CONSTITUTIONAL LAW I

LAW 504

FALL SEMESTER, 2020

PROFESSOR CONSTANCE FAINE

COURSE SYLLABUS
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THE PROFESSOR, CLASS TIME, & OFFICE HOURS INFORMATION

NAME: CONSTANCE FRISBY FAIN

TELEPHONE: 713-313-7393

EMAIL: fainconstance@att.net

LOCATION: ROOM 221-F

CLASS TIME: MONDAY, WEDNESDAY, AND FRIDAY 4:00PM TO 5:00PM

OFFICE HOURS:  
- TUESDAY AND THURSDAY
- 12:00 NOON TO 3:00PM (TELEPHONE CONFERENCES)  
  (PLEASE PROVIDE A TELEPHONE NUMBER IF YOU WOULD LIKE ME TO CALL YOU DURING THESE HOURS.)
- OTHER TIMES BY APPOINTMENT
- TIMES MAY CHANGE IF NECESSARY

COURSE BOOKS & MATERIALS

REQUIRED TEXTS:


(2) Supplement text to Constitutional Law: Principles and Policy (2020) (Contains United States Supreme Court Cases that were decided after the main text above was printed)

REFERENCE TEXTS:

(1) Tribe, American Constitutional Law, Foundation Press (latest edition)

(2) Nowak & Rotunda, Constitutional Law, West Group (latest edition)

❖ IMPORTANT NOTE: Please include a telephone number in your emails. I prefer to answer most questions by phone. If you are not able to answer your phone when I respond to your email, I will leave a detailed voicemail which will include an answer(s) to your question(s). Please be sure to listen to my voicemail responses.
COURSE DESCRIPTION & OBJECTIVES

Students will be introduced to basic theories of Constitutional Law, including policy considerations. There will be an in-depth study of judicial review, limitations on judicial review, national powers, state powers, executive and congressional relations, procedural due process, and substantive due process. Equal protection, state action and First Amendment topics (freedom of expression and freedom of religion) will be covered in Constitutional Law II (Spring Semester). The overall objective is for the student to master and demonstrate competency of the topics listed above.
STUDENT LEARNING OUTCOMES

The following are the analytical skills you are expected to develop and master in order to achieve the course objectives or student learning outcomes for Constitutional Law I. You will continue to sharpen the skills in your study and application of various concepts in your third year as you prepare to take the bar exam.

I. Critical Reading, Case Analysis, And Thinking Skills
   Upon completion of Constitutional Law I, these skills will help you to be able to:
   • Read, comprehend, analyze, synthesize, and assess court opinions by:
     1. dissecting them into components by identifying such elements as:
        (a) litigation status of the parties in the trial and appellate court(s); (b) cause(s) of action; (c) defense(s); (d) elements of the cause(s) of action; (e) procedural history of the case; (f) facts; (g) issue(s); (h) holding(s); (i) plaintiff's arguments; (j) defendant's arguments; (k) rule(s) of law; (l) policy rationale; (m) disposition; and (n) add your own commentary;
     2. learning and understanding the meaning of the components of each constitutional law cause of action;
     3. breaking rules of law or legal principles into parts in order to understand what the rules mean and how to apply them;
     4. comparing and contrasting the various cases and philosophies of the U.S. Supreme Court Justices; and
     5. learning and understanding what the relevant provisions of the U.S. Constitution mean as they are interpreted by the U.S. Supreme Court.

II. Problem Analysis And Oral Advocacy Skills
   Upon completion of Constitutional Law I, these skills will help you to be able to:
   • Read, comprehend, analyze and argue (orally and in writing) Constitutional Law problems by:
     1. identifying the relevant Constitutional Law cause(s) of action;
     2. identifying the relevant issues;
     3. identifying the elements of the relevant cause(s) of action;
     4. identifying the relevant rule(s) of law;
     5. applying the rule(s) of law to the relevant facts completely;
     6. identifying pro-arguments, counter arguments and rebuttal arguments;
     7. identifying relevant policy arguments; and
     8. articulating legal arguments clearly, efficiently, completely, and professionally.

