

SYLLABUS
INSIDE THE SUPREME COURT
(Frank Schaberg and Oliver Chappell)

Goals:

- To better understand how our legal system operates and what justice means by studying and discussing several landmark Supreme Court cases.
- To learn how the appeal process works, especially appeals to the Supreme Court? Do Supreme Court Justices “make law”? Are they “activists”? What is precedent and why is it important?
- Present information and materials in such a way as to provoke discussion by challenging positions.
- Seek to engage all class members.
- Learn new concepts, engage in lively discussions, and leave class members with a sense of accomplishment.

Class Format A combination of lectures, possible video presentations and class discussions.

Course Materials:

- *Gideon’s Trumpet* by Anthony Lewis (Amazon 268 p., \$10.00). Please finish before the Second Week.
- Supreme Court cases, excerpts, articles and others materials provided on a class blog.

First Week:

- The Constitution and its Bill of Rights
- Stare decisis, strict constructionists, judicial personalities and dissenting opinions.
- Who was Clarence Gideon and what happened at his trial in Florida? What was the basis for his appeal to the Supreme Court? What obstacles stood in the way of his success?
- How does the Supreme Court decide whether or not to hear a case?
- The difference between discretionary and absolute rights of appeal
- *Betts vs. Brady* as it relates to Gideon. Is there a moral basis for the right to counsel for indigents? If so, based upon what?
- What are the relevance of federalism and stare decisis in Gideon.

Second Week:

- History of the right to counsel in the Supreme Court, including *Powell v. Alabama*, *Griffin vs. Illinois*, *Johnson vs. Zerbst*, and *Betts vs. Brady*.
- The Bill of Rights and incorporation or absorption of its provisions into the Fourteenth Amendment, and the relevance thereof to *Gideon*.
- The arguments of *Gideon* and Florida before the Supreme Court.
- Factors the Supreme Court takes into account in its decisions.
- The decision in *Gideon vs. Wainwright*, and the differing opinions of the Justices. “Activist judging”?
- What strategies did *Gideon*’s attorney use which changed the outcome at the re-trial?

Third Week: (first 80 min.,approx.)

- *Obergefell et. Al. v. Hodges*
- Evolving social standards and gay rights
- The Defense of Marriage Act (DOMA)
- The District Court ruling and the path to SCOTUS
- The facts and key issues in *Obergefell*
- What was decided and what was the basis for the majority opinion
- The dissenting opinions of Justices Roberts and Scalia
- The decision and the Constitution
- Oral argument and its role
- Did this case belong in the Supreme Court rather than in the legislatures of each State? The fallout?

Third Week: (last 30 min.)

- *D.C. v. Heller*
- Gun control and the Second Amendment
- The legislation in the District of Columbia
- Challenges to the legislation in the lower courts
- The road to SCOTUS
- Did the D.C. legislation prohibit or is it reasonable regulation?

- The decision, its reasoning and ramifications.
- Who dissented and on what grounds?
- The “well-regulated militia” language
- Changing “settled law” and why

Fourth Week: (first 80 min.,approx.)

- Citizen United v. Federal Election Commission
- Hillary: The Movie; BCRA; and Free Speech
- Corporations, Protecting the Electoral Process, and the First Amendment
- Citizen United in the Lower Courts, and the Road to SCOTUS
- Campaign Finance Laws before Austin; Buckley and Bellotti
- Corruption and Direct Contributions to Candidates v. Independent Expenditures
- Differing Classes of Speakers and Distorted Accumulations of Money
- Complexity of Regulations and the Underlying Concerns of SCOTUS
- The Decision of the Court and its Reasoning
- Stare Decisis and Overruling Austin
- A well-reasoned Opinion or a Travesty?
- Public Opinion and What to Do?

Fourth Week: (last 30 min.)

- U. S. v. Nixon
- The need for a “Special Prosecutor”: the “Saturday Night Massacre”
- The “Special Circumstances” Prompting the “Writ of Certiorari” to SCOTUS
- Executive Privilege
- Briefs of the Prosecution and Defense:
- The Importance of Oral Argument
- The Decision; Majority and Dissenters
- The Long-term Impact and Other Examples of Executive Privilege

Fifth Week:

Sometime prior to the Second Week, the class will be presented with a list of other landmark SCOTUS cases. From that list, the class will vote to pick four of those cases to be discussed this week. The coordinators, and/or class members who volunteer, will present those cases in four

approximately 25 minute time slots. The format will generally follow prior case discussions.