

USC Gould

School of Law

LAW 210: Fundamentals of the U.S. Legal System

Fall 2019 – **Room 2**, USC Gould School of Law

Tuesdays and Thursdays, 12:00-1:40 pm

Instructor: Mark Haddad mhaddad@law.usc.edu

Office Hours: Tuesday and Thursday, 1:45-3:00 pm, Room 411A

Teaching Assistant: Samantha Hay samantha.hay.2020@lawmail.usc.edu

Prerequisite(s); co-requisite(s), or recommended preparation: None.

Units: Four (4)

Course Description

This course introduces the U.S. legal system and its relationship to basic principles of the rule of law. We will examine the criminal and the civil law systems, focusing on seminal Supreme Court decisions involving the separation of powers, federalism, and contemporary legal issues.

Learning Objectives

This course has three principal learning objectives:

- 1) Become familiar with the concept of the rule of law, including its history and significant political and judicial figures who have shaped its meaning in America, including the principles of:
 - a. Accessibility
 - b. Accountability
 - c. Fair and impartial process
 - d. Equal application

- 2) Learn to read and analyze primary source materials, including the U.S. Constitution and decisions of the U.S. Supreme Court, from the time of this nation's founding to the present day; understand the continuity between the founding documents and today's political and legal controversies; accurately describe key elements of the Constitution and of Supreme Court decisions and evaluate them with respect to the rule of law. Key elements of a Supreme Court decision include:
 - a. The question presented;
 - b. The holding;
 - c. The facts and reasoning in support of the holding;
 - d. The degree to which a prior decision supports a holding;
 - e. Important question(s) that the decision leaves undecided.

- 3) Understand, and analyze with respect to the rule of law, basic aspects of the U.S. legal system, including:
 - a. The different roles and responsibilities of trial courts, appellate courts, and supreme courts;
 - b. Commonalities and differences between the criminal and civil justice systems;
 - c. The separation of powers and the role of an independent federal judiciary in maintaining checks and balances on each branch and source of power;
 - d. Federalism and the role of state law and state courts; and
 - e. The supremacy of the U.S. Constitution as a source of American law.

Required Textbook and Supplementary Reading

- Diane S. Kaplan, An Introduction to the American Legal System, Government, and Constitutional Law (Aspen Coursebook Series 2015) (ISBN: 978-1-4548-5733-4).
- Law 210 Course Reader (available on Blackboard and in hardcopy).

Course Requirements and Evaluation

1. Attend each class meeting punctually.
2. Complete each day's assigned reading before class.
3. Contribute to class discussion with sincerity and courtesy.
4. Complete in-class and periodic take-home written assignments on time.
5. Complete both the midterm (October 15) and the final examination (December 17).
6. Complete one analytical writing assignment, in the form of a judicial opinion. The final written opinion is due Friday November 15, 2019. See further description below.
7. Late submission of the opinion will receive a minimum 10% deduction, and potentially more at the instructor's discretion. Please be on time.
8. Evaluation: Letter grades will reflect timely completion of in-class and take-home assignments and contributions to class discussion (10%); midterm (25 percent); judicial opinion (30 percent); and final exam (35 percent).
9. **LAPTOPS** are not permitted in class, unless you have obtained permission in writing from the instructor. **PHONES** also must be put away during class, except when expressly permitted by the instructor. Any use of a laptop or phone during class without permission will result in a deduction of 1% from the student's participation score, or more at the discretion of the instructor.

Description and Assessment of Assignments

Judicial opinion: During week four, each student will be assigned to a judicial panel of three to five fellow students, and to deliberate upon and then render an opinion in the pending case of *Kahler v. Kansas*. The issue in *Kahler* is ***whether the Constitution requires states to allow defendants to plead insanity as a defense to murder***. NB: each student should be aware that the facts of the *Kahler* case are upsetting: The defendant, who seeks the right to plead insanity, shot and killed four members of his family, including his wife and two teenage daughters. Although the facts are upsetting, the issue for our class (as for the Supreme Court this fall) is the legal question of whether the Constitution requires states to offer an insanity defense.

Each student will be responsible for deliberating on this question with their fellow student-justices, for reaching a decision, and for contributing to the panel's oral statement announcing

and explaining its decision. In addition, each student must submit a 10-12 page judicial opinion that states and decides the question presented in *Kahler*.