**NOTE: “STUDENT LEARNING OUTCOMES”: TO BE MORE FULLY DEVELOPED AND ENHANCED.
GRADING

There will be approximately two (2) or three (3) cumulative real interim exams (including the midterm) and a final exam at the end of the semester. One of the two or three exams will be a Midterm and another one will be a timed Essay. The exams that are not essays will be multiple choice exams since Constitutional Law is tested as a multi-state subject on the Bar Examination. Tentatively, an Exam will be administered in September, October, and November. All interim real exams and quizzes are mandatory. Failure to take these exams will result in a lower final score. Practice multi-state exams will be distributed during the semester to aid in preparing students for the multi-state component of the Bar Exam. Extra class meetings will be scheduled for all Real Exams unless otherwise informed. Hypothetical problems and newspaper articles containing Constitutional Law-related topics may be discussed in class periodically. Excess absences and unpreparedness will result in the course grade being lowered. Class participation will be considered in arriving at your final grade. If you are unprepared for class, inform me in writing the day before class, and you will be excused from participation on the day of class.

Extra credit opportunities may be available, which could enhance your grade in the course. Extra credit projects will be announced at the appropriate times.

ACCOMMODATIONS

Students that require or feel that they need accommodations must contact Dean Mouton’s office as soon as possible to fill out the necessary forms. Your prompt attention to this matter will allow for timely accommodations to be provided by the Law School once you have submitted your application and medical documentation. Your application and other documentation will remain confidential. Dean Mouton’s contact information is: Virgie.Mouton@tmslaw.tsu.edu (Email) and 713-313-7909 (Office). Dean Mouton is the Assistant Dean of Student Development and Academic Support.
**CLASS FORMAT, PARTICIPATION, ATTENDANCE, PROFESSIONALISM, ETC.**

- Class meets on Monday, Wednesday and Friday from 4:00PM to 5:00PM. Each student is required to have read the assigned materials before they are discussed in class. Some of the cases will be assigned to individual students in advance. In addition, students are required to read all of the Notes following the cases and the 2020 Supplement cases. (See the 2020 Supplement Table of Contents as the class discusses the chapters in the main text so that you will know which pages you are required to read from the Supplement). Read all of the textual information in the textbook. Supplementary material listed under “Reference Texts” on page 4 of this syllabus should be helpful in clarifying constitutional law concepts. From time to time other reading materials will be assigned.

- This class will be taught synchronously, and you are expected to be online during the regularly scheduled day and time. Blackboard will be used for the following course information: (1) Announcements; (2) Content; (3) Tests; (4) Syllabus; (5) etc. For class meetings, the Zoom platform will be used. The Meeting Link will be provided in the Announcements section of Blackboard.

- Students are expected to attend this online class on a regular basis. You are expected to be ready to participate when the class starts. The grade of any person who has been absent from regular class sessions more than five (5) times may be lowered one (1), two (2) or three (3) grades, depending on the number of excess absences, by the Professor or Law School Administration. Points will be deducted from the grades of persons who are unprepared for class when called on to respond. You are expected to conduct yourself in a professional manner at all times, which includes respecting your classmates and the professors. Refrain from side conversations or other distracting conduct during class. Once class begins, you should remain seated and fully engaged in the discussion unless you have a medical condition. Make sure you inform Dean Mouton of your condition.
THURGOOD MARSHALL SCHOOL OF LAW

TEXAS SOUTHERN UNIVERSITY

ACADEMIC CALENDAR

FALL SEMESTER 2020 (Modified 13-Week Schedule)

Orientation (online) Mon-Fri August 3 – 7, 2020
First Day of Class Monday August 10, 2020
Last Day to ADD/DROP Wednesday August 12, 2020
Labor Day (NO CLASSES) Monday September 7, 2020
Purge of all unpaid course selections Monday September 14, 2020
Mid Term Examinations Mon – Fri October 5-9, 2020
Last Day to Drop a Class with grade of “W” Friday October 30, 2020
Last Day of Classes Wednesday November 4, 2020
First Year Professors’ Grades due Wednesday November 4, 2020
Reading Period (NO CLASS) Thurs- Sun November 5-8, 2020
Final Examinations Mon – Thu Nov 9 – 19, 2020
Commencement Exercises Saturday November 21, 2020

SPRING SEMESTER 2021

**TBA**

Please note that the Calendar events and/or dates are subject to change.

