

**PSCI 3210: The Supreme Court
Spring 2015
TR 11:00 AM–12:20 PM, Sage 230**

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Office: Wooten Hall 154
Office Hours: Tuesdays, 1:00 pm–4:00 pm, and by appointment

The United States Supreme Court plays an important role in American democracy. As the highest court in the federal judiciary, its decisions do more than resolve disputes between litigants; they announce important public policies that govern relationships among citizens and governments. The Supreme Court plays an important role in determining the scope of freedoms enjoyed in the United States and its decisions frequently alter the balance of power between political actors and institutions, including citizens, the president, Congress, the states, and the Court itself.

In this course, we will focus on the processes by which cases before the Supreme Court are decided and the factors that influence the decisions of Supreme Court justices. Additionally, we will consider the relationships between the Supreme Court and other actors, including the elected branches of government, lobbyists and the public.

Being in Touch

Office Hours & Email

My office hours are listed above and I will always be available during those times. Even outside of those hours I am often in my office and you are welcome to stop in any time my door is open. You can reach me by email at blackstone@unt.edu. If you write me Monday through Friday, I should get back to you within 24 hours. If I don't, please feel free to send me a reminder! If you write over the weekend, you may have to wait until Monday for a reply. A note on etiquette: please sign your emails with your name and include an appropriate salutation. (Hint: you can't go wrong with, "Hi, Dr. Blackstone.")

If I need to contact you, I will send you a message through my.unt.edu. Please check Blackboard and your UNT email regularly so you will receive all course-related information.

Blackboard

A Blackboard conference is maintained for this course at <https://learn.unt.edu/>. Some course assignments will be submitted in Blackboard and student grades will be posted in Blackboard.

Remind

Students that wish to receive course-related reminders via email or text can sign up to receive notifications at this link: <https://www.remind.com/join/untscotus>.

Facebook

I have created a Facebook group for students enrolled in PSCI 3210. I will post links to news stories related

to the Supreme Court to the Facebook group. Students are also welcome to post information relevant to class. Joining the group is optional and will not impact your grade. If you wish to join the group, go to <https://www.facebook.com/groups/897190656978810/>.

Be advised that information you share in the course Facebook page is governed by Facebook's privacy policies. Also, note that I do not guarantee that I will read and respond to every post in the Facebook group; if you have a question that only I can answer, email me or see me in my office.

Course Materials

The following text is required:

Lawrence Baum. 2012. *The Supreme Court*, 11th edition. Washington, D.C.: CQ Press.

Other assigned readings will be posted in Blackboard.

Grading

Your course grade will be based on the following components.

Component	Percent of Course Grade
Quizzes, In-Class Activities, and Homework	15
Participation	5
Agenda-Setting Simulation	5
Prediction Project Component: Theory Paper	10
Prediction Project Component: Case Paper	10
Prediction Project Component: Prediction Paper	30
Final Exam	25
Total	100

Course grades will be rounded to the nearest percent and assigned according to the scale below:

90–100%	A
80–89%	B
70–79%	C
60–69%	D
<60%	F

Quizzes, In-Class Activities, and Homework (20%)

You will earn points for quizzes on the assigned readings, for announced and unannounced in-class activities, and for supplementary assignments that are required during the semester. Quizzes on assigned readings are closed book, but you may use notes that you have taken on the assigned readings as long as they are printed in hard copy. (You cannot use a laptop, tablet device, or phone during quizzes.) Missed quizzes and in-class activities cannot be made up. If you have a university-excused absence, you will not be penalized for missing points offered in class if you provide appropriate documentation to verify your absence.

Participation (5%)

Your participation is expected. You will earn points for actively participating in class discussions. Your participation grade is based not only on the quantity of your remarks in class, but also on their quality. Come to class prepared to contribute thoughtfully to the discussion and to answer questions posed by your

fellow classmates.

Agenda-Setting Simulation (5%)

Students will participate in an agenda-setting simulation to explore the process by which Supreme Court justices decide which cases they will hear. In the first part of the simulation, each student will assume the role of a law clerk and prepare a memo on a case for which Supreme Court review has been sought. In the second stage, students will act as Supreme Court justices, reviewing multiple memos and deciding which cases to hear.

Prediction Project (50%)

A research project is an important component of this course and your performance on this project will determine half of your course grade. Each student will choose a case that the Supreme Court has scheduled for oral argument and decision in the 2014 Term and write a paper predicting the positions that three justices will take in the case.¹ The paper will require integration of what you learn about Supreme Court decision-making with what you learn about the case and the justices through independent research.