Students will receive a more detailed description of the class the assignment during the semester. Preparation for this assignment will include required reading of prior decisions of the Supreme Court as shown in the syllabus, reading of the principal legal briefs filed in the Supreme Court in *Kahler*, submission of 1-page case-briefs on several key precedential cases, in-class discussion of the briefs and of key cases, attendance at a moot court (practice argument) involving one of the lawyers who will argue this case in the Supreme Court, and guided in-class listening to an audio transcript of the actual oral argument before the Supreme Court. Each student's opinion is also expected to reflect the student's review of at least one additional case of the student's choice that is not discussed in class; students will receive guidance in selecting a suitable case.

Midterm Exam: The midterm, worth 25 points, will consist of multiple choice, short answers, and one essay question.

Final Exam: The final exam, worth 35 points, will consist of multiple choice, short answers, and two essay questions. The multiple choice and short answers will cover the second half of the course, and the essay questions will provide opportunities to discuss material from all of the course. The final exam will be given on Tuesday, December 17, from 11:00 am to 1:00 pm.

Preparation and participation:

Students will receive up to 10 points for timely completion of in-class and written homework assignments ("preparation") and for punctual and regular attendance and oral contributions to class discussions ("participation").

Grading Breakdown

Assignment	Points
Midterm	25
Opinion	30
Final Exam	35
Preparation and participation	10
Total	100

Course-Specific Policies

Students shall participate in class discussions as well as the judicial opinion project with sincerity *and* courtesy. Regular and punctual attendance contributes to the class and is necessary to satisfy class hours requirements. Students seeking an excused absence should notify Samantha Hay in writing *prior* to class; unexcused absences, unless accompanied by a physician's note or other comparable explanation, may lower the participation score at the discretion of the instructor. A student whose attendance is not regular and punctual may be withdrawn from enrollment at the discretion of the Dean of Students and the instructor. As stated in more detail above, laptops and cell phones are not permitted in class without prior approval of the instructor.

Weekly Schedule

Week		Topics	Required Reading	Written Homework
Week 1	Aug. 27	Aug. 27: Introduction: class objectives; the rule of law (handout provided).	Reading must be completed <i>before</i> class on the date shown. Aug. 27: <ul style="list-style-type: none"> • US Courts.gov: The Rule of Law (2019); The World Justice Project: Rule of Law – criteria (2019); Bingham, The Rule of Law (2009); Harris, The Rule of Law in Action in Democratic Athens pp. 3-12 (2013). 	Homework is due at 11:00 a.m. on the date shown. Aug. 27: none
	Aug. 29	Aug. 29: Out of the state of nature: the common law, state sovereignty, and a federal constitution	Aug. 29: <ul style="list-style-type: none"> • Kaplan: Ch. 1 Ch. 5 pp.120-23; App. B (Declaration of Independence); App. A (Original Constitution) 	Aug. 29: Identify (in one sentence, using quotations) one abuse in the Declaration of Independence that the Constitution addresses, as well as the corresponding provision of the Constitution.
Week 2	Sept. 3	Sept. 3: Federalism (Congress’s (federal) power versus state sovereignty	Sept. 3: <ul style="list-style-type: none"> • Kaplan: Ch. 2 (including <i>Heart of Atlanta Motel v. United States</i> (1964) and <i>United States v. Lopez</i> (1995)). 	Sept. 3: <ul style="list-style-type: none"> • Kaplan Ch. 2 Questions 4.a and 4.b • Case questions – <i>Heart of Atlanta:</i> What were the facts, the question presented, the holding, and the Court’s reasoning?
	Sept. 5	Sept. 5: same; discuss case briefs, including sample case brief (to be distributed in class) for <i>Bond</i>	Sept. 5: <ul style="list-style-type: none"> • Reader: <i>Bond v. United States</i> (2014) 	Sept. 5: Case questions – <i>Bond:</i> What was the question presented? What was the holding?
Week 3	Sept. 10	Sept. 10: Individual rights against the government: The 5A/14A right to due process of law and the 6A right to counsel	Sept. 10: <ul style="list-style-type: none"> • Kaplan: Ch. 8 pp. 187-88, 190-206, including <i>Gideon v. Wainwright</i> (1963); <i>Duncan v. Louisiana</i> (1968) 	Sept. 10: Prepare a one-page case brief for <i>Duncan</i>
	Sept. 12	Sept. 12: Individual rights (continued)	Sept. 12: <ul style="list-style-type: none"> • Reader: <i>Duncan v. Louisiana</i> (1968); <i>Kolender v. Lawson</i> 	Sept. 12: Describe, in 2-3 sentences, how the constitutional basis for the ruling in <i>Duncan</i>

