

POLI 452 - THE JUDICIAL PROCESS
 Mondays, Wednesdays, and Fridays, 10.50 AM to 11.40 AM
 Online Section
 Three Credits
 Spring 2021

INSTRUCTOR INFORMATION AND ACCESSIBILITY

Instructor: Dr. Jessica A. Schoenherr, Assistant Professor, Political Science

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Office Hours: Monday and Wednesday, 12 PM to 1 PM on Blackboard, or by appointment

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Office Hours: By appointment

Email is the best way to contact us. Please include "POLI 452" in the subject line to make sure the email does not get lost. Allow 24 hours for a response during the week (Monday-Thursday) and 36 hours during the weekend (Friday-Sunday).

COURSE DESCRIPTION AND OBJECTIVES

A study of the growth of law, the law-making function of the courts, the structure and organization of federal and state courts, the procedures involved in civil and criminal cases, and the problems and proposals for reform in the administration of justice.

In *Federalist 78* Alexander Hamilton famously called the judiciary "the weakest of the three departments of power" because it "has no influence over the sword or the purse; no direction either of the strength or of the wealth of the society; and it can take no active resolution whatever." Yet in modern times, the Supreme Court is a major political player. People care about who gets put on the Court, who leaves the Court, who writes the opinions, and what those opinions say. The Supreme Court is not just a legal decision-maker, but a political one as well.

This class will discuss the American federal judicial process, particularly those of the United States Supreme Court, and how those processes influence politics and policy. Throughout the semester, we will discuss the questions that plague the judiciary, such as:

- How do justices get on the court? How do justices decide to retire? How do presidents decide who to pick, and how does the confirmation process work?
- How does a case make it to the Supreme Court?
- How do justices decide a case? Why does one justice write the opinion and not another?
- How does the Court interact with other institutions?

By the end of this course, you should:

1. Develop a substantive understanding of the historical development of the federal judiciary.
2. Understand the factors that influence Supreme Court decision making, both legal and political.
3. Develop the ability to read, understand, and interpret peer-reviewed social scientific research.
4. Apply the research covered in this class to different situations and arrive at well-reasoned answers that you can clearly articulate and defend with research.
5. Enhance your written communication skills through written assignments.

All learning outcomes in this course are equivalent to a face-to-face (F2F) version of this course.

COURSE MATERIALS

Please obtain a copy of the following books for this class (either digital or physical copy is fine):

- Black, Ryan C., Ryan J. Owens, Justin Wedeking, and Patrick C. Wohlfarth. 2020. *The Conscientious Justice: How Supreme Court Justices' Personalities Influence the Law, the High Court, and the Constitution*. New York: Cambridge University Press. (ISBN: 978-1107168718)
- Woodward, Bob and Scott Armstrong. 1979. *The Brethren: Inside the Supreme Court*. New York: Simon and Schuster. (ISBN: 978-0743274029)

Please note the Black, Owens, Wedeking, and Wohlfarth (BOWW) book is substantially less expensive if you buy the digital version. Any copy of the Woodward and Armstrong book is fine.

All other course material will be placed on Blackboard. Please ensure you have access to Blackboard at the beginning of the semester; if you do not, please email me during the first week of class. I will also be posting screencasts of our course lectures to help aid your studying.

INSTRUCTIONAL AND TECHNOLOGY INFORMATION

SYNCHRONOUS COURSE REQUIREMENTS:

This course is a synchronous online course. Students will not be required to attend any face-to-face (F2F) meetings, but they will be expected to be in class at the scheduled time.

We will be using Blackboard for this class. All assignments will be turned in on Blackboard and I will post materials that are not in the books there as well. Make sure you have access to the course and please let me know within the first week if you do not.

All classes will be conducted on Blackboard Collaborate. There is a course room that you can join inside the course Blackboard site. The room opens 15 minutes before class (at 10.25 AM) and will close at the end of class (11.40 AM). Students must have consistent and reliable access to a computer and to the Internet in order to complete this class.

If you have technology-related questions or need help with software, please contact the Division of Information Technology (DoIT) [here](#).

ATTENDANCE POLICY:

Coming to class is important. This class is synchronous because this material is difficult to learn on your own and you should have an opportunity to ask questions to aid your learning. For the sake of your own success, I STRONGLY encourage you to come to every class and be prepared with questions.

With that said, I am not taking attendance in this class, and I will be recording lectures and posting them on Blackboard so that, in the event that you do miss class, you can make up the material. When you miss class, you miss important information. If you are absent, you are responsible for learning material covered in class.

