

# Pol 305: Judicial Behavior

Bishop Rm. 105

1:00 pm - 1:50 pm

Monday, Wednesday, & Friday

## *Contact Information*

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Office Hours: Monday & Wednesday, 10:55-12:00, or by appointment (or just drop in!)

## *Course Description*

Former U.S. Supreme Court Justice Owen J. Roberts once quipped, “Who knows what causes a judge to decide as he does? Maybe the breakfast he had has something to do with it.” This course introduces students to the factors hypothesized to influence judicial decision-making. More specifically, we will examine the empirical evidence for those factors. Our focus will be on examining the myriad considerations embodied in judicial decisions across levels of the judicial hierarchy (i.e., the Supreme Court, Courts of Appeals, etc.). For instance, gender, race, ideology, and even whether a judge has daughters will be considered. While we will occasionally use specific cases to illustrate certain behavior, this class is *not* about learning the specifics of cases or controversies.

Upon completion of this course, I expect students to demonstrate:

1. Critical assessment of scholarly research
2. Efficient communication – both verbal and written – of such assessments
3. Recognition of extralegal influences that impact judicial decisions (e.g., public opinion, other institutional actors, etc.)

## *Course Materials*

We will reference one textbook in this course:

- McGuire, Kevin T. 2012. *New Directions in Judicial Politics*.<sup>1</sup>

We will also reference several academic articles. These will be disseminated via the course's Blackboard page. When reading published academic articles, **the goal should be to follow the hypotheses and main points as closely as possible without paying too much attention to the methodological/statistical sections.**

## *Course Requirements*

### FINAL EXAM

The University requires that we meet during the scheduled final exam time. We will have an "exam" on Wednesday, May 9 at 12:00 noon.

### RESEARCH APPLICATION PAPERS

Students will be responsible for producing three (3) research application papers throughout the semester. They are designed to engage students with a particular way of thinking about how judges make decisions and to apply that way of thinking to cases actually pending before the Supreme Court. In other words, students are expected to guess how the Supreme Court will decide by applying theories of how judges behave.

Papers should be around 2-3 pages, double-spaced, using a normal 12-point font. Papers are due in class or via email no later than 1:50 pm, Oxford, MS time on the dates indicated on the course calendar. Late submissions will lose a full letter grade (e.g., a B- will become a C-).

Papers should be loosely formatted as follows. First, a student should select the research they would like to apply to a case (e.g., 1-2 papers on a particular topic) and then:

1. In the students own words, explain why the selected paper(s) are theoretically important
2. Assess the author(s) argument and explain how they support that argument
3. Identify and briefly explain the controversy and facts of a case pending before the Supreme Court (all pending cases can be found here); students should also detail lower court outcomes
4. Using the selected research, predict how the justices will vote in the selected case (i.e., how all 9 justices will vote, as well as the overall outcome)

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<sup>1</sup>This text is available at any reputable bookstore. I strongly recommend obtaining the book used from an online retailer (e.g., here) as this is likely to save you substantial costs (I've seen copies as low as \$8). Amazon also has a Kindle version, for which you do not need any special equipment (works on iPad, iPhone, Android, and Mac and PC).

## QUIZZES

There will be many short, in-class quizzes throughout the semester; your highest ten (10) quiz scores will count for your grade. These will be “pop” quizzes in the sense that they are not scheduled or announced beforehand. The format of these quizzes will vary (i.e., some short answer, some multiple choice, etc.). They will be used to assess comprehension of course materials.

## PARTICIPATION

Exams are not an important grade component of this class. As such, the main method of assessment is participation. This means students are expected to read daily and participate in course discussion. Each session will comprise of some lecturing, but should be largely discussion-based. Students must come prepared and be ready to discuss all relevant materials. Although I will not take attendance in this course, it is expected that you attend each session and voluntarily contribute. Participation will be based on both the quality and quantity of your contributions.

Please note that the University requires that all students have a verified attendance at least once during the first two weeks of the semester for each course. *If attendance is not verified, you will be dropped from the course and any financial aid will be adjusted accordingly.* Please see <http://olemiss.edu/gotoclass> for more information.