			(1983) (majority opinion only)	differs from that in <i>Gideon</i> .
Week 4	Sept. 17	Sept 17: What makes an unlawful act a crime? The element of mens rea.	Sept. 17: <ul style="list-style-type: none"> • Kaplan: Ch. 8 pp. 188-90; • Reader: <i>Morissette v. United States</i> (1952). 	Sept. 17: Prepare a case brief for <i>Morissette</i> .
	Sept. 19	Sept. 19: Criminal conduct and mens rea	Sept. 19: <ul style="list-style-type: none"> • Reader: <i>Robinson v. California</i> (1962); <i>Powell v. Texas</i> (1968); <i>Delling v. Idaho</i> (2017) (Breyer, J., dissenting from denial of certiorari). 	Sept. 19: Prepare a case brief for <i>Robinson</i> and for <i>Powell</i> .
Week 5	Sept. 24	Sept. 24: Does the 8A or 14A guarantee a defendant the opportunity to raise an insanity defense?	Sept. 24: <ul style="list-style-type: none"> • Kaplan: Ch. 8 pp. 206-07 (but not <i>Roper</i>); • Reader: Petitioner's Brief in <i>Kahler v. Kansas</i> (2019).* 	Sept. 24:
	Sept. 26	Sept. 26: KAHLER MOOT COURT: Meet in the Courtroom at the Law School, at 11:00 am (if you can), for a moot court with a lawyer who will be arguing <i>Kahler</i> in the US Supreme Court in October	Sept. 26: <ul style="list-style-type: none"> • Reader: Respondent's Brief in <i>Kahler v. Kansas</i> (2019)*. <p>*NB: As described above, the facts of <i>Kahler</i> are very upsetting.</p>	Sept. 26:
Week 6	Oct. 1	Oct. 1: Discuss moot court and <i>Kahler</i> materials. Overview of structure of judicial opinions.	Oct. 1: <ul style="list-style-type: none"> • Reader: Review <i>Kahler</i> briefs; Review Joint Appendix. 	Oct. 1: Identify which argument is the strongest (in your view) for each side in <i>Kahler</i> (provide one to three sentences per argument).
	Oct. 3	Oct. 3: "To Protect and To Serve": the police and the rule of law	Oct. 3: <ul style="list-style-type: none"> • Reader: <i>Houston v. Hill</i> (1987). 	Oct. 3:
Week 7	Oct. 8	Oct 8: Listen in class to the oral argument in <i>Kahler</i> ; each panel begins deliberations.	Oct 8: <ul style="list-style-type: none"> • Reader: Review <i>Kahler</i> briefs; Review Joint Appendix; <i>Finger v. State</i>, (Nev. 2001); <i>State v. Korell</i> (Mont. 1984). 	Oct. 8:

	Oct. 10	Oct 10: Overview of the civil justice system: process, admissible evidence, attorney-client privilege; each panel completes <i>Kahler</i> deliberations.	Oct. 10: • <u>Kaplan:</u> Ch. 7	Oct. 11: Outline of <i>Kahler</i> opinion due Friday Oct. 11 at 3:00 pm.
Week 8	Oct. 15	Oct. 15: Midterm Exam	Oct. 15: Midterm Exam	
	Oct. 17	Oct. 17: Fall recess – No Class	Oct. 17: Fall recess – No Class	
Week 9	Oct. 22	Oct. 22: Nature and limits of federal Judicial power: cases and controversies (advisory opinions; standing; mootness); judicial review.	Oct. 22: • <u>Kaplan:</u> Ch. 4; • <u>Reader:</u> John Jay Court: On Advisory Opinions (August 8, 1793); <i>Marbury v. Madison</i> (1803).	Oct. 22: Case question <i>Marbury</i> : Explain in 2-3 sentences why the Court could not give <i>Marbury</i> the relief he requested.
	Oct. 24	Oct. 24: Nature and limits of federal Judicial power (continued): the Supremacy Clause; lacking “the sword and the purse.”	Oct. 24: • <u>Reader:</u> <i>Cooper v Aaron</i> (1959).	
Week 10	Oct. 29	Oct. 29: The Judiciary as a check on Executive power: the steel seizure case.	Oct. 29: • <u>Kaplan:</u> Ch. 3; • <u>Reader:</u> <i>Youngstown Steel and Tube v. Sawyer</i> (1952)	Oct. 29: Case question: <i>Youngstown</i>
	Oct. 31	Oct. 31: Same: Watergate	Oct. 31: • <u>Reader:</u> <i>United States v. Nixon</i> (1974); The Smoking Gun Tape (June 23, 1972).	Nov. 1: First draft of <i>Kahler</i> opinion due by 9:00 am on Fri. Nov. 1
Week 11	Nov. 5	Nov. 5: The civil justice system and the President. Does the Constitution allow indictment of a sitting President?	Nov. 5: • <u>Reader:</u> <i>Clinton v. Jones</i> (1997); Constitution Art. 1, Section 2, Cl. 5; Art. 1, Section 3, Cl. 6, 7; Art. II, Section 4 • <u>Blackboard:</u> Selected articles (posted on Blackboard)	Nov. 5: Case question: <i>Clinton v. Jones</i>
	Nov. 7	Nov. 7: Judicial checks on “contrived” agency action: the 2020 census.	Nov. 7:	