To help you develop the best possible prediction paper, the assignment is broken down into three components. You will submit two preliminary papers, parts of which will ultimately be integrated into your final paper. The key components of your research and the prediction paper are reviewed below.

1. A Theory of Supreme Court Decision-Making

Each prediction paper will begin by laying out a theory of Supreme Court decision-making. Your theory should explain what factors determine the positions that justices take in cases and their relative importance. The theory is important because it provides the framework for your research and, ultimately, for your predictions. In other words, you will make predictions on the basis of what you think is relevant to the justices' choices.

There is disagreement among scholars and other people about why the justices do what they do, and we will read articles and book chapters that take competing positions on this issue. We will discuss the various theories in class sessions as well. Students will then write short papers presenting and justifying their own theories of the Court. Your theory, in its original form or modified, will come at the beginning of your prediction paper.

2. Analysis of Your Case

The second section of the prediction paper will analyze the issues in the case you have chosen, both in the case itself and in relation to prior decisions. How you analyze issues in your prediction paper will depend in part on your theory of the Court, but any set of predictions must rest on an understanding of what a case is about and what the Court has said in past decisions that involved similar issues. Readings and material presented in class sessions will provide you with the tools to understand Supreme Court cases and to think about the issues in those cases as well as ways to do research on cases. Once students have had a chance to do most of the research on their case, a short paper will present an analysis of the issues in the case. The analysis, revised as appropriate, will be incorporated into the prediction paper.

3. Analysis of Your Justices

The third section of the prediction paper will analyze evidence on the three justices that is relevant to predicting their positions in the case. This part of the paper requires an understanding of the three

¹Lawrence Baum, Professor Emeritus of Political Science at The Ohio State University is the original architect of this research assignment. I am grateful to him for allowing me to adopt and adapt the assignment for inclusion in this course.

justices and analysis of evidence about the justices' positions on the issues that the Court will address in this specific case. For most of the justices, that evidence will come primarily from their votes and opinions in decisions in past terms of the Court. A resource called the Supreme Court Database can be used to identify relevant decisions and the justices' votes in those cases. We will work through the Database to help students in utilizing it. There will not be a separate paper on the justices because research on the justices will likely be done relatively close to the point at which the prediction paper needs to be written.

By Thursday, February 5, each student will give me a sheet indicating their preferences for the case and the justices that will be the subjects of the paper. On the basis of those preferences, I will make assignments. I will do my best to assign students cases and justices that reflect their preferences. This may not always be possible, however, as I would prefer not to have more than two students analyzing the same case. Further, when two students analyze the same case, they should be analyzing different justices.

The form on which you should list your preferences for cases and justices is in the Project Packet that is posted in Blackboard. Please submit it to me by February 5.

Writing a high-quality prediction paper requires students to know a great deal about the Supreme Court, legal analysis, and research methods. Students in the course differ a good deal in their backgrounds, so some students will have a head start. Much of what you need to know will be new to nearly everyone. Importantly, the course is designed to provide you with all the information and skills you need to succeed, even if you start out knowing nothing about the subject. Don't panic!

The research project grade will be based on the three papers. It is important (and required) that you complete the papers by the time they are due. If you have a problem that requires you to miss a deadline, you must let me know and get permission from me before that deadline. Without my approval, late papers will be penalized 10% of their value if submitted after the 11:00 am deadline on the due date and an additional 10% for every additional day the assignment is late. (In other words, an additional 10% penalty accrues at 11:01 am each day.) Due dates for the papers are listed below:

Theory Paper due by 11:00 am on Thursday, March 12.

Case Paper due by 11:00 am on Thursday, April 9.

Prediction Paper due by 11:00 am on Thursday, May 7.

Papers must be submitted in hard copy and electronically through Blackboard. You agree by taking this course that all required assignments are subject to submission for textual similarity review to www.turnitin.com or a similar plagiarism identification system.

Prediction Project: Team Option

If you wish to work in teams of two on the Case and Prediction Papers, you may. (Every student must submit an individually-authored theory paper.) If you wish to work with a partner on the case and prediction papers, the assignment will be modified so that your team is assigned either (a) 3 justices and 2 related cases or (b) 1 case and 6 justices for which you will make predictions. If you wish to work with a partner, you must find a classmate that is willing to work with you. When you submit your case and justice preferences, submit 1 form for your team indicating that you will be working together.

