SYLLABUS:
The U.S. Supreme Court: Conflict, Change and the Court

FALL 2020
September 21 – December 4

Instructor: Jessica Gresko
email: Jessica.gresko@ucdc.edu
Class Time: Thursday 5 p.m. Pacific / 8 p.m. Eastern
Office Hours aka “Huddle Time”: Let’s talk! Please e-mail me if you would like to schedule a time to talk via phone or Zoom. Please let me know a range of times that works for you. The best time to meet with me is after 5 p.m. (Pacific) Monday through Friday.

Course Description: Immigration. LGBT rights. Healthcare. Abortion. The death penalty. Cell phone privacy. The U.S. Supreme Court has decided cases on all of these topics in recent years, and its decisions ultimately touch the lives of all Americans. In this class we will study the Supreme Court's place in the U.S. legal system. Topics we will cover include: how a case gets to the court, the justices, the role of lawyers before the court, the purpose of oral argument, the court building and its symbolism, and media coverage of the court.

Students will listen to arguments in Supreme Court cases currently before the court. In papers, students will be asked to rigorously explain why the justices likely took current cases and how they will come out based on what they hear at oral argument. This class is geared not only toward anyone who is interested in the law or government service but also toward anyone interested in working on or being informed about the biggest issues of the day.

Goals for Student Learning: By the end of this course you will understand the process of how a case comes to be accepted and decided by the Supreme Court. You will have studied some of the court’s most important decisions as well as some of its most recent ones. And you will have a background that makes you more informed when reading news stories about the court as well as the tools to read Supreme Court orders and opinions.

In addition, consistent with The Washington Center’s mission for learning and goals for all classes, this class has the following goals:

Goal #1: Students will be able to relate their internship experience with the skills and substance learned in their course.

Achieving that goal: Students with internships in the legal world should be prepared to talk about those experiences during class as part of class discussion. All students will practice writing and analysis in two papers.

Goal #2: Students will be able to communicate persuasively in writing and orally.

Achieving that goal: Students will complete two papers and several 1-page reflections. All students will be expected to contribute to class discussions.
Goal #3: Students will be able to critically examine competing arguments, and use empirical evidence to research and apply theory to practice.

Achieving that goal: In their major written assignments students will: (A) dissect why they believe the Supreme Court agreed to take a case it is hearing this term (B) after listening to an oral argument and discussing oral arguments generally, analyze how they believe the court will rule on the case they heard.

About Your Professor: Hi, I’m Jessica Gresko and for more than a decade I’ve been a reporter for The Associated Press, first in Miami and now in Washington, where I cover the Supreme Court. As a legal reporter, I have covered court cases at all levels, both local and federal. I earned my B.A. in history and political science from Columbia University in New York and a M.S.L. (Master’s in the Study of Law) from Georgetown University Law School. I grew up in Southern California and took my first journalism class at UCLA. I have taught at UCDC since 2014. I look forward to getting to know you.

Course Materials and Accessibility:

The required textbook for this class is:  
You do need the 13th edition and not another edition of this text.

In addition to reading assignments from the Baum text and handouts, students are expected to keep up with major news about the court including cases that have been accepted by the court or are being argued. There are a number of ways to do this.

Students may want to make a habit of reading SCOTUS Blog (www.scotusblog.com) which has a daily post aggregating much of the day’s Supreme Court stories.

Students may also want to follow Supreme Court journalists using Google alerts or Twitter (where the hashtag #scotus is also helpful). Journalists covering the court include: Robert Barnes (Washington Post), Jess Bravin (WSJ), Lawrence Hurley (Reuters), Adam Liptak (NYT), Mark Sherman (AP), Ariane de Vogue (CNN) and Nina Totenberg (NPR).