COURSE ASSIGNMENTS AND ASSESSMENTS

Your grade will be determined using the following weights:

| Area | Weight |
|----------------------------|-------------|
| Course Pre- and Post-Tests | 10% |
| Quizzes | 40% |
| Written Assignments | 30% |
| Final Exam | 20% |
| Total | 100% |

COURSE PRE- AND POST-TESTS (10%):

At the beginning of the semester, you will be asked to complete a multiple-choice test that will ask you about your knowledge of the Supreme Court, as well as your feelings about the Court and your comfort levels with different topics and types of coursework. You will take the same test again at the end of the semester. These tests will establish your baseline knowledge of the course material and show how much you learned/retained by the end of the semester.

These tests will be graded for completion and effort only (i.e., you get full credit as long as you complete it). You will learn the right answers to many of the questions by the end of the course.

The Course Pre-Test will be available on Blackboard starting on Wednesday, January 13th and must be completed by 11:59 PM Columbia time on Wednesday, January 20th.

The Course Post-Test will be available on Blackboard starting on Monday, April 19th and must be completed by 11:59 PM Columbia time on Monday, April 26th.

You must complete BOTH the pre- and post-tests to get credit.

QUIZZES (40%):

Over the course of the class, you will be taking six online quizzes in Blackboard. Each quiz will have between 10 and 15 multiple choice questions and 2-3 short answer questions (approximately 6-8 sentence answers). These quizzes will not be cumulative. The first quiz will cover the material from the first three weeks of the class. Each subsequent quiz will cover the material examined since the last quiz, meaning each quiz will cover approximately two weeks' worth of material.

Quizzes will always open Fridays at 12 PM Columbia time and will be due on Sundays at 11.59 PM Columbia time. This means you can take the quiz anywhere within that 60-hour period. You will have 35 minutes to complete each quiz. Once you start the quiz, you have to finish it (i.e., you cannot start, walk away for two hours, and then come back to finish it), so please make sure you give yourself 35 uninterrupted minutes to take it. Because this course is done online, all quizzes will be open book and open note. I do expect that you will do them on your own, without the assistance of others.

Because we will be taking these quizzes frequently, absolutely no late quiz submissions will be accepted. Exceptions will be made only in extreme circumstances, including (1) medical emergencies; (2) emergencies involving a family member that necessitate your absence from campus; (3) participation in a university-sponsored activity; or (4) observance of a religious holiday. If you miss a quiz for one of these reasons, you must contact me in writing as soon as is possible to make alternative arrangements. All claims must, when possible, be made prior to the quiz that you will miss. Failure to

follow these guidelines will result in a grade of "0" being awarded for that quiz. I reserve the right to give an alternative quiz if this situation arises.

But, because life happens, I will drop your lowest quiz score (meaning your final quiz grade will be from your five best quizzes). That means you can miss one quiz without incurring a penalty.

WRITTEN ASSIGNMENTS (30%):

Alongside the course material, you will also be reading *The Brethren* by Bob Woodward and Scott Armstrong. This is a fun read that covers the first seven terms of the Burger Court (October 1969 to June 1976), including discussion of the Supreme Court's decisions in cases like *Roe v. Wade* (1973) and *U.S. v. Nixon* (1974).

At three different points this semester, you will be completing a short writing assignment (no more than two pages, double spaced) in which you answer questions that connect the text to course concepts. These assignments give you the opportunity to work on your analytical skills while also showing your comprehension of course topics.

Your reading assignments are as follows:

| Due Date | Chapters |
|-----------------|----------------------------------------------|
| 2/7 | Introduction, Prologue, 1969, and 1970 terms |
| 3/7 | 1971, 1972 and 1973 terms |
| 3/28 | 1974 and 1975 terms |

Each written assignment should be submitted on Blackboard in the appropriate assignment folder. They should be completed in Times New Roman 12 pt. font, double spaced, with 1" margins. All written assignments must be submitted as a PDF. Written assignments must be completed by 11.59 PM Columbia time on the due date; late submissions will be penalized as follows:

- Less than 1 hour late: -10% of grade
- 1 to 4 hours late: -20% of grade
- 4 to 12 hours late: -30% of grade
- More than 12 hours late: not accepted

I will provide more details about these assignments, including the grading rubric, in a separate document that will be posted on Blackboard in the first two weeks of the semester.