## *Grades*

Your class performance will be evaluated upon the following criteria:

Application Papers (3 @ 25% each)	75%
Quizzes (10 @ 1% each)	10%
Class Participation	15%

The grading scale follows the University’s Plus-Minus rubric:

A	93-100%	A-	90-92%
B+	87-89%	B	83-85%
B-	80-82%	C+	77-79%
C	73-76%	C-	70-72%
D	60-69%	F	0-59%

## *Course Policies*

### GENERAL STATEMENT

You are responsible for informing yourself of all departmental, college, and university policies governing your conduct in this course. This includes, but is not limited to, policies relating to plagiarism/academic integrity and the accommodation of students with documented

disabilities.

### COURSE COMMUNICATIONS

Updates and additional materials will be sent out via our course's Blackboard page. Please alter your Blackboard settings such that you are notified when announcements are posted.

### INSTRUCTOR AVAILABILITY

If you have any questions, quips, queries, qualms, comments, or concerns, please contact me via email. Be certain to include "POL 305" in the subject line along with a substantive topic. Please include an appropriate salutation (e.g., please do not begin an email with "hey") and an email signature that includes your first and last name (so I know to whom I'm responding!). I will endeavor to respond to all email messages within 12 hours on weekdays and 24 hours on weekends. If you have not received a response within 24 hours, please resend your message. For time sensitive matters, resend your message after 12 hours.

I will be available immediately following class on Mondays. All other office hours will be by appointment. If you would like to meet, please send a message with 2 or 3 suggested meeting times and I can confirm which works best for me.

### ATTENDANCE POLICY

There is no official attendance policy in this course. Please see the Participation section above for expectations regarding attendance.

### GRADE APPEALS

All grading concerns should be submitted via email with a concise statement expressing why you believe your grade should be altered. All concerns – arithmetic or otherwise – must be raised within *one week* of when the grade was posted. No grade challenges will be entertained after one week. I reserve the right to *reduce points* on any grade appeal.

### ACADEMIC HONESTY

This course has a zero tolerance policy in regards to academic dishonesty. Academic dishonesty is defined as conduct that violates any of the following principles: (a) supplying or using work or answers that are not one's own (this includes mis-citing a source); (b) providing or accepting assistance with completing assignments or examinations beyond collaborative learning; or (c) interfering through any means with another's academic work. Collaborative learning (i.e., working or studying with your peers) in this course is encouraged, but if you study together, you must produce your own work. This includes not submitting verbatim or near-verbatim answers to assignments. To do so violates both the spirit and the letter of academic integrity. The penalties for dishonesty will vary from getting 0 points on an individual assignment up to getting a 0.0 grade for the entire semester. All instances of

academic dishonesty will be reported to your college and department.

If you are not sure a certain action will be considered academically dishonest, it is in your best interest to assume it is until told otherwise. **Please feel free to ask if any action will be considered academic dishonesty in this course.** And, remember that what may be acceptable in this course may be inappropriate in another, and vice versa. Additionally, consult the University *M Book* for more information.

STATEMENT ON DISABILITIES

The University of Mississippi is committed to the creation of inclusive learning environments for all students. If there are aspects of the instruction or design of this course that result in barriers to your full inclusion and participation or to accurate assessment of your achievement, please contact the course instructor as soon as possible. Barriers may include, but are not necessarily limited to, timed exams and in-class assignments, difficulty with the acquisition of lecture content, inaccessible web content or the use of non-captioned or non-transcribed video and audio files. You must also contact Student Disability services at 662-915-7128 so that office 1) provide you with an Instructor Notification form, 2) facilitate the removal of barriers and 3) ensure that you have equal access to the same opportunities for success that are available to all students.

All reasonable accommodations will be made in this course. I encourage students not only to take advantages of these services when appropriate, but to inform the instructor of any qualifying consideration *as soon as possible*. Accommodations for disabilities should be arranged well in advance of any student assessment. Please see University Student Disability Services for more information.

*Course Schedule*

Abbreviated titles for daily reading assignments are listed below. Reading assignments are listed according to the day on which the subject will be discussed. Thus, you should read the assigned material *prior* to the date listed. Note that some readings will be discussed across multiple class periods. Unless the McGuire text is specified, you will be able to find the assigned reading on Blackboard.