Updated July 1, 2020
Policies & Procedures

Please reference the Thurgood Marshall School of Law Student Rules and Regulations Handbook concerning policies and procedures.

EXAMS AND REVIEWS
Real exams and reviews will be scheduled at times other than the times that the class meets unless informed otherwise. Attendance at reviews conducted by the professor or posted on Blackboard is not mandatory.

FIREARMS
Although this class is currently being taught remotely, my office is a gun-free zone. Therefore, guns are banned in my office (Room 221-F) when the school returns to normal operations.

COMPUTERS, ETC.
When the school returns to normal operations, which means no online or hybrid classes, cell phones, laptops, tablets and other electronic devices must not be used during class sessions. They will be allowed if you have written permission from Dean Mouton or the Professor asks the class to use them for a particular reason. These devices will also be prohibited during exam review conferences when school returns to normal operations.

TOPIC AND ASSIGNMENT ADJUSTMENTS
The professor reserves the right to adjust the schedule, classroom topics, and other activities as needed to achieve course objectives or student learning outcomes.
## CONSTITUTIONAL LAW I: TOPICS AND ASSIGNMENTS (FALL, 2020)

### WEEK I (Aug. 10-14)
- Roman numeral pp. XVII to XXXIII
- pp. 1-46 & 2020 Supplement
- The U.S. Constitution
- Brief Overview of American Constitutionalism (Introduction)
- Judicial Review & Limitations on Judicial Review (Chap. 1)

### WEEK II (Aug. 17-21)
- pp. 46-59 & 1607-1624 & 2020 Supplement
- Judicial Review & Limitations on Judicial Review (Chap. 1)
- Limitations on Judicial Review (Chap. 11)

### WEEK III (Aug. 24-28)
- pp. 1624-1698 & 2020 Supplement
- Limitations on Judicial Review (Chap. 11)

### WEEK IV (Aug. 21-Sept. 4)
- pp. 61-112 & 2020 Supplement
- National Powers and Federalism (Chap. 2)

### WEEK V (Sept. 7-11)
- pp. 112-182 & 2020 Supplement
- LABOR DAY (Sept. 7th)
- National Powers and Federalism (Chap. 2)

### WEEK VI (Sept. 14-18)
- pp. 183-217 & 219-248 & 2020 Supplement
- National Powers and Federalism (Chap. 2)
- State Power in American Federalism (Chap. 3)

### WEEK VII (Sept. 21-25)
- pp. 248-285 & 2020 Supplement
- State Power in American Federalism (Chap. 3)
Week VIII (Sept. 28-Oct. 2)  • pp. 287-367 & 2020 Supplement
● Executive and Congressional Relations: Separation of Powers (Chap. 4)

Week IX (Oct. 5-9)  • pp. 367-446 & 2020 Supplement
● Executive and Congressional Relations: Separation of Powers (Chap. 4)

Week X (Oct. 12-16)  • pp. 447-505 & 2020 Supplement
● Limitations on Governmental Power (Chap. 5)
● Procedural Due Process (Chap. 5)

Week XI (Oct. 19-23)  • pp. 507-621 & 2020 Supplement
● Forms of Substantive Due Process (Chap. 6)

Week XII (Oct. 26-30)  • pp. 621-691 & 2020 Supplement
● Forms of Substantive Due Process (Chap. 6)

Week XIII (Nov. 2-6)
● Forms of Substantive Due Process (Chap. 6) (Continued)
● November 4th (Wednesday) is the Last Day of Class

Week XIV (Nov. 9-13)
● Final Exam Period

Week XV (Nov. 16-19)
● Final Exam Period
HEALTH AND SAFETY ON CAMPUS

1. Students are expected to continuously self-screen for the symptoms of COVID-19. The Center for Disease Control has a list of COVID-19 symptoms: https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html. If you begin to show symptoms, notify your professor and leave the classroom. Limit contact with other individuals on campus and contact your healthcare provider for further guidance.