Assignments: Students will complete a number of assignments over the course of the semester. They will count toward the student’s grade as follows:

<table>
<thead>
<tr>
<th>Quarter Students</th>
<th>Semester Students*</th>
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<tbody>
<tr>
<td>Short paper #1....................................35 percent</td>
<td>Short paper #1..............30 percent</td>
</tr>
<tr>
<td>Short paper #2....................................35 percent</td>
<td>Short paper #2..............30 percent</td>
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<tr>
<td>Class participation..................................20 percent</td>
<td>Class participation..............15 percent</td>
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<tr>
<td>1-page responses....................................10 percent</td>
<td>1-page responses..............10 percent</td>
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<td></td>
<td>Four week module.......15 percent</td>
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* Semester Students: Please note that 15 percent of your final course grade will be earned in the four-week module at the start of the term. Professor Jennifer Diascro will teach the module, but I will remain your instructor of record. I will get your module grade from Professor Diascro, factor it into your overall grade and submit the final course grades at the end of the term.

** All students: This class is taught as an INTRO LEVEL class with a significant writing component. You alone are responsible for ensuring that this class fulfills your campus’ requirements. ALL students should check EARLY IN THE QUARTER what the requirements are and ensure this class can meet it. If, after learning the requirements, you are unsure, you should contact me. UC San Diego, for example, has required that students return to campus with 20 pages of written work. If you have a requirement you will need to meet that requires different page limits you MUST email me to discuss.

Assignment Preparation: Assignments are due electronically via Canvas at the beginning of class and will be considered late if they are not turned in at that time. Please use Times New Roman 12-point type, 1-inch margins and double space to allow for comments. Please staple the pages of your assignment together. All assignments are expected to be spellchecked and proofread carefully. Failing to adhere to all of these rules will negatively affect your grade.

Class Participation: Class participation will be an integral part of this course. You should expect to be called on and, if asked, to present your work to the class.

Grading Scale:

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<tr>
<th>Grade</th>
<th>Percentage</th>
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<tr>
<td>A</td>
<td>93%+</td>
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<tr>
<td>A-</td>
<td>90-92%</td>
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<tr>
<td>B+</td>
<td>87-89%</td>
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<tr>
<td>B</td>
<td>83-86%</td>
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<td>B-</td>
<td>80-82%</td>
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<td>C+</td>
<td>77-79%</td>
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<td>C</td>
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<td>C-</td>
<td>70-72%</td>
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<td>D</td>
<td>60-69%</td>
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<td>F</td>
<td>0-59%</td>
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* In rare circumstances and at the instructor’s discretion, the overall grade of A+ may be awarded for work that is truly extraordinary. This grade will not be awarded every term.

Extra credit: There will not be any opportunities for extra credit in this class. With this in mind, I urge you to put forward your best effort on papers and your presentation.

Late Work: Due dates in this class are firm deadlines. As noted above, assignments are due at the start of class. Late work will be penalized one letter grade (10 points) for every week the assignment is late. Work that is five weeks or more late will get a 50 if satisfactorily completed. If you are having difficulty with an assignment or with keeping up with class for any reason, I urge you to speak with me ahead of the deadline.

Attendance: Students are expected to attend all classes. That said, this is a quarter likely to be filled with challenges. If you won’t be able to attend class, please email me so we can come up with a plan to keep you caught up. (I will worry if you don’t show up and I haven’t heard from you!) Please do make every effort to attend class. It’s easier to stay caught up than to get caught up. Being chronically late or absent without cause or without alerting me will affect your grade.
**Policy on Academic Misconduct:** UCDC has a zero-tolerance policy for cheating, plagiarism, and any other form of dishonesty. Students should refer to their home campus Student Code of Conduct for the regulations that apply to them. The burden is on each student to know what behaviors constitute cheating and plagiarism. Ignorance of these behaviors is not an adequate defense.

**Zoom (Classroom) Etiquette:**

- **VIDEO:** To the extent possible you should keep your video on during class. That said, if you find things going on around you may distract others or if you need to be off camera for any other reason, you are the best judge of that. Please feel free to go off video.
- **MUTE:** I will put the class on mute when class begins. Please keep yourself on mute when not asking a question or participating in discussion.
- **BREAKS:** I will give frequent bathroom/snack/stretch breaks. If you feel it has been too long between these breaks, please alert me. That said, if you need to urgently take a break for any reason, please do so. Please try, however, not to make this a habit.
- **EATING:** I recognize that this class meets after a long day and during a dinner hour. You are welcome to eat or drink so long as this does not become a distraction. Consider turning off your video while eating.
- **DISTRACTIONS:** Please refrain from doing other things on the computer during class (ie. instant messaging, checking email, shopping, etc.) You will not retain information if you are distracted.
- **NOTES:** I encourage students to take notes with paper and pen. Studies show that students who take notes longhand have a better retention of material. In addition, taking notes longhand will keep your fingers from doing other things (like instant messaging) and keep your mind engaged in the material we are working on.
- **RESPECT:** This class will sometimes involve the discussion of cases that provoke great feeling. During these and all discussions students are expected to offer their opinions in a respectful and thoughtful manner.

