RELIGION AND THE SUPREME COURT
AMST – 355 – 01
Fall 2011

Time: TR 9:30-10:45am
Location: ICC 209B

Instructor: Erika B. Seamon, Ph.D.
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Office hours: TR 11-11:45am or by appointment
Location of Office hours: 117 New North

Course Description:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof” are the words the Supreme Court of the United States has as a guide to the myriad of religiously inspired questions that must be addressed. Can the government give public tax money to religious schools? Can teachers and students be required by law to participate in a prayer meant to unite Americans? Are there any circumstances in which a law can prevent a religious person from practicing their religion? In considering the role of the Court in deciding these issues and many others, theoretical questions arise: If religion is to be protected, who is to decide what religion is - the Court, the majority of the American people, or some other means? What guidance did the Founders give on these questions and what role does or should their perspectives play in contemporary Religion Clause debates? If the religious landscape shifts or the Justices who sit on the Court shift or the nation’s problems shift, do and/or should the Court’s opinions shift as well?

This course is designed to introduce students to these questions as well as the role that the Supreme Court has played in attempting to address them. While this course will focus primarily on many key First Amendment Establishment and Free Exercise Clause cases, this is not a constitutional law course. The aim of this American Studies course is to give students an appreciation for the actual and symbolic role of the Court in shaping how the nation approaches and manages conflicts and issues related to religion in American public life.

The course objectives are as follows:

1. To develop a familiarity and appreciation for the symbolic role of the Supreme Court in shaping one’s understanding of how religion is interpreted and handled in this country
2. To comprehend the basic tenets as well as the shifting interpretations of the First Amendment Establishment and Free Exercise Clauses
3. To appreciate the significant role that an individual Supreme Court justice can play in shaping religion-related decisions

Course Materials:

Reading material for the course will include both primary and secondary sources. Most readings can be downloaded from Blackboard. Students are expected to print hard copies and bring the readings to class. Students should buy:


Expectations of Students:

In accordance with Georgetown’s Academic Regulations, students are expected to attend all classes, turn in all assignments by assigned due dates, and actively participate in class discussions. Grades will be reduced for late assignments, tardiness, missing class, and/or lack of class participation. Students risk failure if they miss more than three classes. At a minimum, an absence will be considered “excused” only if the student gets approval from the professor at least two weeks ahead of time. In some cases additional documentation may be required. In all cases of absence, the student is responsible for following up with his/her professor on what they missed.
There will be no computers or phones used in the classroom. All electronic devices must be turned off when class begins. If someone must take notes on the computer for medical reasons, please let the instructor know ahead of time.*

* Students with disabilities should contact the Academic Resource Center (Leavey Center, Suite 335; 202-687-8354; arc@georgetown.edu; http://ldss.georgetown.edu/index.cfm) before the start of classes to allow their office time to review the documentation and make recommendations for appropriate accommodations. If accommodations are recommended, you will be given a letter from ARC to share with your professors. You are personally responsible for completing this process officially and in a timely manner. Neither accommodations nor exceptions to policies can be permitted to students who have not completed this process in advance.

Assignments, Deadlines, and Grades:

Assignments:
- **Class Participation:** Come to class ready to discuss the readings and participate in class exercises. Your professor may call on you at any time to summarize or provide thoughts on the readings and/or brief a case for the class.
- **Exam I**
- **Exam II**
- **Research Paper:** The research paper will focus on the role that a Supreme Court justice played or plays in shaping the nation’s legal and societal understanding of religion. It will be 10 pages in length and due the last day of class. You will have an opportunity to make a very brief presentation about your paper to the class. We will discuss the content and parameters of this paper further in class.

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<tr>
<th>Grade</th>
<th>Due</th>
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<tr>
<td>25% Class Participation</td>
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<td>25% Exam I</td>
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<td>25% Exam II</td>
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<td>25% Research Paper</td>
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Doing a good job earns the grade of B. Doing the minimum requirements earns the grade of C. A’s are reserved for outstanding work that goes well beyond the requirements and is particularly distinctive in its quality.

