

**POLS 435: JUDICIAL PROCESS AND BEHAVIOR
SPRING 2009**

**FANER 3075
TR: 12:35 – 1:50**

PROFESSOR: Comparato
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OFFICE: Faner 3165
OFFICE HOURS: TR, 4:00 – 5:00

COURSE DESCRIPTION/OBJECTIVES

The primary purpose of this course is to introduce you to the function and organization of the judicial system in the United States, with an emphasis on the decision-making of judges at both the state and federal level – the justices of the Supreme Court in particular. Judges play an integral role in the political process. While some believe that the courts have become too involved in the policy process, few would dispute that courts are far more involved in the policy process than ever before. In recent years, the Supreme Court has rendered decisions on issues such as legislative reapportionment, the limitations states can place on access to abortion, the application of the death penalty, the ability of Congress to regulate content on the Internet, and even becoming involved in the 2000 presidential election. In addition, lower state and federal courts are intimately involved in the policy process as well, making the study of these institutions vital to our understanding of the American political process.

In this course, we will focus on the courts as both legal and political institutions, with an emphasis on the political nature of judicial decision making, and the relationship between the courts and the other branches of government. While much of our time will be dedicated to the study of the Supreme Court, we will also address the role and function of trial and appellate courts, at the state and federal levels.

REQUIRED TEXTS

- Baum, Lawrence. 2007. *The American Courts*, 6th Edition. Boston: Houghton-Mifflin. **(LB)**
Epstein, Lee, and Jack Knight. 1998. *The Choices Justices Make*. Washington DC.: CQ Press. **(EK)**
Murphy, Walter F., C. Herman Pritchett, Lee Epstein, and Jack Knight. 2006. *Courts, Judges, and Politics*, 6th Edition. New York: McGraw-Hill. **(MPEK)**
Slotnick, Eliot, ed. 2005. *Judicial Politics: Readings from Judicature*. Washington, DC: CQ Press. **(ES)**
Rosenberg, Gerald. 2008. *The Hollow Hope: Can Courts Bring About Social Change?*, 2nd Edition. Chicago: University of Chicago Press. **(GR)**

Additional readings will be available via [Blackboard](#) throughout the semester.

CONTACTING ME

You are always welcome to stop by my office during office hours to discuss questions/issues related to the course or other academic matters. If my office hours conflict with your schedule, you may also contact me by phone or [Blackboard](#). I will do my best to return your call within 24 hours. If you would like a more immediate response, I check my email frequently, and will return messages as promptly as possible. This is a difficult class, and I expect that many of you will encounter problems in completing some of the assignments. Please take advantage of the opportunity to discuss the course material with me outside of class, particularly if you are having trouble, or would like additional clarification.

COURSE WEB PAGE

This course will be managed using [Blackboard](#). Detailed instructions to assist you in creating an account and adding this course can be accessed from the [Morris Library](#) page. You will have access to all course information, including the syllabus, course schedule, reading assignments, resources for your papers, discussion boards, and an email system to contact me or other students in the class. I will regularly post messages regarding the reading, schedule, assignments, and grades to the course page. Therefore, you should make a habit of checking the course page on a daily basis to keep up with reading assignments and other course related announcements. There are numerous computer labs on campus, so access to *Blackboard* should not be a problem. You may also access information related to the course from the [course web page](#). You **MUST** create an account by the second day of class. Ten points will be deducted daily until you create an account.

COURSE REQUIREMENTS

One of the primary purposes of this course is to help you develop your analytical and writing skills. As a result, there are no exams for this class. Your grade will be based on two short papers, one prediction paper, an in-class presentation, quizzes, and class participation. All assignments are to be submitted in class on the date they are due. Ten points will be deducted for each day that they are late.

SHORT PAPERS (15% EACH)

The main assignment for this course is a research paper in which you will predict the outcome of a case that is currently before the Supreme Court. In order to help you prepare the prediction paper, you will also be required to write two short (5 – 7 pages) papers on topics that we will discuss in detail in class. To write the prediction paper, you will need to understand the primary theories of judicial decision making, how the Supreme Court functions, and how to conduct legal research. Each of the short papers will help you to develop a basic understanding of these issues and skills, which will aid you in completing the prediction paper.

