

What will I learn in this course?

This is a law school course in constitutional law that has been adapted (but not “dumbed down”) for undergraduates. You will learn both substantive content and practical skills:

- You will learn the foundational principles of the American legal system—including the rule of law and the importance of precedent—and you will learn legal language.
- You will learn to read Supreme Court opinions closely and analyze legal arguments.
- You will develop your ability to write in a brief and clear style.
- You will get a preview of law school.

What are the course objectives?

- 1) In this course, we will study the Constitution as a blueprint of government and as a source of fundamental rights. Accordingly, one course objective is to help you develop an appreciation for the Constitution.
- 2) Another course objective is to help you understand how the Supreme Court does its job.
- 3) The ability to write well is essential. In this class, you will write short legal opinions that will give you practice in a significant course objective: learning to write in a brief and clear style.
- 4) The ability to analyze complex material is a necessary skill for this course and, indeed, for all your courses. Accordingly, you will have many opportunities to develop your analytic thinking.
- 5) In the current political climate, the Constitution is often talked about—and often talked about incorrectly. I want you to be able to talk about the Constitution correctly.
- 6) You will come to understand that constitutional law—indeed, all of law—is composed of stories about people.

Are there prerequisites for this course?

There are no prerequisites for this course. This course is different from every other course you have ever taken. So unless you already have a law degree (which seems unlikely), nothing in your past educational career has prepared you for this course. As a result, students often find themselves lost in the first few weeks of the course. Fear not: you will catch on. A good rule of thumb: it takes about six weeks to get the hang of the course.

Who teaches the course? Is she nice?

The professor in the course is Jill F. Kasle. Professor Kasle earned bachelor's and master's degrees from Northwestern University and a law degree from Boston University. In her professional life, she has done almost everything that a lawyer can do except become a judge and get indicted. Her proudest academic achievement is membership in Phi Beta Kappa. **More than anything, Professor Kasle want to help you learn and be successful in this class.** Her approach to the class is a lot like Professor McGonagall's approach to her Transfiguration classes at Hogwarts School of Witchcraft and Wizardry with occasional touches of Professor Snape. (For those who don't understand the references, see the Harry Potter books.)

Meeting with the professor

If history is any guide, there will be times in this course when you will feel utterly lost. At those moments, I encourage you to make an appointment to meet with me so we can untangle the knots.

I do not hold scheduled office hours (having students lined up outside my office waiting to meet with me seems inefficient and a waste of students' time) but 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.** While in-person meetings are certainly possible, meetings over Zoom are also an option. Here's 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 ways to deal with this situation: my student helpers Elizabeth (Lizzie) Hahn and Victoria Senderzon. Lizzie is a senior and Victoria is a sophomore. Both took the class as freshmen, worked hard, and emerged triumphant at the end of the class. Both are also quite able to help you.

When you go to Lizzie or Victoria for help, they will let me know that a student has met with them but Lizzie and Victoria will never tell me the name of the student who sought their help. So your visits are completely anonymous as far as I'm concerned. Lizzie's email is elizabethhahn@gwu.edu, and Victoria's email is victoria.senderzon@gwu.edu.

We also have a secret weapon for students who need help with their writing: Zach Benzaoui (zbenzaoui@gwu.edu) is a tutor at the University Writing Center. Zach, now a graduate student in public policy, took the class as a freshman and, like Lizzie and Victoria, emerged triumphant. He's a wonderful writer but, perhaps more to the point, he knows me and 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 could use a tune-up. *Tip:* if you make an appointment with Lizzie or Victoria 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. **Do not ghost us – ghosting will have a negative effect on your standing in the class.**

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.

Is it true that most students get an A in this class?

Yes.

Really?

Really. Work *with* me (instead of *against* me) and you will do fine.

OK, so how do I get an A in this class?

- 1) Come to class
- 2) Do the reading
- 3) Meet all deadlines
- 4) Answer the questions that I ask in class
- 5) Write well – **if you want an A in this course, you must write well.**

A Note on Internet Usage

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

If you lift material from the internet and use that material on any written work in this course, you've committed plagiarism. **FYI: plagiarism turns me into a fiend.**

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.

Additionally, 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.

A Note on the Use of Artificial Intelligence

In a word: no. Why? AI (particularly ChatGPT) gets legal material wrong.