**E-mail policy:** I encourage students to email and make it a priority to respond to student emails as quickly as possible. I do, however, expect that before emailing you will check this syllabus or Canvas for an answer to your question and/or consult a classmate to see whether your question was answered in class. Part of what we do in college is prepare students for the “real world.” I therefore expect that before emailing students will consider whether (1) the question they are asking is something they can figure out themselves and (2) their email is written in the manner one would write his or her internship supervisor. I expect students will also check their e-mail regularly for messages from me. Failing to do these things may negatively affect your grade.

**Weekly Agenda:** The syllabus below is a guide and subject to change. Additional weekly assignments may be given to supplement the current syllabus. All listed homework assignments are to be completed **AFTER** the class on which they are listed and **DUE** the following Thursday.
**Accommodations:** In compliance with the Federal Rehabilitation Act of 1973, as amended (Public Law 93-112) and the Americans with Disabilities Act of 1990 (Public Law 101-336), University of California policy prohibits unlawful discrimination on the basis of disability in its programs, services, and activities.

If you require accommodation for class, please let me know at our first meeting (if not earlier) so the necessary arrangements can be made.

**UC Policy on Nondiscrimination on the Basis of Disability:**
http://policy.ucop.edu/doc/2710534/PACAO-140

**Statement on Sexual Harassment and Sexual Violence:**
The University of California is committed to creating and maintaining a community where all individuals who participate in University programs and activities can work and learn together in an atmosphere free of harassment, exploitation, or intimidation. Every member of the community should be aware that the University prohibits sexual harassment and sexual violence, and that such behavior violates both law and University policy. The University will respond promptly and effectively to reports of sexual harassment and sexual violence, and will take appropriate action to prevent, to correct, and when necessary, to discipline behavior that violates this policy on Sexual Harassment and Sexual Violence.

Students who wish to speak confidentially about an incident of sexual misconduct should contact UCDC’s Counseling Services at UCDCCounseling@gmail.com. Students who wish to report sexual misconduct or to ask questions about UCDC policies and procedures regarding sexual misconduct may do so with any UCDC faculty or staff, or contact Debbie Deas, Acting Director of Student Services (debbie.deas@ucdc.edu, 202-872-8937). Please note that because the University California is legally obligated to investigate reports of sexual misconduct, the confidentiality of reported misconduct cannot be guaranteed.
<table>
<thead>
<tr>
<th>Week 1: Getting Started – The American Legal System</th>
<th>Pregame…</th>
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<tbody>
<tr>
<td>Complete the survey</td>
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<tr>
<td>Fill out your bio on Canvas &amp; add a picture if you like</td>
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<tr>
<td>Read the syllabus</td>
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<tr>
<td>Come to class with questions!</td>
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<tr>
<td>Watch RBG</td>
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Class Discussion:
What does the average American know about the court?
How does the Supreme Court fit in the US legal system?
Mini bio: Chief Justice John Roberts

Homework for week 2:

  * **RESPONSE #1**:
    Write a response (1 page, double spaced max) to turn in about what you took away from the movie. You might consider responding to any or all of the following: What did you learn about Justice Ginsburg? What surprised you? What would you have said to the justice or asked her if you could have met her?

<table>
<thead>
<tr>
<th>Week 2: The Court</th>
<th>Pregame…</th>
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<tr>
<td>READ: the biographies of the current justices posted on Canvas (under “Files”). WRITE: A list of what you see as common characteristics many of the judges share and a single, short paragraph about why you think this is the case. Submit this list to me via Canvas before class. WATCH: Amy Coney Barrett nomination announcement: <a href="https://www.c-span.org/video/?476190-1/president-trump-nominates-amy-coney-barrett-supreme-court">https://www.c-span.org/video/?476190-1/president-trump-nominates-amy-coney-barrett-supreme-court</a></td>
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RESPONSE #1 DUE

Class Discussion:
Characteristics of individuals selected as justices
The confirmation process
Oral argument
Mini bio: Justice Clarence Thomas

Homework:

  * **Additional reading**: Articles about Google v. Oracle posted on Canvas
### Week 3: Supreme Court Cases Part I

**Pregame…**

**LISTEN:** To the 10/7 argument in *Google v. Oracle.*

You can listen to the live or recorded versions on C-SPAN.