PREDICTION PAPER (30%)

The prediction paper is the central requirement for this course. Each of you will choose a case that has been accepted by the Supreme Court for oral argument this term, and will make a prediction about how three of the justices (one each from the liberal, moderate, and conservative blocs) will decide the case. I will provide you with a list of cases, along with basic information about the subject matter in the case, early in the semester. You will then be free to choose a case from that list, though no two students may write on the same case, so you may not get your first choice of cases. In the paper, you will make predictions about the positions that each justice will take, based on your understanding of judicial decision-making, the political environment, and the personal ideology of the justices. You will include information about who wins the case, and what doctrine your justices support. By necessity, you will need to know a great deal about the issues and facts surrounding the case itself, that justice's past voting record in similar cases and their political ideology, gleaned from their own writings, and political and scholarly commentary on that justice.

I understand that a number of these cases will be decided by the time your paper is due, but do not count on your case being one of them. I am most interested in seeing how effectively you are able to conduct research and make an argument to support your predictions, and less interested in seeing that you correctly predicted the outcome.

PRESENTATION (15%)

During the last three weeks of class, you will present your findings and predictions to the class. You do not need to have the entire prediction paper completed at the time of your presentation, but you do need to prepare a 15 – 20 minute presentation, in which you outline the case you have chosen, the justices you are analyzing, present your predictions, and provide justification with reference to the research you have conducted on the justices.

QUIZZES (15%)

Throughout the semester, I will place quiz questions on *WebCT* to ensure that you stay current with the course readings. The quizzes will be posted randomly throughout the semester, and will not be announced in class. You must regularly check *WebCT* to see if there is a quiz posted. You are responsible for answering the questions on that week's reading and submitting your quiz by the due date. Your answers should be typed, single-spaced, in twelve point font, with one inch margins on all sides. You should clearly number your answers, and include your name on your quiz.

ATTENDANCE AND PARTICIPATION (10%)

Attendance in this course is required. Our time together in class is extremely valuable and I expect you to attend class regularly. Attendance will be recorded daily, and you are entitled to two absences without explanation. For every absence after that, including time missed due to illness, ten points will be deducted from your final grade. After using those two excused absences, you may only prevent the deduction of points from your final grade by submitting a two-page, single spaced, analysis paper no later than one week after the day you were absent. In the paper, you should discuss the primary issues that we were scheduled to discuss in class the day that you missed. Obviously, if you are not in class to learn what material was missed, I suggest that you obtain that information from a fellow student. I will not provide that information for you. A maximum of five analysis papers may be submitted to cover absences. Beyond five absences, ten points will be deducted for every additional absence.

There is one exception to the attendance policy. The University allows for absences for religious observance. If you must miss class for religious reasons, you must notify me at least one week prior to the day you will be absent in order to be excused from class.

I do not tolerate tardiness. If you enter class late, I consider that an absence, and points will be deducted accordingly. If you have circumstances that dictate chronic absence or tardiness, I strongly suggest that you reevaluate your decision to take this class. Mere attendance in class is not sufficient; you must be an active member of the class. In order to receive credit for this portion of your grade you must show a willingness to engage the material critically in class. Another purpose of this course is to develop your critical thinking and analysis skills. Participation in class will help to develop those skills. Come to class having read the material, and be prepared to engage in discussion of that material.

All students are expected to behave in a courteous manner toward fellow students and the professor during class. Please do not carry on side conversations while others are talking. If you need clarification, or would like to make a point, please wait until the person speaking is finished. All pagers and cell phones should be turned off during class. Eating during class is not permitted.

GRADE DISTRIBUTION

Short Paper One:	75 points (15%)
Short Paper Two:	75 points (15%)
Presentation:	75 points (15%)
Final Paper:	150 points (30%)
Quizzes:	75 points (15%)
Participation:	50 points (10%)

Total: 500 points

GRADING SCALE

A	90 – 100 (450 – 500 points)
B	80 – 89 (400 – 449 points)
C	70 – 79 (350 – 399 points)
D	60 – 69 (300 – 349 points)
F	59 – Below (\leq 299 points)

STUDENT CONDUCT

Students should behave in a professional and courteous manner at all times. Students are expected to turn off all cell phones and pagers when entering class. Eating is not permitted. It is essential that students feel comfortable in the classroom, and while disagreement is expected and encouraged, please remain respectful of your fellow students and the professor. Any student behaving in a manner that is in any way disruptive or inappropriate will be removed, and potentially sanctioned as outlined in the [University Student Conduct Code](#).

