

TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL OF LAW
SPRING 2018 NATIONALITY LAW COURSE
COURSE # 563
SYLLABUS

I. Maurice Hew, Jr.*
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Thurgood Marshall School of Law
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II. MEETING TIMES

Tuesdays and Thursdays from 5:00 p.m.-6:30 P.M.

Holidays

Midterm week March 7 & March 9, 2017

Spring break March 14 & March 16, 2017

III. LOCATION

TMSLAW ROOM 211

IV. OFFICE HOURS

By Appointment. I would preferably like to schedule them before the class.

I am free to meet off campus but my office location is 100 G in the legal clinic.

V. COURSE TEXTBOOK

Students will be required to research Immigration statutes and regulations. Students will also be assigned cases to read and study, to learn how the citizenship and naturalization laws are applied. Students will also be required to review regulations and miscellaneous memorandums and documents. Students might also be required to review the laws of foreign states as well as states in the United States.

I will be using the Immigration and Nationality Handbook published by LexisNexis.

VI. COURSE DESCRIPTION

This three hour course explores the theories, procedures, and practices relating to US nationality laws, as interpreted and applied by courts, tribunals, and government officials. In particular, automatic acquisition of United States Citizenship at birth

and after birth; comparison of the various statutory forms of naturalization; calculation of time; contrast meaningful terms of art, such as permanent residence, residence, physical presence, good moral character and good order and happiness of the United States; wedlock and out of wedlock; and legitimate and illegitimate births. This course also addresses: revocation of nationality and immigration status through criminal actions and voluntary renunciation resulting in possible statelessness; Federal Court nationality and noncitizen nationality litigation and passport litigation; nationality as a defense to federal crimes and immigration removal; and US nationality benefits, rights, and, membership obligations. A special study of Texas' administrative birth certificates litigation will also be addressed.

Consistent class preparation and participation are essential to acquire an understanding of this topic; students will have assigned readings as background for class discussion and analysis of problems presented. The final grade will be based on class participation and the final exam.

VII. STUDENT OUTCOMES

At the end of this course, the student is expected to have the requisite skills necessary to determine whether an individual is a United States Citizen at birth or is eligible for United States naturalization by statute or by application. The student is also expected to provide the pertinent authority which forms the basis for their opinion.

VIII. Attendance Policy

Students are required to comply with the attendance policy in the TMSL Rules and Regulations Handbook which this professor cannot change.

IX. GRADING POLICY

There will be one final examination for this course which will account for 95% of the student's grade. Class participation is encouraged. Class participation will account for 5% of the student's grade.

X. CALENDAR

January

09 **Introduction**

What is a United States Citizen?
Minor v Happersett, 88 U.S. 162 (1874).
Inglis v Sailors Snug Harbor, 28 U.S. 99 (1830).

11 **Authorities**

US Code/ Immigration and Nationality Act
INA§101(a)(1); INA§103(a)(1); INA §104(a)(1)
22 USC §211a
Civil Rights Act of 1866 US constitution 14th Amendment and Article I
Sec 8 Cl 4.

VESTING OF UNITED STATES CITIZENSHIP AUTOMATICALLY

- 16 Background/History/14th Amendment (generally)
Dred Scott v Sanford, 60 U.S.393 (1857).
Slaughter House Cases, 83 U.S.32 (1872).
Boyd v Nebraska, 143 U.S. 135(1892).

“Under the jurisdiction of”

Wong Kim Ark, 18 S.Ct. 456 (1898).

- 18 *Matter of Cantu*, 17 I&N Dec. 190(BIA 1978).
US v Rice, 17 U.S. 246 (1819).
In Re Baiz, 135 U.S. 403 (1890).

Native Americans

Elk v. Wilkins, 5 S.Ct. 41 (1884).
Morrison v People of the State of California, 291 U.S. 82 (1934).
INA§301(b).

Diplomats

In re Thenault, 47 F. Supp 952 (D.D.C. 1942).
Raya v Clinton, 703 F. Supp 569 (W.D. VA. 2010).

DEFINITION OF UNITED STATES

- 23 Application to territories/Noncitizen nationals
Tuaua v. United States, 788 F.3d 300 (D.C. Cir. 2015).
INA§101(a)(38) United States
INA§101(a)(36) State

INA§101(a)(29) Outlying possession of the United States

25 Applicable to U.S. Vessels and other extensions of US

Cunard S.S. Co. v. Mellon, 262 U.S. 100 (1923).

Thomas v Lynch, 796 F.3d 535 (5th Cir. 2015).

7 FAM 1113.1-4.

7 FAM 1115

30 INA §301

Marquez-Marquez v Gonzales, 455 F.3d 548 (5th Cir. 2006).

Roger v Bellei, 401 U.S. 815 (1971).

Weedin v Chin Bow, 274 U.S. 657(1927).