**WRITE:** A 1-page double-spaced response (*RESPONSE #2*) reflecting on what you thought. What interested you? What surprised you? Don’t worry if you’re confused!

#### RESPONSE #2 DUE

10/8

Class Discussion:
- Paper #1: Why is the Supreme Court hearing this case?
- Number and type of cases the Supreme Court hears
- The role of the Solicitor General’s office
- Novice v. Experienced advocates
- Pool memos
- Amicus briefs
- Mini bio: Justice Ruth Bader Ginsburg

**Homework:**
- *Additional reading about the case we are listening to will be posted on Canvas*

**Begin…**

**SHORT PAPER #1:** See instructions at the end of the syllabus. This will be due in two weeks so get started now!

### Week 4: Supreme Court Cases Part II

**Pregame…**

**LISTEN:** 1 hr of oral argument in case TBD

#### Class Discussion:
- Continuation of last week’s topics
- Discussion of the case we listened to this week
- Mini bio: Justice Stephen Breyer

**Homework:**
- *Reading:* Baum, Chapter 4, “Decision Making”

**Finish…** **SHORT PAPER #1**
**Week 5: Oral Argument & Decision Making**

*Pregame...*
No pregame for this week! Finish your papers!

**SHORT PAPER #1 DUE**

Class Discussion:
The role (or not?) of oral argument
Aggressive questioners, silent partners & laughter from the bench
The decision process (the post-argument conference, assignment of opinions and dissents, circulation of drafts)
9-0 decisions and 5-4 decisions
Mini bio: Justice Samuel Alito

* Homework:*
  * Week 6’s pregame is particularly long so there is no homework assignment

**Week 6: Current Issues: LGBT Rights**

*Pregame...*
READ: “A Risky Proposal” in The New Yorker from Jan. 18, 2010:
[https://www.newyorker.com/magazine/2010/01/18/a-risky-proposal](https://www.newyorker.com/magazine/2010/01/18/a-risky-proposal)
WATCH: The Case Against 8 (2 hours)
Streamable if you have HBO:
[https://www.hbo.com/documentaries/the-case-against-8](https://www.hbo.com/documentaries/the-case-against-8)
Rentable for $3.99 on Amazon:
[https://www.amazon.com/Case-Against-8-Ben-Cotner/dp/B00S4P27OA](https://www.amazon.com/Case-Against-8-Ben-Cotner/dp/B00S4P27OA)
ANSWER: Answer the questions in RESPONSE #3
(which can/should be done while watching the movie)

**RESPONSE #3 DUE**

Class Discussion:
Bowers v. Hardwick
Romer v. Evans
Lawrence v. Texas
The 2013 cases: Windsor and Perry
The 20015 cases: Obergefell et al.
Mini bio: Justice Sonia Sotomayor