2. If, before coming to campus, a student starts exhibiting any symptoms of COVID-19 or does not feel well, the student should not attend class in person. The student should immediately notify the Assistant Dean for Student Development (virgie.mouton@tmslaw.tsu.edu) and attend classes online.

3. Students who have been sick with COVID-19 symptoms, tested positive for COVID-19, or have been potentially exposed to someone with COVID-19 should attend classes online until they are cleared by their healthcare provider. The following is taken from the TSU & Coronavirus FAQs, http://www.tsu.edu/about/administration/marketing-and-communications/coronavirus/faqs.html:

   Those who have recently traveled internationally or believe they have been exposed to the virus and are experiencing influenza-like illness, with fever greater than 100.3, and symptoms, including cough, body aches, severe sore throat or runny nose, should seek medical attention, especially if symptoms worsen.

   Students should contact TSU Health Services (713-313-7173) and identify themselves as having flu-like symptoms to obtain further recommendations and guidance. Students should also consult with their regular health care provider or seek treatment at a local health center if they are overseas. Please call ahead to your health care provider to notify them of the reason for your visit.

   For additional information about COVID-19, including signs and symptoms, transmission and risk of exposure, and what to do if you are exhibiting symptoms, please refer to the resources section. The CDC’s website and Texas Department of State Health Services (DSHS) will also issue guidance for those planning to travel or who have recently returned.
4. While on campus and in classrooms, students should observe the rules for social distancing, social health etiquette, and general cleanliness.
   a. Students should practice hand hygiene, cough etiquette, and general cleanliness.
   b. Students should maintain at least 6 feet separation in all directions from other individuals.
   c. Face coverings (over the nose and mouth) are required for all students. Students without a face covering will not be allowed to enter the classroom. Students with an approved exemption and who notify their professor before the start of class may be allowed to wear a face shield instead of a face mask.
   d. Students should wash or disinfect their hands before each class and after any physical interaction with other persons in the classroom.
   e. Students should maintain classroom cleanliness. Students should create a clean classroom environment by putting away unnecessary personal items and cleaning their seating area intermittently.
   f. Students should not expect to enter the Law Building on a day other than the designated day for in-person attendance for an enrolled course. Entry will be permitted only if administration can determine that the maximum occupancy for COVID-19 social distance protocol has not been exceeded.
   g. Students who do not comply with the rules for social distancing, social health etiquette, and general cleanliness may be subject to discipline up to expulsion from law school.
ATTENDANCE POLICY

5. Students are required to attend classes consistent with the format of the enrolled course.
   a. Hybrid – instruction for courses in this format is delivered in person and simultaneously online. Enrolled students are divided into groups and required to attend weekly in-person classes on the weekday(s) predetermined by administration for the designated group. Students may only attend in-person classes on the administration-determined day to ensure that all enrolled students are guaranteed a physical seat for the class. Other class days for the week are to be attended online. Students who have COVID-related health and safety concerns in attending in-person classes must obtain a remote-instruction waiver from the Office of Student Affairs. The waiver can be requested for the entire semester or temporary, based upon the personal circumstance of the affected student.
   b. Online – instruction for courses in this format is delivered 100% online.
   c. For the 100% online course and the hybrid course online instruction component, both the American Bar Association and the Law School rules obligate the professor to obtain assurance that the person who logs into the course online, participates in class, takes quizzes and exams, and engages in collaborative exercises, is the student enrolled in the course. Without being limited to the following methods of attendance verification, professors may require attendance to be contingent upon confirmation of identity via webcam or require webcams to remain on for the entire class period.