FINAL EXAM (20%):

To evaluate all that you learned throughout the semester, there will be a final exam for this class. This final will be cumulative and will consist of a combination of multiple-choice, true-or-false, and essay questions. The format will look similar to your quizzes, but with more questions and longer essays.

The final for this class is on Wednesday, April 28th at 9 AM. Like the quizzes, it will be conducted on Blackboard. I will provide more details as we get closer to the end of the semester.

All exams must be taken during the period in which they are scheduled. Exceptions will be made only in extreme circumstances, including (1) medical emergencies; (2) emergencies involving a family member that necessitate your absence from campus; (3) participation in a university-sponsored activity; or (4) observance of a religious holiday. You must provide documentation that allows me to verify your absence was valid. All claims must, when possible, be made at least two weeks prior to when the exam

is scheduled. Failure to follow these guidelines will result in a "0" being awarded for the final. I reserve the right to have the makeup exam be of a different format than the exam that is given during class.

GRADING SCALE

I will use the following scale to assign course grades:

| Percentage | Grade |
|-------------|-------|
| 90-100% | A |
| 87-89% | B+ |
| 80-86% | B |
| 77-79% | C+ |
| 70-76% | C |
| 67-69% | D+ |
| 60-66% | D |
| 59% or less | F |

Percentages greater than or equal to 0.5 will be rounded up to the next highest whole percentage (Example: 86.5% will round up to an 87%).

GRADE APPEALS

If you receive a grade and see that it contains an arithmetic error (i.e., I mis-calculated your grade), please inform me of the problem. If you have a question or concern about your performance on any course work, please do. All concerns must be stated in writing (paper or email), beginning with a statement that concisely explains why you believe your grade should be altered.

All concerns, whether arithmetic or otherwise, must be raised within one week of that assignment/quiz's release to students. It is your responsibility to attend the class session in which materials are returned; the one-week clock starts when I make the initial attempt to distribute the exam/assignment regardless of whether or not you were there to collect it. If you do not raise your question within this one-week period, you forfeit your ability to appeal your grade.

ACADEMIC INTEGRITY

ACADEMIC DISHONESTY:

Absolutely no form of academic dishonesty will be tolerated. Anyone found guilty of cheating, plagiarism, or any other violation of academic integrity will receive an automatic grade of 0.0 for the assignment. Additionally, all other penalties within the University will be pursued to the fullest extent. For more information about academic dishonesty, visit the [USC Office of Academic Integrity](#).

HONOR CODE:

Every student has a role in maintaining the academic reputation of the university. It is imperative that you refrain from engaging in plagiarism, cheating, falsifying your work and/or assisting other students in violating the Honor Code. Two important components of the Honor Code:

- Faculty members are required to report potential violations of the Honor Code to the Office of Student Conduct and Academic Integrity.

- When a student is uncertain as to whether conduct would violate the Honor Code, it is their responsibility to seek clarification from the appropriate faculty member.

Your enrollment in this class signifies your willingness to accept these responsibilities and uphold the Honor Code of the University of South Carolina. Please review the [Honor Code Policies](#) as well as the [Code of Conduct](#). It is your responsibility to understand these policies.

CAROLINIAN CREED:

The community of scholars at the University of South Carolina is dedicated to personal and academic excellence. Choosing to join the community obligates each member to the Carolinian Creed. Academic and civil discourse are the cornerstones of the educational system and crucial to individual growth.

As a Carolinian:

- I will practice personal and academic integrity;
- I will respect the rights and dignity of all persons;
- I will respect the rights and property of others;
- I will discourage bigotry, while striving to learn from differences in people, ideas and opinions;
- I will demonstrate concern for others, their feelings and their need for conditions which support their work and development.

CLASSROOM CONTENT AND RECORDING:

I will be recording our class sessions and placing them on Blackboard for you to review, if needed. You are welcome to record the lectures yourself for your own educational use, but odds are that my recordings will be better quality and take up less space on your computer.

Lectures and course materials (which are inclusive of my presentations, tests, exams, outlines, and lecture notes) may be protected by copyright. You are encouraged to take notes and utilize course materials for your own educational purpose. However, you are not to reproduce or distribute this content without my expressed written permission. This includes sharing course materials to online social study sites like Course Hero and other services. Students who publicly reproduce, distribute or modify course content maybe in violation of the university's Honor Code's Complicity Policy, which prohibits "sharing academic work with another student (either in person or electronically) without the permission of the instructor." To best understand the parameters around copyright and intellectual property, see [here](#).

