Religion and the Constitution

Fall 2011

Wednesdays and Fridays, 9:00 – 10:30
Seigle 301

Instructor: John Inazu
Office: Anheuser-Busch 536
Office Hours: Thursdays 2-4 (or by appointment)
Email: jinazu@wulaw.wustl.edu
Credits: 3.0

Description

The First Amendment reflects a particular concern for “religion,” but the meaning of religion, its legal treatment, and the limits of religious expression have been fiercely debated. This course explores these debates through the doctrinal, historical, and theoretical dimensions of the religion clauses of the First Amendment, paying particular attention to the case law that has developed around these clauses. The course grade will be based on class participation (10%) and a take-home final examination (90%). Class participation will include regular small group interaction that will require consistent attendance and preparation.

Objectives

1. Gain a basic understanding of the theory and history that form the background to current religion clause jurisprudence.

2. Learn the statutory law and case law that comprises religion clause doctrine.

3. Recognize the policy and value choices that inform the development of case law

Text

Our casebook is McConnell, Garvey, and Berg, Religion and the Constitution (3rd Edition).

I will post additional reading assignments on Mylaw.


**Attendance and Class Participation**

The class participation component will be based on my evaluation of your interactions, preparedness, and thoughtfulness. That includes attendance, promptness, and active participation. I recognize that many of you will have foreseen and unforeseen conflicts, and I will accommodate those at the margins. But you should not take this course if you think you'll miss a significant number of classes.

**Computer and Phone Use:**

Please note that laptop computers are not permitted in class.

You may not use your phones during our class for any reason.

Students who violate the computer or phone use policy may have their semester grades lowered.

**Communication**

I will hold office hours on Thursdays from 2-4. I am also available to meet with you at a different time or place by appointment.

You can email me with questions or concerns. I will make every effort to respond to your emails within one day of your having sent them, with the exception of emails sent over the weekend or holidays, which I will answer by the following business day.

You should feel free to use office hours not only to discuss our substantive readings but also to obtain help on your writing, to ask questions about graduate school or legal practice, or to talk about other academic or career interests.
Course Schedule

Note that we will not meet on Friday, September 9th or Friday, September 30th. We have a makeup class tentatively scheduled for Friday afternoon, September 23rd. If we can instead find a mutually convenient time that all of us can meet at my house for dinner, we will hold the makeup class then.

I. OVERVIEW AND BACKGROUND

1 Introduction

   Syllabus
   CB 1-14

2 Major Influences on the Idea of Religious Liberty

   CB 29-47

3 Constitutional Provisions

   CB 58-73

4 Incorporation in the Fourteenth Amendment

   CB 73-87

II. RELIGION IN THE REGULATORY STATE

5 Free Exercise Exemptions

   CB 121-138

6 The Mormon Cases and Modern Exemptions

   CB 147-173

7 Smith: The Demise of Exemptions

   173-186

8 Responses After Smith

   CB 186-198
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<td>The Meaning of “Religion”</td>
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<td><em>EEOC v. Hosanna Tabor Lutheran Church</em> (6th Cir., Mar. 9, 2010)</td>
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The Permissibility of “Neutral” Aid

CB 432-452

Ongoing Controversies

CB 489-498
CB 691-699

IV. RELIGION, POLITICS, AND CULTURE

Compelled Statements of Belief

CB 523-533

Prayer

CB 533-557

Public Religious Displays

CB 564-575
CB 587-602

School Curriculum

CB 606-617
CB 620-627

Religion in Politics and Law

CB 744-759