Students that decide to work in teams can decide to dissolve their group if the collaboration is not successful. Should you wish to leave a group, see me right away so that I can meet with you and your partner and adjust

your individual case and justice assignments.

Final Exam (25%)

There will be one exam in the course. The exam is cumulative and will consist of multiple choice, short answer, and essay questions. The exam will be an online, at-home exam (in Blackboard). The exam will be available in Blackboard at 8:00 am on Monday, May 6 and must be completed by 5:00 pm on Wednesday, May 8.

Attendance Bonus

Because I will cover material in class that is not discussed in the readings, I strongly encourage you to attend each class session. If you are absent from a class session, it is your responsibility to find out what you missed from a classmate. You will be considered absent if you are not present when attendance is taken; this means you may be recorded as being absent if you arrive late or leave early. Students that miss 2 or fewer classes during the semester will have two percentage points added to their course grade. For example, if your course grade after the final exam is an 89.0 and you have missed only 2 classes, you will earn the attendance bonus, raising your course grade to 91.0 (an A) for the class; if your final course grade is an 89 and you have missed 3 or more classes, you will not earn the attendance bonus and your final grade will be a B.)

You should “save” sufficient absences to deal with unexpected problems that arise during the semester. You will not be granted extra absences because of unexpected personal problems that require you to miss class. Don’t waste your absences just because you don’t feel like coming to class. Save them in case you need them. If you miss class for a university-excused absence, your absence will count towards your total absences; you are not permitted “extra” penalty-free absences. If your participation in a university-excused activity will require you to miss more than 2 classes, see me to discuss accommodations.

Grade Disputes

A significant amount of time is invested in grading student assignments. If you wish to dispute a grade, you must do so in writing within one week of the date that grades are made available to the class. When requesting reconsideration of a grade, you should provide a clear explanation as to why a different grade is in order. You should also indicate what grade you believe is appropriate for your work. Please be advised that I will not change a grade simply because someone “wants” or “needs” a higher grade. Also, when work is reviewed for a grade dispute, the grade may be left unchanged, raised, or lowered. All grade disputes are due in hard copy within one week of the date that grades are returned in class. Grade disputes will not be considered if submitted past the one-week statute of limitations.

Other Class Policies

For course drop information: see schedule at <http://essc.unt.edu/registrar/schedule/scheduleclass.html>.

Policies on academic dishonesty are available at <http://www.vpaa.unt.edu/academic-integrity.htm>.

Department of Political Science Statement of ADA Compliance

The University of North Texas makes reasonable academic accommodation for students with disabilities. Students seeking accommodation must first register with the Office of Disability Accommodation (ODA) to verify their eligibility. If a disability is verified, the ODA will provide you with an accommodation letter to be delivered to faculty to begin a private discussion regarding your specific needs in a course. You may request accommodations at any time, however, ODA notices of accommodation should be provided as early

as possible in the semester to avoid any delay in implementation.

Note that students must obtain a new letter of accommodation for every semester and must meet with each faculty member prior to implementation in each class. For additional information see the Office of Disability Accommodation website at <http://www.unt.edu/oda>. You may also contact them by phone at 940.565.4323.

Department of Political Science Policy on Cheating and Plagiarism

The UNT Code of Student Conduct and Discipline defines cheating and plagiarism as the use of unauthorized books, notes, or otherwise securing help in a test; copying others' tests, assignments, reports, or term papers; representing the work of another as one's own; collaborating without authority with another student during an examination or in preparing academic work; or otherwise practicing scholastic dishonesty.

Normally, the minimum penalty for cheating or plagiarism is a grade of "F" in the course. In the case of graduate departmental exams, the minimum penalty shall be failure of all fields of the exam. Determination of cheating or plagiarism shall be made by the instructor in the course, or by the field faculty in the case of departmental exams. Cases of cheating or plagiarism on graduate departmental exams, theses, or dissertations shall automatically be referred to the departmental Graduate Studies Committee.

Cases of cheating or plagiarism in ordinary coursework may, at the discretion of the instructor, be referred to the Undergraduate Studies Committee in the case of undergraduate students, or the Graduate Studies Committee in the case of graduate students. These committees, acting as agents of the department Chair, shall impose further penalties, or recommend further penalties to the Dean of Students, if they determine that the case warrants it.

In all cases, the Dean of Students shall be informed in writing of the case. Students may appeal any decision under this policy by following the procedures laid down in the UNT Code of Student Conduct and Discipline.