A Note on Outside Help

Every so often, a student turns in an exam so polished, so flawless, and so perfect that the exam could only have been written by a lawyer. Lawyers write about the law in a way that is informed by three years of law school and the jobs that the lawyer has held; there's no way a lawyer can write like a college student who's just starting to learn the law. So if I get an exam that displays extremely sophisticated legal writing, I'll be suspicious.

Students are always surprised when I figure out that they didn't write their exams themselves. But get this: I've been teaching for a long time, I have a program on my computer that catches plagiarism, and I know that a line like "We think it fair to say that the resolution of the case at bar depends upon the judicial stigmatism of the court deciding it" was not written by an undergraduate. (The quote, which appeared on an exam, actually comes from *Kirincich v. Standard Dredging Co.*, 112 F.2d 163 (3d Cir. 1940).

I understand that students want to do well in this class but you may not get help on an exam from a lawyer, a judge, a law student, a paralegal, or any other legal professional.

II. Grading Percentages and Assessments

- | | |
|-------------------------------------|-----|
| 1) Participation credit | 25% |
| 2) Midterms (note the "s") | 25% |
| 3) Final Exam | 50% |

Participation Credit: The readings in this class are court opinions. Before each class, please read the assigned cases and prepare a case abstract for each case (more about case abstracts during our first class). When you come to class, I will employ the time-honored law school technique of cold calling, *i.e.*, I will randomly call on students and ask questions about the assigned reading. The answers to my questions will be in your case abstracts. **You earn participation credit by answering the questions.** There is only one wrong answer to any of my questions: "I don't know." If I ask you a question and your response is "I don't know", you are telling me that you haven't read the case and you're working against me (see above).

III. EXAMS

Really helpful notes on the exams:

- 1) All exams are take-home exams.
- 2) **You must use Word (.doc or .docx) format for the exams.** Basic rule: lawyers use Word. So if you use something other than Word, I can't read the exam; among other things, my computer is set to edit Word documents. If you don't have Word on your computers, please download Word now or ask one of my student helpers for advice on how to put Word on your computer.
- 3) Exams are emailed to kasle@gwu.edu.
- 4) Please attach the exam to the email. Do not put the exam in the body of the email.
- 5) Exam format: your name and **section number** in the upper left-hand corner; single-spaced paragraphs with a double space between the paragraphs; standard margins; Times New Roman 12 font.
- 6) Students may prepare for an exam together but must write separately. Exams that bear a suspicious resemblance to other exams will not be treated favorably.
- 7) **Do not try to write the exam at the last minute.**
- 8) **Do not use the internet.**
- 9) **Late exams will not be read. Deadlines have meaning.**
- 10) Make it easy for me to give you an A. Turn the exam in on time. Make sure your spelling and grammar are perfect. Analyze the problem intelligently. Write well.

MIDTERM AND FINAL EXAM: In this class (and in law school), we use what are called fact pattern exams. A fact pattern, also known as a hypo (short for "hypothetical"), presents a legal case that students, acting as Supreme Court Justices, decide.

Your midterms and your final exam will be a hypo. **The following was the first midterm in the Fall 2023 semester:**

"Thomas Jefferson High School for Science and Technology (known as TJ) is an outstanding public high school in Fairfax County, Virginia. When the school opened in 1964 and for many years thereafter, students were admitted based on their grade point average and their score on a rigorous entry exam.

The school's first 20 graduating classes included relatively few Black and Hispanic students so the school board created a race-based affirmative action program to admit more Black and Hispanic students. The program was in effect from 1997 through 2002 but was ended due to legal challenges. Following the end of the program, the share of Black and Hispanic students at the school decreased from 9.4 percent to 3.5 percent.

In 2020, the school board made a number of significant changes meant to increase the ratio of Black and Hispanic students. Among other things, TJ allocated seats to each

eligible middle school equal to 1.5% of their eighth-grade student population and added “experience factors”, including whether students were economically disadvantaged, English language learners, or special education students, to the admissions application. Students applied using an application number; the admissions committee did not know the name, race, or gender of any applicant.

Following these changes, the proportion of admitted Black and Hispanic students increased from 4.52% to 18.36%. The proportion of admitted Asian-American students decreased from 73.05% to 54.36%.

