

Department of Political Science and Public Administration  
College of Public Policy and Justice  
Auburn University at Montgomery

**Judicial Politics**

Course: POLS 3600  
Professor: David A. Hughes, Ph.D.  
Meeting Times: T & TH, 10:50 to 12:05 pm (Liberal Arts Teaching Wing 311)  
Office: Goodwyn Hall 209G  
Office Hours: Mondays and Wednesdays, 2:00 to 5:00 pm.  
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**Course Description:** This course offers a rigorous analysis of one of the three major political institutions in American politics—the judiciary. We will study how the U.S. Constitution institutionalizes the judiciary, how judges work as policy-makers in the American political system, and how the inherently political nature of the judiciary has payoffs for American politics and public welfare. As such we will study judicial institutions, policy-making, appointments, decision-making, retirements, etc. We will frequently draw parallels from the federal judiciary to other judicial institutions such as the American states. By the time you complete this course, you should have a rigorous appreciation for how law and politics are inextricably interwoven in the American judiciary.

**Prerequisites:** There are no prerequisites for enrolling in this course aside from standing as an Auburn University at Montgomery undergraduate student.

**Student Learning Objectives:** By the time students complete this course, they should be able to explain: (1) The fundamental tradeoff between judicial accountability and independence in a democratic society, (2) How judicial preferences interact with statutory and constitutional provisions to breathe life into the common law, (3) How political institutions influence judicial behavior and the separation of powers, and (4) How these provisions have payoffs for American policy-making, democratic accountability, judicial legitimacy, and the public welfare.

**Class Attendance and Structure:** Attendance in this class is mandatory. For every unexcused absence in excess of two (2), your final grade will be reduced by one letter (ten percentage points). Please be punctual and refrain from entering or leaving the classroom during meetings. It is highly distracting to your peers when you arrive late or leave early. If your punctuality or your premature departures become problematic, I reserve the right to further reduce your final grade. The class will meet twice a week.

**Textbooks and Materials:** There is one required textbook you should purchase for this course:

- McGuire, Kevin. 2012. *New Directions in Judicial Politics*. Routledge. ISBN: 978-0-415-89332-9.

Additionally, I will post other readings on Blackboard.

**Assignments:** Your performance in this course will be assessed on three dimensions. First, you will complete four essay assignments, due throughout the semester. Second, you will be a discussion leader on two days throughout the term. Third, you will be an active participant during classroom meetings. Further details on these assignments follow.

*Essays:* You will write four essays throughout the semester. I will provide you with writing prompts for each essay. You will choose only one of these prompts for each essay. Your essays should have no fewer than 1,000 words. Your essays will be typed, written according to the *Chicago Style Guide*, and turned in via paper copy promptly upon the due date.

*Discussion Leadership:* Throughout the semester, you will be assigned to serve as a discussion leader on two occasions. On the days that you are the discussion leader, you will come to class prepared to lead the class in the engagement of that day's assigned readings. You will be assessed on this component based upon your written understanding of these readings and your ability orally to communicate your knowledge of these subjects to your peers. You will turn in a typed summary of each of your assigned readings on the day you are the designated discussion leader.

*Participation:* As the vast majority of this course requires you to engage in small group discussions, you are expected to be an active participant during our in-class meetings. Note that this is not the same thing as simply "showing up." Even on the days for which you are not assigned to be discussion leader, you are expected to have read the course materials and to have prepared to engage in thoughtful discussion with your peers relating to the day's concepts.

**Grading Rubric:** Your grade is assessed according to the following rubric.

- Essays: 60%
- Discussion Leadership: 30%
- Participation: 10%

**Final Grade:** Your final grade in this course is assessed according to the following rubric:

- A: 90 to 100
- B: 80 to 89
- C: 70 to 79
- D: 60 to 69
- F: Below 60.

**Late Assignments:** Any materials turned in late will be penalized by 10 percentage points for every business day they are late. Exceptions may be granted for verifiable illnesses, emergencies, etc.

**Academic Dishonesty:** Academic dishonesty is broadly defined as submitting work that is not your own without attribution, and is not acceptable in this or any other academic course. This

includes plagiarism and academic misconduct on any assignment. Any academic dishonesty found on an assignment results in a failing grade for that assignment and will be prosecuted to the fullest extent permissible under University guidelines, which can be accessed at: <http://www.aum.edu/campus-life/student-affairs/for-students-and-parents/student-code-of-conduct>.

