THE SUPREME COURT AND THE RELIGION CLAUSES
FYSEM-UA 218 (section 001)
CREDIT HOURS: 4

Spring Term 2020
(31 May 2019 Draft)

SYLLABUS

PROFESSOR
John Sexton  john.sexton@nyu.edu

CLASSROOM ASSISTANTS
TBD
TBD

COURSE TIME AND LOCATION
President Sexton will lead class discussions based on the assigned readings. In addition to the classes with President Sexton, Classroom Assistants will lead Student Teams in separate recitation sections. Each student is assigned to a team and will be notified at the first class meeting to which team they belong.

Class  Wednesdays, 6:30pm – 9:00pm
Vanderbilt Hall
40 Washington Square South
Room 208

Recitations  Arranged among the team members and Classroom Assistants at the first class meeting.

COURSE DESCRIPTION
Should members of the Native American church be allowed to smoke peyote at religious ceremonies? Can a public high school invite a rabbi to give a benediction and convocation at graduation? Should a state legislator rely on his or her religious convictions in forming a view about the legality of capital punishment or abortion? The course divides these questions into three subject areas: religious liberty; separation of church and state; and the role of religion in public and political life. It focuses on how the Supreme Court has dealt with these areas and, more important, invites students to construct a new vision of the proper relationship among religion, state, and society in a 20th-century liberal constitutional democracy.
ASSIGNMENTS

Students read an average of 128 pages per week, using unedited opinions of the Supreme Court of the United States as the primary text. From time to time there also are supplementary materials which complement these opinions. There are 10 weekly written assignments, for each of which students critically analyze one of the opinions read for and discussed in class. The instructor will announce which cases are to be analyzed during the course of the term. Assignments vary in length, but generally are not less than three (3) or more than five (5) pages each week. There may be additional writing assignments as well, and the Classroom Assistants provide specific instructions for the assignments well in advance of their due dates. Please note: reading materials and assignments currently listed in this syllabus may be changed during the course of the semester.

All written assignments must be double-spaced in 12-point font with a one-inch margin on all sides. Footnotes also should be in 12-point font. Additionally, the upper-right corner must include student’s full name, date and the assignment title. Please include page numbers.

Assignments must be submitted on time and a late submission can negatively affect the grade for that assignment. In the event an extension is required, a request must be made in advance of the scheduled due date and will be considered on a case by case basis.

ATTENDANCE

Attendance is required for all class sessions and recitations. Admission to this seminar is highly competitive, and more than two (2) unexcused absences from the class and/or recitation may result in the student being asked to withdraw from the seminar.

Requests for excused absences must be submitted to one of the Classroom Assistants as far in advance as possible, and only in exceptional cases will an excuse be accepted after the class has occurred. Excused or unexcused absences do not relieve the student of responsibility for completing all reading, writing or other assignments for the missed class(es).

EXAMS AND GRADING

There are no formal exams during the semester. However, there is a final paper which is approximately twice as long as the weekly written assignments and which serves as the final exam. Grades are comprised of the average of the final paper (25%), the grades on the 10 weekly written assignments (30%), the final, in-class, one-on-one debate (25%), grades for both class participation (10%), and recitation participation (10%).
LEARNING OUTCOMES
Students who complete the seminar and recitations successfully will demonstrate a capacity to:

- Explain their thoughts and opinions through reasoned and well-supported argument;
- Identify weaknesses and less persuasive arguments;
- Develop persuasive writing and reasoning skills;
- Write clear and coherent papers with textual support;
- Formulate a clear and supported opinion on complex topics; and,
- Examine critically and analytically opinions of the Supreme Court of the United States.

TEACHING METHODOLOGIES
The Instructor and Classroom Assistants will use a combination of teaching techniques, including lectures, research presentations, interactive exercises, in-class debate, media, Socratic method, and active discussion sections.

DISABILITY DISCLOSURE STATEMENT
Academic accommodations are available for students with disabilities. The Moses Center website is www.nyu.edu/csd. Please contact the Moses Center for Students with Disabilities (212-998-4980 or mosescsd@nyu.edu) for further information. Students who are requesting academic accommodations are advised to reach out to the Moses Center as early as possible in the semester for assistance.
MATERIALS AND ASSIGNMENTS

WEDNESDAY, JANUARY 29
Readings:
• How Free Are We

WEDNESDAY, FEBRUARY 5
Readings:
• The Constitution of the United States
• Excerpt from Everson v Board of Education of the Township of Ewing, et al

WEDNESDAY, FEBRUARY 12
Prayer in the Public Schools
Readings:
• The New York Regents Prayer
  o Engel v Vitale
• The Bible
  o School District of Abington Township, Pennsylvania v Schempp

WEDNESDAY, FEBRUARY 19
Prayer in the Public Schools
Readings
• Moments of Silent Prayer
  o Wallace, Governor of Alabama v Jaffree
• Ceremonial Prayer
  o Santa Fe Independent School District v Doe

WEDNESDAY, FEBRUARY 26
Secularism and its Struggles
Readings:
• Evolution
  o Epperson v Arkansas
• Creationism
  o Edwards, Governor of Louisiana v Aguillard
• “Public Education and Intelligent Design,” Thomas Nagel, Philosophy & Public Affairs, 36, No. 2, 2008

WEDNESDAY, MARCH 4
Aid to Religious Schools
Readings:
- Busing
  - Everson v Board of Education of the Township of Ewing
- Textbooks
  - Board of Education of Central School District No 1 v Allen
- Teachers
  - Lemon v Kurtzman, Superintendent of Public Instruction of Pennsylvania

WEDNESDAY, MARCH 11
Aid to Religious Schools
Readings:
- New York #1
  - Aguilar v Felton
- Signers
  - Zobrest v Catalina Foothills School District
- New York #2
  - Agostini v Felton
- Remedial Aid
  - Mitchell v Helms

WEDNESDAY, MARCH 18
NYU SPRING BREAK

WEDNESDAY, MARCH 25
Research Review

WEDNESDAY, APRIL 1
Debate Preparation
WEDNESDAY, APRIL 8
Aid to Religious Schools
Readings:
- Tax Benefits
  - *Committee for Public Education & Religious Liberty v Nyquist*
- Tax Credits
  - *Mueller v Allen*
- Vouchers
  - *Zelman, Superintendent of Public Instruction of Ohio v Simmons-Harris*

WEDNESDAY, APRIL 15
Exemptions for Religious Reasons
Readings:
- The Draft
  - *United States v Seeger*
- Employment
  - *Thomas v Review Board of the Indiana Employment Security Division*
- Drug Law
  - *The People v Woody*
- Education
  - *Wisconsin v Yoder*

WEDNESDAY, APRIL 22
Exemptions for Religious Reasons
Readings:
- Military Regulations
  - *Goldman v Weinberger, Secretary of Defense*
- Social Security Tax
  - *United States v Lee*
- Sacred Ground
  - *Lyng, Secretary of Agriculture v Northwest Indian Cemetery Protective Assoc.*
- Drug Law refrain
WEDNESDAY, APRIL 29
Exemptions for Religious Reasons
Readings:

- Hosanna-Tabor Evangelical Lutheran Church and School v. Equal Employment Opportunity Commission et al
- Burwell v. Hobby Lobby Stores

WEDNESDAY, MAY 6 – FINAL DEBATE
Defining Religion for Constitutional Purposes
Readings:

- Malnak v Yogi
- Africa v Commonwealth of Pennsylvania