ACADEMIC INTEGRITY

You are responsible for your own work. It is considered cheating to submit someone else's work as your own. Using information from another source (book, article, internet site, another student, etc.) without properly crediting the author is plagiarism. Direct quotations, paraphrased information, and the general use of another person's idea must be properly referenced in your work. During exams, you are not allowed external aids (notes, books, etc.). The penalty for violations such as plagiarism, cheating, or other misconduct will result in a failing grade in the course, and may result in a formal charge of misconduct as outlined in the [University Student Conduct Code](#), possibly leading to further sanctions, including suspension or expulsion.

If you have any questions about what constitutes cheating and plagiarism, contact the Southern Illinois University office of Academic Advising, or view the [University Undergraduate Catalog](#) for more information.

DISABILITIES

Students with disabilities who require individualized testing or other accommodations should identify themselves to me immediately. Every effort will be made to accommodate your needs. [Disabilities Support Services](#) can assist you with testing, note-taking, and accessibility issues.

COURSE OUTLINE/READING ASSIGNMENTS

The schedule for the class is tentative, as circumstances may dictate that we spend more time on some subject matter, and less time on other areas. I will also deviate from the syllabus to discuss a number of resources available to you in obtaining information to prepare for the paper assignments. I reserve the right to make changes to the syllabus as necessary.

I. INTRODUCTION TO JUDICIAL PROCESS (JANUARY 13TH – 20TH)

A. COURTS AS LEGAL OR POLITICAL INSTITUTIONS?

- MPEK, Chapters 1 and 2.
- ES, 1 – 46.

B. THE STUDY OF JUDICIAL POLITICS

II. JUDICIAL POWER (JANUARY 22ND – 27TH)

- MPEK, 253 – 266; 276 – 284; Chapters 7, 8, and 13.

III. COURT FUNCTION AND ORGANIZATION (JANUARY 29TH – FEBRUARY 10TH)

A. FEDERAL COURTS

- MPEK, 77 – 90; 103 – 121
- LB, 20-37
- ES, 402 – 459

B. STATE COURTS

- MPEK, 90-100; 121-140
- LB, 39 – 54
- ES, 579 – 609

IV. THE ACTORS (FEBRUARY 12TH – MARCH 5TH)

A. JUDGES

1.) Selection and Retention

- MPEK, Chapter 4
- LB, Chapter 4
- ES, 47 – 120; 529 – 578

2.) Judicial Characteristics

- LB, Chapter 5
- ES, 264 – 301

B. JURIES

- MPEK, Chapter 9
- ES, 209 – 263

C. LAWYERS

- MPEK, Chapter 5
- LB, Chapter 3
- ES, 145 – 165

D. INTEREST GROUPS

- **MPEK**, 266 – 275; 285 – 298
- **LB**, 262 – 268
- **ES**, 166 – 208

V. JUDICIAL DECISION-MAKING (MARCH 17TH – APRIL 2ND)

A. TRIAL COURTS

- **LB**, Chapters 6 and 7
- **ES**, 302 – 335

B. APPELLATE COURTS

1.) Agenda Setting

- **LB**, Chapter 8
- **ES**, 336 – 401

2.) The Decision on the Merits

- a. The Role of Law
 - **MPEK**, Chapters 10 – 12
- b. The Role of Policy Preferences
 - **EK**, Chapter 2
- c. Strategic Interaction
 - **EK**, Chapters 1 and 3
- d. The Political Environment
 - **EK**, Chapters 4 – 6
 - **ES**, 460 – 528

VI. POLICY MAKING AND IMPACT (APRIL 7TH – 9TH)

- **MPEK**, Chapter 14
- **LB**, Chapter 9
- **ES**, 634 – 674
- **GR**, Entire

VII. PRESENTATIONS (APRIL 14TH – 30TH)

- Presentations and Peer Evaluations

IMPORTANT DATES

SHORT PAPER ONE: FRIDAY, FEBRUARY 20TH

SHORT PAPER TWO: FRIDAY, APRIL 3RD

PRESENTATIONS: TUESDAY, APRIL 14TH – THURSDAY, APRIL 30TH

FINAL PAPER: FRIDAY, MAY 1ST, 4:00 P.M.

**NO CLASS HELD: MARCH 10TH – 12TH (SPRING BREAK)
APRIL 2ND (MPSA)**

FINAL DAY TO DROP WITHOUT A GRADE AND FOR A FULL REFUND: JANUARY 23RD