			<ul style="list-style-type: none"> • Reader: <i>Department of Commerce v. New York</i> (2019). 	
Week 12	Nov. 12	Nov. 12: Recognizing the right to vote	Nov. 12: <ul style="list-style-type: none"> • Reader: <i>Minor v. Happersett</i>; 13A, 14A, 15A, 19A; <i>South Carolina v. Katzenbach</i> (1965) 	Nov. 15: Final Opinion due by 3:00 pm on Friday Nov. 15.
	Nov. 14	Nov. 14: The Voting Rights Act – still needed?	Nov. 14: <ul style="list-style-type: none"> • Reader: <i>Shelby County v. Holder</i> (2013) 	
Week 13	Nov. 19	Nov. 19: Opinions Day: Each panel announces and summarizes its decision in class.	Nov. 19: Opinions Day	
	Nov. 21	Nov. 21: The challenge of having each vote count equally	Nov. 21: <ul style="list-style-type: none"> • Reader: <i>Reynolds v. Sims</i> (1963); <i>Bush v. Gore</i> (2000). 	Nov. 21:
Week 14	Nov. 26	Nov. 26: The challenge of having each vote count equally (cont.)	Nov. 26: <i>Rucho v. Common Cause</i> (2019).	Nov. 26: Submit a case brief in <i>Rucho</i>
	Nov. 28	Nov. 28: Thanksgiving recess	Nov. 28: Thanksgiving recess	
Week 15	Dec. 3	Dec. 3: The Fourth Branch: Freedom of the press to report on the Executive branch and on public figures	Dec. 3: <ul style="list-style-type: none"> • Kaplan: Ch. 6 pp. 151-60; • Reader: <i>New York Times v. United States</i> (1971); <i>New York Times v. Sullivan</i> (1964). 	
	Dec. 5	Dec. 5: Reflections on the rule of law.	Dec. 5: Review readings on the rule of law.	

Statement on Academic Conduct and Support Systems

Academic Conduct:

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in *SCampus* in Part B, Section 11, “Behavior Violating University Standards” <https://policy.usc.edu/scampus-part-b/>. Other forms of academic dishonesty are equally unacceptable. See additional information in *SCampus* and university policies on scientific misconduct, <http://policy.usc.edu/scientific-misconduct>.

Support Systems:

Student Counseling Services (SCS) - (213) 740-7711 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention. <https://engemannshc.usc.edu/counseling/>

National Suicide Prevention Lifeline - 1-800-273-8255

Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week. <http://www.suicidepreventionlifeline.org>

Relationship & Sexual Violence Prevention Services (RSVP) - (213) 740-4900 - 24/7 on call

Free and confidential therapy services, workshops, and training for situations related to gender-based harm. <https://studenthealth.usc.edu/sexual-assault/>

Sexual Assault Resource Center

For more information about how to get help or help a survivor, rights, reporting options, and additional resources, visit the website: <http://sarc.usc.edu/>

Office of Equity and Diversity (OED)/Title IX compliance – (213) 740-5086

Works with faculty, staff, visitors, applicants, and students around issues of protected class. <https://equity.usc.edu/>

Bias Assessment Response and Support

Incidents of bias, hate crimes and microaggressions need to be reported allowing for appropriate investigation and response. <https://studentaffairs.usc.edu/bias-assessment-response-support/>

Student Support & Advocacy – (213) 821-4710

Assists students and families in resolving complex issues adversely affecting their success as a student EX: personal, financial, and academic. <https://studentaffairs.usc.edu/ssa/>

Diversity at USC

Tab for Events, Programs and Training, Task Force (including representatives for each school), Chronology, Participate, Resources for Students. <https://diversity.usc.edu/>