**Disability Accommodations:** Students who need accommodations are asked to arrange a meeting during office hours to discuss your accommodations. If you have a conflict with my office hours, an alternate time can be arranged. To set up this meeting, please contact me by e-mail. If you have not registered for accommodation services through the Center for Disability Services (CDS), but need accommodations, make an appointment with CDS, 147 Taylor Center, or call 334-244-3631 or e-mail CDS at [cgs@aum.edu](mailto:cds@aum.edu).

**Free Academic Support:** All students have the opportunity to receive free academic support at AUM. Visit the Learning Center (LC) in the WASC on second floor Library or the Instructional Support Lab (ISL) in 203 Goodwyn Hall. The LC.ISL offers writing consulting as well as tutoring in almost every class through graduate school. The LC may be reached at 244-3470 (call or walk-in for a session), and the ISL may be reached at 244-3265. ISL tutoring is first-come-first served. Current operating hours can be found at [www.aum.edu/learningcenter](http://www.aum.edu/learningcenter).

**Technology Assistance:** Students may seek technology assistance from the ITS Help Desk located in the computer lab on the first floor of the Taylor Center. You may also call 334-244-3500 or email [helpdesk@aum.edu](mailto:helpdesk@aum.edu).

**Important Dates:** The following are important dates of which you should be aware:

- January 8: Classes begin at Auburn-Montgomery
- January 11: Last day to add classes
- January 12: Registration cancellation
- January 17: Last day for 100 percent refund
- January 31: Last day for 50 percent refund
- March 2: Midterm grades are due
- March 12-16: Spring break
- March 21: Last day to drop classes
- April 19: Course evaluations
- April 24: Classes end
- May 1: Final Exam Period

**Tentative Schedule:** A tentative schedule appears below. Please refer to the assigned readings and due dates often. Readings marked by an asterisk (\*) are available in Blackboard.

| Date                                      | Topic   | Reading  | Due |
|---|---|--|-----|
| January 9                                 | Syllabus<br>Introduction  |  |     |
| <b>American Judicial Institutions</b>     |   |  |     |
| January 11                                | The U.S. Judiciary<br>Hierarchy of Justice<br>State Selection and<br>Retention Methods                      | <b>Mandatory</b><br>U.S. Constitution, Article II,<br>Section 2*<br>U.S. Constitution, Article III*<br><br><b>Recommended</b><br>Streb (2007)*   |     |
| January 16                                | <b>MLK Holiday</b>  |  |     |
| January 18                                | What is Judicial<br>Review?<br>Why Independence and<br>Supremacy? The<br>Counter-Majoritarian<br>Difficulty | <b>Mandatory</b><br><i>Marbury v. Madison</i> (1803)*<br><i>The Federalist</i> , Nos. 78-83*<br><b>Recommended</b><br>Bickel (1968)*<br>Whittington (2005)*<br>Stephenson (2003)*<br>Hanssen (2004)* |     |
| <b>Models of Judicial Decision-Making</b> |   |  |     |
| January 23                                | The Attitudinal Model   | <b>Mandatory</b><br>Segal & Spaeth, pp. 86-97 (2002)*  |     |
| January 25                                | The Strategic Model   | <b>Mandatory</b><br>Epstein and Knight, Ch. 1 (1998)*<br><br><b>Recommended</b><br>Maltzman et al., Ch. 1 (2000)*  |     |
| January 30                                | The Legal Model   | <b>Mandatory</b><br>McGuire Ch. 9<br><br><b>Recommended</b><br>Gillman (2001)*<br>Bartels (2009)*  |     |

**Measuring Judicial Ideology and Policy**

|            |                              |   |  |
|------------|------------------------------|---|--|
| February 1 | Judicial Policy              | <b>Mandatory</b><br>Clark and Lauderdale (2010)*  |  |
| February 6 | Federal Judicial Ideology    | <b>Mandatory</b><br>Segal and Cover (1989)*<br><br><b>Recommended</b><br>Martin and Quinn (2002)*<br>Giles et al. (2001)* |  |
| February 8 | Ideology on the State Courts | <b>Mandatory</b><br>Brace et al. (2000)*<br><b>Recommended</b><br>Bonica and Woodruff (2015)*<br>Windett et al. (2016)*   |  |

**Staffing the Courts**

|             |              |   |         |
|-------------|--------------|---|---------|
| February 13 | Appointments | <b>Mandatory</b><br>McGuire Chs. 1 & 2<br><b>Recommended</b><br>Dahl (1957)*<br>Moraski and Shipan (1999)*<br>Cameron and Kastellec (2016)* | Essay 1 |
| February 15 | Elections    | <b>Mandatory</b><br>Hall (2001)*<br><br><b>Recommended</b><br>Bonneau (2007)*<br>Hall and Bonneau (2013)*                                   |         |
| February 20 | Retirements  | <b>Mandatory</b><br>Zorn and Van Winkle (2000)*<br>Curry and Hurwitz (2016)*<br><br><b>Recommended</b><br>Hughes (n.d.)*                    |         |