Department of Political Science Policy on Academic Integrity

The Political Science Department adheres to and enforces UNT's policy on academic integrity (cheating, plagiarism, forgery, fabrication, facilitating academic dishonesty and sabotage). Students in this class should review the policy (UNT Policy Manual Section 18.1.16), which may be located at http://policy.unt.edu/sites/default/files/untpolicy/pdf/7-Student_Affairs-Academic_Integrity.pdf. Violations of academic integrity in this course will be addressed in compliance with the penalties and procedures laid out in this policy. Students may appeal any decision under this policy by following the procedures laid down in the UNT Policy Manual Section 18.1.16 "Student Standards of Academic Integrity."

Department of Political Science Statement on Acceptable Student Behavior

Student behavior that interferes with an instructor's ability to conduct a class or other students' opportunity to learn is unacceptable and disruptive and will not be tolerated in any instructional forum at UNT. Students engaging in unacceptable behavior will be directed to leave the classroom and the instructor may refer the student to the Center for Student Rights and Responsibilities to consider whether the student's conduct violated the Code of Student Conduct. The university's expectations for student conduct apply to all instructional forums, including university and electronic classroom, labs, discussion groups, field trips, etc. The Code of Student Conduct can be found at <https://deanofstudents.unt.edu/conduct>.

Complete bibliographic citations for assigned readings (alphabetized by author)

- Bartels, Brandon L. 2010. "Top-Down and Bottom-Up Models of Judicial Reasoning". In *The Psychology of Judicial Decision Making*, ed. David Klein and Gregory Mitchell. New York: Oxford University Press pp. 41-55.
- Baum, Lawrence. 2011. Law and Policy: More and Less than a Dichotomy. In *What's Law Got to Do with It? What Judges Do, Why They Do It and What's at Stake*, ed. Charles Gardner Geyh. Stanford: Stanford University Press.
- Baum, Lawrence. 2012. *The Supreme Court*. 11th ed. Washington, D.C.: CQ Press.
- Breyer, Stephen G. 2009. "Our Democratic Constitution". In *Judges on Judging*, ed. David M. O'Brien. 3rd ed. Washington, D.C.: CQ Press pp. 231-245.
- Devins, Neal and Will Federspiel. 2010. "The Supreme Court, Social Psychology, and Group Formation". In *The Psychology of Judicial Decision Making*, ed. David Klein and Gregory Mitchell. New York: Oxford University Press pp. 85-100.
- Epstein, Lee and Jack Knight. 1998. *The Choices Justices Make*. Washington D.C.: CQ Press chapter 1, "A Strategic Account of Judicial Decisions", pp. 1-21.
- Maltzman, Forrest, James F. Spriggs and Paul J. Wahlbeck. 2000. *Crafting Law on the Supreme Court: The Collegial Game*. New York: Cambridge University Press chapter 2, "Selecting an Author", pp. 29-56.
- Moraski, Byron J. and Charles R. Shipan. 1999. "The Politics of Supreme Court Nominations: A Theory of Institutional Constraints and Choices." *American Journal of Political Science* 43(4):1069-1095.
- Murphy, Walter F., C. Herman Pritchett, Lee Epstein and Jack Knight. 2006a. *Courts, Judges, and Politics*. 6th ed. Boston: McGraw-Hill chapter 10, "Precedents and Legal Reasoning", pp. 438-459.
- Murphy, Walter F., C. Herman Pritchett, Lee Epstein and Jack Knight. 2006b. *Courts, Judges, and Politics*. 6th ed. Boston: McGraw-Hill chapter 11, "Statutory Interpretation", pp. 491-502.
- Murphy, Walter F., C. Herman Pritchett, Lee Epstein and Jack Knight. 2006c. *Courts, Judges, and Politics*. 6th ed. Boston: McGraw-Hill chapter 12, "Constitutional Interpretation", pp. 539-560.
- Posner, Richard A. 2012. "The Incoherence of Antonin Scalia." *The New Republic* .
- Rehnquist, William H. 2001. *The Supreme Court*. Vintage Books chapter 13, "How the Court Does Its Work: Oral Argument", pp. 239-251.
- Scalia, Antonin. 2009. "Originalism: The Lesser Evil". In *Judges on Judging*, ed. David M. O'Brien. 3rd ed. Washington, D.C.: CQ Press pp. 198-206.
- Scalia, Antonin and Bryan A. Garner. 2008. *Making Your Case: The Art of Persuading Judges*. Thomson West chapter "Briefing", pp. 82-101.
- Segal, Jeffrey A. 1986. "Supreme Court Justices as Human Decision Makers: An Individual Level Analysis of the Search and Seizure Cases." *Journal of Politics* 48:938-955.
- Segal, Jeffrey A. and Harold J. Spaeth. 2002a. *The Supreme Court and the Attitudinal Model Revisited*. Cambridge: Cambridge University Press chapter 2, "Models of Decision Making: The Legal Model", pp. 44-85.