COLLABORATION:

A student's grades are to represent the extent that individual mastered the course content. You should assume that you are to complete course work individually (without the use of another person or uncited outside source) unless otherwise indicated by the instructor. It is your responsibility to seek clarification if you are unclear about what constitutes proper or improper collaboration.

A NOTE ABOUT SOURCES:

There are great resources out there about Supreme Court cases, including Oyez and even Wikipedia. Please use them to help you better understand the material. But these are RESOURCES. The information is not there for you to use as your own without attribution.

Do not, DO NOT, ***DO NOT*** copy information from these sources to answer quiz questions, write your written responses, or answer questions on your final exam. EVERYTHING IN THIS CLASS NEEDS TO BE IN YOUR OWN WORDS. If you take information directly from a source without attribution and try to pass it off as your own work, that is plagiarism. Plagiarism is a violation of both the University Honor Code and the Carolinian Creed. You are ultimately responsible for your work and ensuring it is your own.

If you are EVER confused about what is and is not plagiarism, ASK FIRST. I will gladly answer any question about wording if it helps avoid plagiarism.

Additionally, Indiana University has [an incredibly helpful plagiarism tutorial](#) that I encourage you all to look at if you are ever confused.

STUDENT SUPPORT RESOURCES

ACADEMIC SUPPORT:

In partnership with the University of South Carolina faculty, the Student Success Center (SSC) offers a number of programs to assist you in better understanding your course material and to aid you on your path to success. SSC programs are facilitated by professional staff, graduate students, and trained undergraduate peer leaders who have previously excelled in their courses. Resources available to students in this course may include:

- Peer Tutoring: You can make a one-on-one appointment with a Peer Tutor by going to www.sc.edu/success. Drop-in Tutoring and Online Tutoring may also be available for this course. Visit our website for a full schedule of times, locations, and courses.
- Supplemental Instruction (SI): SI Leaders are assigned to specific sections of courses and hold three weekly study sessions. Sessions focus on the most difficult content being covered in class. The SI Session schedule is posted through the SSC website each week and will also be communicated in class by the SI Leader.
- Peer Writing: Improve your college-level writing skills by bringing writing assignments from any of your classes to a Peer Writing Tutor. Similar to Tutoring, you can visit the website to make an appointment, and to view the full schedule of available drop-in hours and locations.
- Success Consultations: In Success Consultations, SSC staff assist students in developing study skills, setting goals, and connecting to a variety of campus resources. Throughout the semester, your instructor may communicate with the SSC via Success Connect, an online referral system, regarding your progress in the course. If contacted by the SSC, please schedule a Success Consultation. Success Connect referrals are not punitive and any information shared by your professor is confidential and subject to FERPA regulations.

SSC services are offered to all USC undergraduates at no additional cost. You are invited to call the Student Success Hotline at (803) 777-1000, visit www.sc.edu/success, or come to the SSC in the Thomas Cooper Library on the Mezzanine Level to check schedules and make appointments.

ADDITIONAL ACCOMMODATIONS:

Reasonable accommodations are available for students with a documented disability. If you have a disability and may need accommodations to fully participate in this class, contact the Student Disability Resource Center: 777-6142, TDD 777-6744, email sasds@mailbox.sc.edu, or stop by LeConte College Room 112A. All accommodations must be approved through the Student Disability Resource Center.

Students with special needs should contact me immediately. Every effort to accommodate additional needs will be made.

COURSE OUTLINE AND DUE DATES

Please complete the assigned readings/viewings/listenings by Monday every week. All readings marked "BOWW" come from the Black, Owens, Wedeking, and Wohlfarth (2020) book. Any day marked with "NC" means we do not have class that day. All other readings will be provided on Blackboard.

Note: I reserve the right to modify this syllabus at any point in the course to suit the needs of the class. All changes will be noted on Blackboard and sent to students via email in advance of class.