Academic dishonesty in any form is a serious offense. Students found in violation are subject to academic penalties that include, but are not limited to, failure of the course, termination from the program, and revocation of degrees already conferred. Please see http://bulletin.georgetown.edu/regulations6.html for a description of the Georgetown Honor System.
Course Schedule:

R 9/1 – Introduction and Overview

FOUNDOING NARRATIVE

T 9/6 – The General Assessment Debate (8)


R 9/8 – The First Amendment (22)


ESTABLISHMENT CLAUSE

T 9/13 – Early Cases Set the Stage (7)

- Pierce – text p.41-44
- Cochran – text p.45-46

The Government inside Religion

R 9/15 – Everson and Incorporation (25)

- Everson – text p.47-72 including Jackson and Rutledge dissent
- SKIM: Allen – text p.73-79, including Black’s dissent

T 9/20 – The Lemon Test (12)

- Lemon – text p.82-92

R 9/22 – Applying the Lemon Test (20)

- Wolman – supp p.1-10
- Grand Rapids v. Ball – text p.117-122, stop at #1, skip to p.127 to III to end p.129, including O’Connor concurring and Rehnquist dissenting
- Aguilar – text p.130 (summary)
- SKIM: Kiryas Joel – text p.131-133 to A., 139-III first sentence on page from O’Connor concurring

T 9/27 – Nyquist to Agostini (21)

- Nyquist – text p.97-108
- SKIM: Zobrest – text p. 270-274
- Agostini – text p. 150-160
R 9/29 – Zelman (21)
  o Mitchell – supp p.1-12
  o Zelman – supp p.1-9

Religion inside the Government

T 10/4 – Prayer (17)
  o Engel – text p. 171-end maj on p.176
  o Schempp – text p. 179-mid 184 where IV starts, jump to p.186 from V to end maj on p.189
  o Wallace – text p. 199-mid 205 to letter A

R 10/6 – Prayer (continued) and Review (19)
  o SKIM: Stone – text p.195-198
  o Lee v. Wiseman – text p.249-259
  o Santa Fe – supp p.1-9

T 10/11 – EXAM ONE

R 10/13 – The Supreme Court [VISIT THE SUPREME COURT!]
  o Review the Supreme Court of the United States website. See the tab “About the Supreme Court -- The Supreme Court Building.” Website www.supremecourtus.gov/about, accessed 20 July 2011.

T 10/18 – Religious Symbolism (16)

FREE EXERCISE CLAUSE

R 10/20 – Sherbert Test and Compelling State Interest (20)
  o Sherbert – text. p.449-453
  o Yoder – text p.466-476, skip IV, p.478 start at V to 479 to end of maj opinion
  o Thomas – supp p.1-5

T 10/25 – Chipping Away at Sherbert (23)
  o Bob Jones – supp p.1-7
  o Bowen – supp p.1-4
  o Lyng – supp p.1-7

R 10/27 – Smith and Legitimate State Interest (15)
  o Smith – text p.483-90 maj, O’Connor first pp on p.490, Skip I and IIA, read IIB on p.493 to top of 495 (first three lines), p.496 -501, including dissent

T 11/1 – The Effects of Smith (16)
  o Lukumi Babalu Aye – text p.502-504
o Boerne, TX – text p.515-519 ends w/Judiciary, p.522-524 “The Stringent” stops at Justice Scalia, p.527-528 O’Connor and stop at II
o Locke – supp p.1-7

R 11/3 – Emerging Conflicts
o TBD

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<td>T 11/8 – Is Religion Special? (16)</td>
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<td>R 11/10 – Originalism or Activism? (10)</td>
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<td>T 11/15 – Articles of Faith or Peace? (16)</td>
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<td>R 11/17 – EXAM II</td>
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<td>[T 11/22 –Library Research Day! – no class]</td>
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<td>[R 11/10 – No Class Thanksgiving]</td>
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<td>T 11/29 – Research Paper Presentations</td>
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<td>R 12/1 – Research Paper Presentations</td>
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<td>T 12/6 – Review and Evaluations [RESEARCH PAPER DUE]*</td>
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* Do NOT miss this class. It is very important that everyone attend. If for some reason, your research paper is not yet finished, do not skip class. I will be much more willing to work through a solution with you if you attend class and discuss the situation with me directly.