* Homework:*
  * DACA reading posted on Canvas
  * **RESPONSE #4:** Write a 1-page, double-spaced response reflecting on your feelings about the DACA program given what you know and have read. What role do you feel Congress, the president, and courts should play in this particular issue? If you can get these in before class time that will help me shape our
<table>
<thead>
<tr>
<th>Week 7: Current Issues: DACA</th>
<th>discussion but it is not required.</th>
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<tbody>
<tr>
<td><strong>Supreme Court Sitting November 2, 3 &amp; 4</strong></td>
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<tr>
<td><strong>Pregame…</strong></td>
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<tr>
<td><strong>READ:</strong> Articles about <em>Fulton v. Philadelphia</em> posted on Canvas</td>
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<tr>
<td><strong>LISTEN:</strong> 1 hr of oral argument in <em>Fulton v. Philadelphia</em></td>
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<tr>
<td>This case will be the topic of paper #2</td>
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<td>11/5</td>
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<td><strong>RESPONSE #4 DUE</strong></td>
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<td><strong>Class Discussion:</strong></td>
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<tr>
<td><em>Fulton v. Philadelphia</em> debrief</td>
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<tr>
<td>DACA</td>
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<td>Mini bio: Justice Elena Kagan</td>
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<td><strong>Homework:</strong></td>
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<tr>
<td>* Begin Short Paper #2</td>
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<td><strong>Supreme Court Sitting November 9 &amp; 10</strong></td>
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<td>Week 8: Current Issues: Healthcare</td>
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<td><strong>Pregame…</strong></td>
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<td><strong>READ:</strong> Articles about the 11/10 argument posted on Canvas</td>
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<td><strong>LISTEN:</strong> 1 hr of oral argument in the healthcare case (<em>California v. Texas/Texas v. California</em>) being argued 11/10</td>
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<td><strong>WRITE:</strong> A 1-page response (<strong>RESPONSE #5</strong>) in which you predict how the case will come out, using at least one of the principles we’ve discussed in class.</td>
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<td>11/12</td>
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<td><strong>RESPONSE #5</strong></td>
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<td><strong>Class Discussion:</strong></td>
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<td>Healthcare</td>
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<td>Mini bio: Justice Neil Gorsuch</td>
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<td><strong>Homework:</strong></td>
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<tr>
<td>* Finish Short Paper #2</td>
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<td>Week 9: Current Issues: The Death Penalty</td>
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<td><strong>Pregame…</strong></td>
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<tr>
<td>No pregame for this week! Finish your papers!</td>
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<tr>
<td><strong>SHORT PAPER #2 DUE</strong></td>
<td></td>
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<tr>
<td><strong>Class Discussion:</strong></td>
<td></td>
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<tr>
<td>The Death Penalty</td>
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<tr>
<td>Mini bio: Justice Brett Kavanaugh</td>
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</table>
Homework:
* Thank you for your hard work! Enjoy Thanksgiving break!
* Note … there is Pregame before our final class!

11/26

**THANKSGIVING: NO CLASS**

Supreme Court Sitting November 30, December 1 & 2

<table>
<thead>
<tr>
<th>Week 10: Current Issues: The Second Amendment</th>
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<tbody>
<tr>
<td><strong>Pregame...</strong></td>
</tr>
<tr>
<td><strong>READ:</strong> Second Amendment reading posted on Canvas</td>
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<tr>
<td><strong>LISTEN:</strong> 1 hr of oral argument in <em>DC v. Heller</em></td>
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12/3

Class Discussion:
The Second Amendment
Short Paper #1

Cert Petition Reading Assignment

INSTRUCTIONS: Read both the cert petition and reply in California v. Texas. Write a paper of four to six pages explaining why you believe the court agreed to hear the case.

To explain why the court agreed to hear the case, use the factors discussed in class and your reading. Be sure to begin your paper with an explanation of the case as you see it. Please follow the assignment preparation instructions from earlier in the syllabus.

THE DUE DATE: Paper is due on or before 10/22 at 5 p.m. Pacific / 8 p.m. Eastern

CITATIONS: You do not need to use any citations in your paper. If you want to, however, it does not matter to me what format you use. I would prefer footnotes rather than end notes.

WRITING STYLE: While I will be reading and grading your assignment, don’t assume I know anything about the Supreme Court. You should write your paper so that if a friend who knows nothing about the court picked it up, they could read it and understand your argument. This will allow me to see that you understand the material but it will also allow you to use the paper as a writing sample for internships and potential employers.

MUST READ INSTRUCTIONS:
• Please DOUBLE SPACE your paper, use 1-inch margins and Times New Roman size 12.
• Please use footnotes, not in-text citations. It does not matter to me in which format you cite.
• Spellcheck and check your grammar
• Failing to do any of the above will negatively affect your grade

NOTE: Students often ask me about a “rubric” for this assignment. Here is a general guide: You will lose points for many spelling and grammar errors. You will earn points for good arguments about the factors the court likely considered in this particular case. This paper is analysis. So if I told you what factors to analyze, this would not be a challenge and everyone would get 100%. I encourage students not to pursue a “kitchen sink” argument where they just throw everything in in the hopes they don’t leave something out. Making an erroneous argument will not help you.
Short Paper #2
Oral Argument Assignment

OVERVIEW: For your second paper you will be writing about Fulton v. City of Philadelphia. You will read the merits briefs in the case and listen to the oral argument.