In March 2021, the Coalition for TJ, an advocacy group, sued the school board alleging that the 2020 changes discriminated against Asian Americans. At trial, the head of the school board testified that TJ used race-neutral criteria to achieve the important goal of a diverse student body. Members of the Coalition for TJ, many of them Asian-American parents, testified that TJ was using race-based criteria with neutral names. The parents testified that gifted Asian-American students were clustered in a few middle schools and that limiting the number of students from each school shut out worthy Asian-American applicants. The parents also testified that the “experience factors” weren’t relevant for their children.

In February 2022, the Federal District Court found in favor of the Coalition for TJ. Judge Claude M. Hilton wrote in his opinion for the court that the changes disproportionately burdened Asian-American students, were “infected with talk of racial balancing”, and were “racially motivated”.

On May 23, 2023, a three-judge panel of the Court of the Appeals reversed, found in favor of TJ, and restored the 2020 admissions plan. The vote was 2-1. Judge Robert B. King, writing for the majority, noted that the school had a legitimate interest in “expanding the array of student backgrounds.” Judge Allison J. Rushing, the minority vote, wrote that the Constitution’s guarantee of equal protection “would be hollow if governments could intentionally achieve discriminatory ends under cover of neutral means”.

The Coalition for TJ filed a petition for certiorari in the Supreme Court which was granted. How will the Supreme Court decide the case?

(See “Supreme Court Is Asked to Hear New Admissions Case on Race”, *The New York Times*, Tuesday, August 22, 2023 – p.A14)

Here is an outline of the answer (note how short the outline is):

“The issue in the case is the following: **[frame the issue as a question and reference the relevant part of the Constitution]** Is TJ’s race-based admissions policy a violation of the Equal Protection Clause of the 14th Amendment? The holding is **[give the holding in a complete sentence]**. The Supreme Court finds in favor of **[who wins]**.

The standard of review in this case is **[give the standard of review]**. When applying this standard of review, the Court will ask **[state the questions that are part of the chosen standard of review]**. In this case, **[apply the standard of review]**.

The Court relies for its decision in this case on the precedent case of **[give the name of the precedent case]**. In that case, the Court wrote **[give the relevant holding from the precedent case]**. We apply that precedent case here by **[describe how the Court uses the precedent case to decide the current case]**.”

Basic facts about exams in this class:

1)The hypos are long but your answers are short:
three paragraphs,
three sentences in each paragraph,
nine sentences total in the whole exam. That’s it.

2) **Good News:** this is *not* a class where there is only one right answer to an exam question and you have to produce that one right answer or you get a bad grade. In other words, this is not a class where $2 + 2 = 4$ and that’s it. There are as many right answers to an exam question as there are students in the class. In other words, $2 + 2 = 4$ is correct but so is $3 + 1 = 4$ and $5 - 1 = 4$ and $2 \times 2 = 4$. As long as you follow the instructions, the reasoning that you use to “get to 4” (*i.e.*, analyze the fact pattern and write the opinion) is fine with me.

Example: in the TJ hypo printed above, students could get an A by writing that TJ’s admissions policy **violated** the Equal Protection Clause of the 14th Amendment and explaining that decision **OR** by writing that TJ’s admissions policy **did not violate** the Equal Protection Clause of the 14th Amendment and explaining that decision – either answer can be correct as long as the answer is explained in a way that follows the exam instructions. **Honestly, most low exam grades are the result of poor writing and/or failure to follow the exam instructions, not poor thinking.**

Note: I don’t include a sample answer to the hypo because I find that students tend to copy the language of the sample answer onto their own papers, which is a form of plagiarism.

IV. Readings (click or double click on the title to access the readings)

Tuesday, August 27

Introduction to the study of constitutional law, part 1

Skills: analyzing a judicial opinion and writing a case brief

Content: the syllabus and Constitution

1)The syllabus – please read the syllabus before class

2)[Orin Kerr, “How To Read A Legal Opinion”](#)

[Goesaert v. Cleary](#) See if you can figure out the Facts, Issue, Holding, and Rationale for this case but you do not need to write a formal case brief – nothing will be handed in.