Table 1: Course Schedule

Date	Topic & Required Readings
22 January	Course Introduction
24 January	The U.S. Federal Judiciary & Guide to Social Inquiry (no reading)
26 January	<b>NO CLASS</b>
29 January	Guide to Social Inquiry (cont.)
	<b>Judicial Philosophies</b>
31 January	Early Views Federalist Paper No. 78

2 February	de Tocqueville, Alexis. "Judicial Power in the U.S." in <i>Democracy in America</i> Modern Views
5 February	Scalia, Antonin. "Originalism: The Lesser Evil" Modern Views Marshall, Thurgood. "Reflections on the Bicentennial of the U.S. Constitution"
<b>The Models of Judicial Decision Making</b>	
7 February	The Legal Model
9 February	The Attitudinal Model
12 February	The Strategic Model
14 February	The Psychology of Judging Aliotta. "Social Backgrounds, Social Motives"
16 February	The Psychology of Judging McGuire. "The Psychological Origins of a Constitutional Revolution"
<b>DUE DATE: RESEARCH APPLICATION PAPER #1</b>	
<b>Confirmation Politics</b>	
19 February	Selecting Justice McGuire, Chapter 1 (by Nemacheck)
21 February	Senate Confirmations McGuire, Chapter 2 (by Kastellec, Lax, and Phillips)
23 February	Justice Behavior When Joining or Leaving the Court Black and Owens. "Courting the President"
<b>Agenda Setting</b>	
26 February	Supreme Court Agenda Setting McGuire, Chapter 8 (by Black and Owens)
28 February	External Influences on the Agenda Baird. "The Effect of Politically Salient Decisions on the U.S. Supreme Court's Agenda"
2 March	External Influences on the Agenda Black, Boyd, and Bryan. "Revisiting the Influence of Law Clerks"
<b>Briefs</b>	
5 March	The Influence of Briefs Black, Owens, Hall, and Ringsmuth. "Emotions, briefs"
7 March	The Influence of Briefs Corley. "The Supreme Court and Opinion Content"
9 March	The Influence of Brief Quality Feldman. "Counting on Quality"
12 March	<b>NO CLASS [SPRING BREAK]</b>
14 March	<b>NO CLASS [SPRING BREAK]</b>
16 March	<b>NO CLASS [SPRING BREAK]</b>
<b>Oral Arguments</b>	
19 March	Do They Matter? Johnson. "Information, Oral Arguments, and Supreme Court Decision Making"
21 March	Emotions Black, Treul, Johnson, and Goldman. "Emotions, Oral Arguments"
<b>The Influence of the Law</b>	
23 March	Stare Decisis

26 March	McGuire, Chapter 9 (by Johnson, Spriggs, and Wahlbeck) Institutional Rules
28 March	Richards and Kritzer. "Jurisprudential Regimes" Does Law Constrain? Sometimes. Bartels. "The Constraining Capacity of Legal Doctrine"
	<b>DUE DATE: RESEARCH APPLICATION PAPER #2</b> <b>The Influence of Other Justices</b>
30 March	Bargaining and Opinion Writing McGuire, Chapter 10 (by Clark)
2 April	More on Bargaining
	<b>Politics &amp; The Other Branches</b>
4 April	Interest Groups McGuire, Chapter 12 (by Collins)
6 April	The Other Branches McGuire, Chapter 11 (by Maltzman and Wahlbeck)
9 April	<b>NO CLASS</b>
11 April	Congressional Review Clark. "Court Curbing"
13 April	Congressional Review Ura and Wohlfarth. "An Appeal to the People"
16 April	Avoiding Congressional Review Owens and Wedeking. "Writing to Evade"
	<b>The Influence of Race &amp; Gender</b>
18 April	Effects of Sex on Judging Boyd, Epstein, and Martin. "Untangling Sex"
20 April	Females and Judicial Cohorts Moyer and Haire. "Trailblazers"
23 April	Effects of Non-White Judges Kastellec 2013. "Racial Diversity"
	<b>Public Opinion</b>
25 April	Does the Court Listen to the Public? McGuire and Stimson. "The Least Dangerous Branch"
27 April	Does the Court Write for the Public? Black, Owens, Wedeking, and Wohlfarth. "Opinion Clarity"
	<b>The Unexpected</b>
30 April	The Effect of Being Hangry Danziger, Levav, and Avnaim-Pesso. "Extraneous Factors"
2 May	Having Daughters Glynn and Sen. "Judicial Empathy"
4 May	<b>DUE DATE: RESEARCH APPLICATION PAPER #3</b>
9 May	<b>FINAL EXAM</b>