Segal, Jeffrey A. and Harold J. Spaeth. 2002*b*. *The Supreme Court and the Attitudinal Model Revisited*. Cambridge: Cambridge University Press chapter 3, “Models of Decision Making: The Attitudinal and Rational Choice Models”, pp. 86–114.

Wahlbeck, Paul J., II James F. Spriggs and Forrest Maltzman. 2006. Marshalling the Court: Bargaining and Accommodation on the United States Supreme Court. In *Courts, Judges, and Politics*, ed. Walter F. Murphy, C. Herman Pritchett, Lee Epstein and Jack Knight. Boston: McGraw–Hill pp. 684–690.

Topic	Date		Reading	Assignments Due
Course Introduction	Tuesday	20-Jan		
The Court	Thursday	22-Jan	Baum, Chapter 1	
The Cases	Tuesday	27-Jan	Baum, Chapter 3	
	Thursday	29-Jan		
Policy Outputs	Tuesday	3-Feb	Baum, Chapter 5	
The Court's Impact	Thursday	5-Feb	Baum, Chapter 6	Case and Justice Preferences Form Due by 11:00 am
Staffing the Bench	Tuesday	10-Feb	Baum, Chapter 2 + Justice Biographies (in Blackboard)	
	Thursday	12-Feb	Moraski and Shipan, "The Politics of Supreme Court Nominations: A Theory of Institutional Constraints and Choices"	
Introduction to Decision Making	Tuesday	17-Feb	Baum, Chapter 4	
	Thursday	19-Feb	Segal and Spaeth (2002), Chapters 2 and 3	
	Tuesday	24-Feb	Epstein and Knight (1998), Chapter 1	
	Thursday	26-Feb	Baum (2011), "Law and Policy: More and Less Than a Dichotomy"	
	Tuesday	3-Mar	Bartels (2010), "Top-Down and Bottom-Up Models of Judicial Reasoning"	
Legal Reasoning & Interpretation	Thursday	5-Mar	Murphy et al., "Precedents and Legal Reasoning," pages 438-459	
	Tuesday	10-Mar	Murphy et al., "Statutory Interpretation," pages 491-502 and "Constitutional Interpretation," pages 539-560	
	Thursday	12-Mar		Theory Paper Due by 11:00 am
	Tuesday	17-Mar	Spring Break: No Meetings or Assignments	
	Thursday	19-Mar		

Legal Reasoning & Interpretation	Tuesday	24-Mar	Scalia (2009), "Originalism: The Lesser Evil," and Breyer (2009), "Our Democratic Constitution"	
	Thursday	26-Mar	Posner (2012), "The Incoherence of Antonin Scalia" and Scalia and Garner (2008), "Briefing," pages 82-101	
Case Paper Workshop	Tuesday	31-Mar	Petitioner and Respondent's Briefs in Your Case	
Small Group Dynamics	Thursday	2-Apr	Devins and Federspiel (2010), "The Supreme Court, Social Psychology, and Group Formation"	
The Influence of External Actors	Tuesday	7-Apr		
Prediction Project Boot Camp	Thursday	9-Apr		Case Paper Due by 11:00 am
	Tuesday	14-Apr	Segal (1986), "Supreme Court Justices as Human Decision Makers"	
No Class Meeting	Thursday	16-Apr		
Oral Argument	Tuesday	21-Apr		Cert pool memos due by 11:00 am
	Thursday	23-Apr	Rehnquist (2001), Chapter 13	
Certiorari Simulation	Tuesday	28-Apr	Assigned cert pool memos	
Assigning and Writing Opinions	Thursday	30-Apr	Maltzman, Spriggs, and Wahlbeck (2000), Chapter 2, "Selecting an Author"	
	Tuesday	5-May	Wahlbeck, Spriggs and Maltzman (1998), "Marshalling the Court"	
Proposals for Reform	Thursday	7-May		Prediction Papers Due by 11:00 am
Final Exam	Tuesday	12-May		Due by 5:00 pm in Blackboard