3)[The Constitution](#)

Tuesday, September 3 – no class

Tuesday, September 10

Introduction to the study of constitutional law, part 2

Skills: writing in a brief and clear style

Content: foundational cases

1)ungraded pop quiz on the syllabus (for extra credit)

2)Writing exercise

3)[Marbury v. Madison](#)

[McCulloch v. Maryland](#)

[Gibbons v. Ogden](#)

Tuesday, September 17, and Tuesday, September 24:

Introduction to the study of constitutional law, part 3

Skills: understanding the role of precedent

Content: the road to presidential immunity

[Youngstown Sheet & Tube Co. v. Sawyer](#)

[Nixon v. Fitzgerald](#)

[Clinton v. Jones](#)

[U.S. v. Nixon](#)

[Trump v. United States](#) – Syllabus (pages 1-8); Opinion of the Court (p. 1-43); skip Justice Thomas’s concurring opinion and Justice Barrett’s mostly concurring opinion; read Justice Sotomayor’s dissent (p. 1-30)

Tuesday, October 1, and Tuesday, October 8

[DC v. Heller](#)

[McDonald v. City of Chicago](#)

[New York State Rifle & Pistol Association v. Bruen](#)

[US v. Rahimi](#) – Syllabus; Opinion of the Court (pages 1-18); Justice Thomas’s dissent (pages 1-32)

FDA v. Alliance for Hippocratic Medicine

First **PRACTICE UNGRADED** midterm – based on *Garland v. VanDerStok* (the “ghost gun” case)

Tuesday, October 15, and Tuesday, October 22

[Roe v. Wade](#)

[Planned Parenthood v. Casey](#)

[Dobbs v. Jackson Women’s Health Organization](#)

[Alliance for Hippocratic Medicine et al. v. FDA](#) (Fifth Circuit opinion) – pages 1-35; pages 64-70 (Part of Judge Ho’s opinion)

[Alliance for Hippocratic Medicine v. FDA](#) (Supreme Court opinion)

Tuesday, October 29

MIDTERM distributed

Tuesday, November 5 – no class – Election Day

MIDTERM DUE

Tuesday, November 12, and Tuesday, November 19

Loper Bright v. Raimondo

Tuesday, November 26 – no class – Thanksgiving Break

Tuesday, December 3

REVIEW

Tuesday, December 10

FINAL EXAM distributed

V. Miscellaneous but Extremely Important Material

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 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 at studentconduct.gwu.edu/academic-integrity, email rights@gwu.edu, or call 202-994-6757.

University policy on observance of religious holidays

Students should notify me **via email** during the first week of the semester of their intention to be absent from class on their day(s) of religious observance. If you tell me orally that you plan to be absent from class to observe a religious holiday, chances are good that I won't remember and I'll wonder why you're not in class. Absence from class for the observance of religious holidays is an absence without penalty. 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.

VI. 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

VII. 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.

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).]

Safety and Security

- Monitor [GW Alerts](#) and [Campus Advisories](#) to [Stay Informed](#) before and during

an emergency event or situation

- In an emergency: call GWP/EMERG 202-994-6111 or 911
- For situation-specific actions: refer to GW's [Emergency Response Handbook](#) and [Emergency Operations Plan](#)
- In the event of an armed intruder: Run. Hide. Fight.

GW Alert

GW Alert is an emergency notification system that sends alerts to the GW community. GW requests students, faculty, and staff maintain current contact information by logging on to alert.gwu.edu. Alerts are sent via email, text, social media, and other means, including the Guardian app. The Guardian app is a safety app that allows you to communicate quickly with GW Emergency Services, 911, and other resources. Learn more at safety.gwu.edu.

Protective Actions

GW prescribes four protective actions that can be issued by university officials depending on the type of emergency. All GW community members are expected to follow directions according to the specified protective action. The protective actions are Shelter, Evacuate, Secure, and Lockdown (details below). Learn more at safety.gwu.edu/gw-standard-emergency-statuses.

Shelter

- Protection from a specific hazard
- The hazard could be a tornado, earthquake, hazardous material spill, or other environmental emergency.
- Specific safety guidance will be shared on a case-by-case basis.

Action:

- Follow safety guidance for the hazard.

Evacuate

- Need to move people from one location to another.
- Students and staff should be prepared to follow specific instructions given by first responders and University officials.

Action:

- Evacuate to a designated location.

- Leave belongings behind.
- Follow additional instructions from first responders.

Secure

- Threat or hazard outside of buildings or around campus.
- Increased security, secured building perimeter, increased situational awareness, and restricted access to entry doors.

Action:

- Go inside and stay inside.
- Activities inside may continue.

Lockdown

- Threat or hazard with the potential to impact individuals inside buildings.
- Room-based protocol that requires locking interior doors, turning off lights, and staying out of sight of corridor window.

Action:

- Locks, lights, out of sight
- Consider Run, Hide, Fight