February

01 INA §309

Miller v Allbright, 523 U.S. 420 (1998).

Villegas-Sarabia v Sessions, 874 F.3d 871 (5th Cir. 2017).

Sessions v. Morales-Santana, 137 S.Ct. 1678 (2017).

06 INA§320

Ali v Ashcroft, 395 F.3d.722 (7th Cir. 2005).

08 INA§321

US v Juarez, 672 F.3d 381 (5th Cir. 2012).

Bustamante-Barrera v. Gonzales, 447 F.3d 388 (5th Cir. 2006).

Kamara v Lynch, 786 F.3d 420 (5th Cir. 2015).

Nehme v INS, 252 F.3d 415 (5th Cir. 2001).

Matter of Guzman-Gomez, 24 I & N Dec. 824 (BIA 2009).

13 INA§322

Ortega Morales v Lynch, 168 F. Supp 1228 (D.A.Z.2016).

15 INA § 322 Grandparents provision

U.S. v. Flores-Villar, 536 F. 3d 990 (9th Cir. 2008).

20 Naturalization Requirements/Eligibility

INA § 310 et seq,

INA§312 Understanding the English language

Matter of Acosta-Hidalgo, 24 I&N Dec.103 (BIA 2007).

Matter of Baires,24 I&N Dec.467 (BIA 2008).

Matter of Gonzales-Muro, 24 I&N Dec. 472 (BIA 2008).

Matter of Chawathe, 25 I&N Dec.369 (AAO 2010).

Matter of Longstaff, 716 F.2d 1439 (1983).

22 Good Moral Character

INA 101(f); 8 CFR §316.10
Gatcliffe v Reno, 23 F. Supp (D.V.I. 1998).
United States v Lionel Jean Baptiste, 395 F.3d 1190 (11th Cir.2000).

- 27 *Naturalization Procedure, Application, and Examinations*
INA §335; 8 CFR §335
INA§336
USCIS Forms N-400; 470; N-600

MARCH

- 01 Little Used Provisions for naturalization
Spouses, Battered Spouses and children, widows and widows of military veterans, News Media
INA §328
INA §319 a &b
- 06 MIDTERM WEEK
08 MIDTERM WEEK
13 Spring Break
15 Spring Break
- 20 Citizenship documentation
Passports Procedure
Consular record of birth
Certificate of citizenship
Certificate of naturalization INA§328
- 22 Revocation of citizenship
INA§340
Fedorenko v United States. 449 U.S. 490 (1981).
Administrative Litigation
Denaturalization
Perez v Brownell, 356 U.S. 44 (1958).
Afroyim v Rusk, 387 U.S. 53 (1967).
Trop v Dulles, 356 U.S. 86 (1958).
U.S. v Terrazas, 570 F. Supp.550 (S.D. N.Y. 2008).
Schneiderman v United States, 320 U.S. 118 (1943).
Mackenzie v. Hare, 36 S.Ct.106 (1915).
- 27 Federal Criminal Litigation
US v Puerta, 982 F.2d 1297 (1992).
Kungys v US, 485 U.S. 759 (1988).
U.S. v Salama, 891 F.Supp.2d 1132 (2012).
- 29 *Maslenjak v U.S.*, 137 S.Ct.1918 (2017).

United States v Esparza, 678 F.3d 389 (5th Cir. 2012).

April

- 02 Treason
 Voluntary renunciation INA§349.
 Schneider v Rusk, 377 US 363 (1964).

- 05 Passport/State Department Issues
 Haig v Agee, 453 US 280 (1981).
 Eurique v Powell, 302 F.3d 971 (2002).
 Matter of Villanueva, 19 I&N Dec. 101(1984).
 Perkins v Elg, 307 U.S. 325 (1939).

- 10 Equal Protection Cases
 Nguyen v INS, 208 F.3d.528 (5th Cir. 2000).

- 12 Administrative Denial
 8 CFR §336.1 et seq.
 Vahid-Dastjerdi v. Mueller, 2011 WL13135580 (S.D Tex. 2011).
 Price v INS, 962 F.2d 836 (9th Cir.1992).

- 17 Federal Judicial Review
 INA § 336 (b)
 US v Hovsepian, 359 F.3d 1144 (9th Cir. 2004).
 EAJA
 INS v Jean, 496 U.S. 154 (1990).

- 19 Texas Birth Certificates
 25 TX ADC§1.21
 Rios-Valenzuela v DHS, 506 F.3d 393(2007).
 Sanchez v Kerry, 2014 WL2932275 (S.D.Tex. 2014).
 Sanchez v Kerry, 2015 WL 873012 (5th Cir. 2015).

- 24 Last Day of Class

XI. Reading Assignments

The professor will provide the reading assignments in advance of the individual lecture.

XII. LIVING DOCUMENT

This is a living document and subject to change at the discretion of the professor without proper notice to the student.