**Agenda-Setting and Deliberation**

|             |  |   |  |
|-------------|--|---|--|
| February 22 | Deciding to Decide<br>Repeat Players<br>The 10 <sup>th</sup> Justice | <b>Mandatory</b><br>McGuire Ch. 8<br><b>Recommended</b><br>McGuire (1995)*<br>Bailey et al. (2005)* |  |
|-------------|--|---|--|

|                                      |   |   |         |
|--------------------------------------|---|---|---------|
| February 27                          | <i>Amicus Curiae</i>  | <b>Mandatory</b><br>Caldeira Wright (1988)*<br>Collins (2007)*  |         |
| March 1                              | Oral Arguments<br>The Chief Justice Effect<br>Opinion Assignments | <b>Mandatory</b><br>Maltzman and Wahlbeck (2004)*<br><br><b>Recommended</b><br>Black et al. (2011)*<br>Hammond et al. (2005)*                         |         |
| March 6                              | Opinion Bargaining<br>Collegiality                                | <b>Mandatory</b><br>McGuire Ch. 10<br><b>Recommended</b><br>Snyder (1958)*<br>Epstein and Knight Ch. 3 (1998)*<br>Maltzman et al. Ch. 3 (2000)*       |         |
| <b>Constraints on Judicial Power</b> |   |   |         |
| March 8                              | Congress  | <b>Mandatory</b><br>McGuire Ch. 11<br><br><b>Recommended</b><br>Marks (1988)*<br>Gely and Spiller (1990)*<br>Segal (1997)*<br>Rosenberg Ch. 1 (2008)* | Essay 2 |
| March 12-16                          | <b>Spring Break</b>   |   |         |
| March 20                             | The Executive   | <b>Mandatory</b><br><i>Youngstown Sheet and Tube v. Sawyer</i> (1952)<br><b>Recommended</b><br>Carrubba and Zorn (2010)*                              |         |
| March 22                             | Special Interests<br>The Bureaucracy                              | <b>Mandatory</b><br>McGuire Ch. 12<br><b>Recommended</b><br><i>Chevron v. NRDC</i> (1984)   |         |
| March 27                             | Lower Courts  | <b>Mandatory</b><br>McGuire Chs. 7 & 14<br><br><b>Recommended</b><br>Cameron et al. (2000)*<br>Hall (2014)*   |         |

|   |                                       |   |   |
|---|---------------------------------------|---|---|
| March 29                                | Public Opinion: Federal Courts        | <b>Mandatory</b><br>McGuire Ch. 13<br><b>Recommended</b><br>McGuire and Stimson (2004)*<br>Giles et al. (2008)*                           |   |
| April 3                                 | Public Opinion: State Courts          | <b>Mandatory</b><br>McGuire Chs. 3 & 6<br><b>Recommended</b><br>Huber and Gordon (2004)*  |   |
| April 5                                 | Legitimacy Theory                     | <b>Mandatory</b><br>Gibson et al. (1998)*<br><b>Recommended</b><br>Gibson (2008)*<br>Clark (2009)*  |   |
| April 10                                | The Republican Schoolmaster           | <b>Mandatory</b><br>Lerner (1967)*<br><b>Recommended</b><br>Franklin and Kosaki (1989)*<br>Hoekstra and Segal (1996)*                     |   |
| April 12                                | The Media                             | <b>Mandatory</b><br>Epstein and Segal (2000)*<br><b>Recommended</b><br>Can and Wilhelm (2011)*<br>Hughes (n.d.)*                          |   |
| <b>The Judiciary and Public Welfare</b> |                                       |   |   |
| April 17                                | Representation                        | <b>Mandatory</b><br>McGuire, Ch. 4<br><b>Recommended</b><br>Boyd, Epstein, and Martin (2010)*<br>Kastellec (2013)*<br>Goelzhauser (2016)* | Essay 3                                       |
| April 19                                | Transparency, Pandering, and Overhang | <b>Mandatory</b><br>Maskin and Tirole (2004)*<br><b>Recommended</b><br>Fox and Stephenson (2011)*<br>Fox (2007)*                          |   |
| April 24                                | Minority Rights                       | <b>Mandatory</b><br>Brace and Boyea (2008)*<br><b>Recommended</b><br>Canes-Wrone et al. (2014)*   |   |
| May 1                                   | NA                                    |   | Essay 4<br><b>Due by</b><br><b>1:15:59 pm</b> |