After you have read the briefs and listened to the argument... write a paper of 4 to 6 pages (max) explaining how you believe the court will rule in the case. You should use the factors we discussed in class and those discussed in the reading to help you with your analysis. Beyond that, you should be sure to be specific about which justices’ votes you believe you could “read” as well as those you could not. You should do this, among other things, by discussing the specific questions the justices asked. Do not forget to begin your paper with a brief explanation of what the case is about.

MUST READ INSTRUCTIONS:
• In this paper, do not assume your reader knows anything about the Supreme Court. Explain any required terms or principles as if you were explaining to someone learning about the court.
• Please DOUBLE SPACE your paper, use 1-inch margins and Times New Roman size 12.
• Please use footnotes, not in-text citations. It does not matter to me in which format you cite.
• Spellcheck and check your grammar
• Failing to do any of the above will negatively affect your grade

THE DUE DATE: Paper is due on or before 11/19 at 5 p.m. Pacific / 8 p.m. Eastern

HOW CAN I REVIEW WHAT WAS SAID AT ORAL ARGUMENT?: Transcripts of oral argument are available on the same day the case was argued. They are available on the court’s website at the following link:
https://www.supremecourt.gov/oral_arguments/argument_transcript/2020

Audio of arguments is also available on the court’s website on the Friday after an argument is heard. Or, you can hear it sooner using C-SPAN. The link to audio on the court’s website is:
https://www.supremecourt.gov/oral_arguments/argument_audio/2020
ORAL ARGUMENTS FOR OCTOBER & NOVEMBER:

Monday, Oct. 5
10 a.m. Carney v. Adams: A case about a Delaware law that limits judges from various political parties.
11 a.m. Texas v. New Mexico: A water dispute between Texas and New Mexico involving 2014’s Tropical Storm Odile

Tuesday, Oct. 6
10 a.m. Rutledge v. Pharmaceutical Care: A case about drug reimbursement rates
11 a.m. Tanzin v. Tanvir: (SG) Involves a Muslim men asked by FBI to serve as government informants. FBI allegedly retaliated when the men said no by putting them on the No Fly List.

Wednesday, Oct. 7
10 a.m. Google v. Oracle America: A dispute between tech giants (We will listen and use this case as a case study and practice for Paper #1)
11 a.m. Ford Motor cases: A case about where Ford can be sued when something goes wrong involving one of its cars

Tuesday, Oct. 13
10 a.m. US v. Briggs/US v. Collins: Cases that involve military prosecution of rape
11 a.m. City of Chicago v. Fulton: A bankruptcy case involving a common scenario – someone files for bankruptcy in response to impoundment of a car. Must the car immediately be returned?

Wednesday, Oct. 14
10 a.m. Torres v. Madrid: A qualified immunity case involving a woman shot while trying to get away from police officers. (Skip)
11 a.m. Pereida v. Barr: A case about the ability of non-citizens who have committed crimes to get their removal from the United States cancelled.

Monday, Nov. 2
10 a.m. US Fish and Wildlife v. Sierra Club: A FOIA case involving the EPA and power plant rules
11 a.m. Salinas v. US RR Board: A case about retirement benefits for railroad workers

Tuesday, Nov. 3
10 a.m. Jones v. Mississippi: A case about juvenile life without parole
11 a.m. Borden v. US: A case involving the Armed Career Criminal Act

Wednesday, Nov. 4
10 a.m. Fulton v. City of Philadelphia: A case where a religious organization sues after being barred from Philadelphia’s foster care system because it won’t work with gay and lesbian couples. (We will listen and use this case for Paper #2)

Monday, Nov. 9
10 a.m. Niz-Chavez v. Barr: (SG) A (pretty in the weeds) case about deportation of non-citizens
11 a.m. Brownback v. King: A case that involves a fight between a man and police

Tuesday, Nov. 10
10 a.m. California v. Texas: A major Affordable Care Act case (We will listen and use this case for Paper #1)