| Week | Class Dates | Subject | Assignment |
|-----------------------------------------------------------------------|---------------------------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | 1/11 1/13 1/15 | The Founding, the Supreme Court, and the Early Republic | <ul style="list-style-type: none"> • Constitution, https://bit.ly/39EAYM7 • <i>Federalist Papers</i>, #77-81: https://bit.ly/2KUopYT • BOWW Chapter 1 • Suggested: Watch C-SPAN's Supreme Court Documentary, https://cs.pn/2JHG414 |
| 2 | 1/18 - NC 1/20 1/22 | Social Science Research | <ul style="list-style-type: none"> • Wheelan Chapters 1 and 11 • BOWW Chapter 3 |
| 3 | 1/25 1/27 1/29 | Judicial Decision Making | <ul style="list-style-type: none"> • Epstein and Knight 2013 • BOWW Chapter 2 |
| QUIZ 1 DUE 11:59 PM ON SUNDAY, JANUARY 31 st | | | |
| 4 | 2/1 2/3 2/5 | Retirements, Nominations, and Confirmations | <ul style="list-style-type: none"> • Ward 2003, Chapter 1 • Nemacheck 2007, Intro and Chapter 1 • Schoenherr, Lane, and Armaly 2020 • Suggested: Watch <i>Supreme Revenge</i>, https://to.pbs.org/37ykpVz |
| WRITTEN ASSIGNMENT 1 DUE 11:59 PM ON SUNDAY, FEBRUARY 7 th | | | |
| 5 | 2/8 2/10 2/12 | Certiorari and Agenda-Setting | <ul style="list-style-type: none"> • Lane et al. 2020 • Black and Boyd 2012 • BOWW Chapter 4 |
| QUIZ 2 DUE 11:59 PM ON SUNDAY, FEBRUARY 14 th | | | |
| 6 | 2/15 - NC 2/17 2/19 | Briefs and Attorneys | <ul style="list-style-type: none"> • Schoenherr and Black 2019b • Biskupic, Roberts, and Shiffman 2014, https://reut.rs/3g4AhDj • BOWW Chapter 6 |
| 7 | 2/22 2/24 2/26 | Oral Argument | <ul style="list-style-type: none"> • Black, Johnson, and Wedeking 2012, Chapters 1 and 2 • BOWW Chapter 5 • Listen: <i>More Perfect</i>, "Justice, Interrupted," https://bit.ly/2MALjV |
| QUIZ 3 DUE 11:59 PM ON SUNDAY, FEBRUARY 28 th | | | |
| 8 | 3/1 3/3 3/5 | The Judiciary in Media | <ul style="list-style-type: none"> • No Readings |
| WRITTEN ASSIGNMENT 2 DUE 11:59 PM ON SUNDAY, MARCH 7 th | | | |

| | | | |
|---------------------------------------------------------------------|---------------------------|------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9 | 3/8 3/10 3/12 - NC | Conference Voting and Opinion Assignment | <ul style="list-style-type: none"> Johnson, Spriggs, and Wahlbeck 2005 BOWW Chapter 7 Listen: <i>More Perfect</i>, "The Political Thicket," https://bit.ly/39IhiNA |
| 10 | 3/15 3/17 3/19 | Bargaining and Opinion Writing | <ul style="list-style-type: none"> Maltzman, Spriggs, and Wahlbeck 2000, Chapter 1 BOWW Chapters 8 and 9 |
| QUIZ 4 DUE 11:59 PM ON SUNDAY, MARCH 21 st | | | |
| 11 | 3/22 3/24 3/26 | Legitimacy and Implementation | <ul style="list-style-type: none"> Baum 2015, Chapter 6 BOWW Chapter 10 |
| WRITTEN ASSIGNMENT 3 DUE 11:59 PM on SUNDAY, MARCH 28 th | | | |
| 12 | 3/29 3/31 4/2 | Interest Groups as Influencers | <ul style="list-style-type: none"> Collins 2012 Schoenherr and Black 2019a Listen: <i>More Perfect</i>, "The Imperfect Plaintiffs," https://bit.ly/3qqvssD |
| 13 | 4/5 4/7 4/9 | Separation of Powers | <ul style="list-style-type: none"> Bailey and Maltzman 2012 Mark and Zilis 2018 <i>Federalist Papers</i>, #51, https://bit.ly/3geO2PW |
| QUIZ 5 DUE 11:59 PM ON SUNDAY, APRIL 11 th | | | |
| 14 | 4/12 4/14 4/16 - NC | Public Opinion | <ul style="list-style-type: none"> Armaly 2020 BOWW Chapter 11 |
| 15 | 4/19 4/21 - NC 4/23 | Representation on the Bench | <ul style="list-style-type: none"> Emancipation Proclamation, https://bit.ly/2K7Rrnp Civil Rights Act of 1964, https://bit.ly/2WysVz1 Haire and Moyer 2015, Intro and Chapter 1 |
| QUIZ 6 DUE 11:59 PM ON SUNDAY, APRIL 25 th | | | |
| 16 | 4/26 | Final Thoughts | <ul style="list-style-type: none"> BOWW Chapter 13 |
| FINAL EXAM IS ON WEDNESDAY, APRIL 28 th at 9 AM | | | |