Danco*), the Trump ballot case (*Trump v. Anderson*), and the Trump immunity case (*Trump v. US*).

1) *Alliance for Hippocratic Medicine v. Danco*

Monday, January 22, and Wednesday, January 24 – analysis of the lower courts’ opinions

Monday, January 29, and Wednesday, January 31 – analysis of the issues in the case

Monday, February 5, and Wednesday, February 7 – analysis of relevant precedent cases

Monday, February 12 - and Wednesday, February 14 – oral argument practice

Monday, February 19 – no class – President’s Day

Wednesday, February 21 – oral argument

2) *Trump v. Anderson*

Monday, February 26, and Wednesday, February 28 – analysis of the lower courts’ opinions with particular emphasis on the Colorado Supreme Court opinion

Monday, March 4, and Wednesday, March 6 – analysis of relevant precedent cases

March 10 – 17 – Spring Break

Monday, March 18, and Wednesday, March 20 – oral argument practice

Monday, March 25, and Wednesday, March 27 – oral argument

3) *Trump v. US*

Monday, April 1, and Wednesday, April 3 – analysis of lower court's opinion

Monday, April 8, and Wednesday, April 10 – analysis of the issues in *Trump v. US*

Monday, April 15, and Wednesday, April 17 – analysis of precedent cases

U.S. v. Nixon (1974)

[Background](#)

[Opinion](#)

Bush v. Gore (2000)

Monday, April 22, and Wednesday, April 24 – oral argument

Monday, April 29 – review of the course

Miscellaneous but Extremely Important University Policies

Academic Integrity Code

Academic integrity is an essential part of the educational process and all members of the GW community take these matters very seriously. As the instructor of record for this course, my role is to provide clear expectations and uphold them in all assessments. Violations of academic integrity occur when students fail to cite research sources properly, engage in unauthorized collaboration, falsify data, and otherwise violate the [Code of Academic Integrity](#).

If you have any questions about whether or not particular academic practices or resources are permitted, you should ask me for clarification. If you are reported for an academic integrity violation, you should contact the Office of Student Rights and Responsibilities (SRR) to learn more about your rights and options in the process. Consequences can range from failure of assignment to expulsion from the university and may include a transcript notation. For more information, please refer to the SRR website (<https://studentconduct.gwu.edu/academic-integrity>), email rights@gwu.edu, or call 202-994-6757.

University policy on observance of religious holidays

Students must notify faculty during the first week of the semester in which they are enrolled in the course, or as early as possible, but no later than three weeks prior to the absence, of their intention to be absent from class on their day(s) of religious observance. If the holiday falls within the first three weeks of class, the student must inform faculty in the first week of the semester. For details and policy, see “Religious Holidays” at provost.gwu.edu/policies-procedures-and-guidelines.

Use of Electronic Course Materials and Class Recordings

Students are encouraged to use electronic course materials, including recorded class

sessions, for private personal use in connection with their academic program of study. Electronic course materials and recorded class sessions should not be shared or used for non-course related purposes unless express permission has been granted by the instructor.

Students who impermissibly share any electronic course materials are subject to discipline under the Student Code of Conduct. Please contact the instructor if you have questions regarding what constitutes permissible or impermissible use of electronic course materials and/or recorded class sessions. Please contact Disability Support Services at disabilitysupport.gwu.edu if you have questions or need assistance in accessing electronic course materials.

Academic support

Writing Center

GW's Writing Center cultivates confident writers in the University community by facilitating collaborative, critical, and inclusive conversations at all stages of the writing process. Working alongside peer mentors, writers develop strategies to write independently in academic and public settings. Appointments can be booked online at gwu.mywconline.

Academic Commons

Academic Commons provides tutoring and other academic support resources to students in many courses. Students can schedule virtual one-on-one appointments or attend virtual drop-in sessions. Students may schedule an appointment, review the tutoring schedule, access other academic support resources, or obtain assistance at academiccommons.gwu.edu.

Support for students outside the classroom

Disability Support Services (DSS) 202-994-8250

Any student who may need an accommodation based on the potential impact of a disability should contact Disability Support Services at disabilitysupport.gwu.edu to establish eligibility and to coordinate reasonable accommodations..

Counseling and Psychological Services 202-994-5300

GW's Colonial Health Center offers counseling and psychological services, supporting

mental health and personal development by collaborating directly with students to overcome challenges and difficulties that may interfere with academic, emotional, and personal success. healthcenter.gwu.edu/counseling-and-psychological-services.

Safety and Security

- In an emergency: call GYPD 202-994-6111 or 911
 - For situation-specific actions: review the Emergency Response Handbook at: safety.gwu.edu/emergency-response-handbook
 - In an active violence situation: Get Out, Hide Out, or Take Out. See go.gwu.edu/shooterpret

Stay informed: safety.gwu.edu/stay-informed

Average minimum amount of out-of-class or independent learning expected per week

In a 15-week semester, including exam week, students are expected to spend a minimum of 100 minutes of out-of-class work for every 50 minutes of direct instruction for a minimum total of 2.5 hours of instruction/study per week. A 3-credit course should include 2.5 hours of direct instruction and a minimum of 5 hours of independent learning, totaling a minimum of 7.5 hours of instruction/study per week. More information about GW's credit hour policy can be found at provost.gwu.edu/policies-forms (webpage); or provost.gwu.edu/files/downloads/Resources/Assignment-Credit-Hours-7-2016.pdf (form).]

Title IX language:

The George Washington University and its faculty are committed to creating a safe and open learning environment for all students. If you or someone you know has experienced sexual harassment (including sexual assault, dating or domestic violence, and stalking) you are encouraged to report these events to the university's Title IX office at (202) 994-7434 or at titleix@gwu.edu.

Please be aware that faculty members are required to disclose information about suspected or alleged sexual harassment or other potential violations of the Title IX Sexual Harassment and Related Conduct Policy to the Title IX Office. If you, or another student you know, wishes to speak to a confidential resource who does not have this reporting responsibility, please contact Counseling and Psychological Services through the Colonial Health Center 24/7 at 202-994-5300 or the Office of Advocacy and Support at 202-994-0443 or at oas@gwu.edu.

