

**TEXAS V. UNITED STATES**  
**Syllabus – Spring 2021**  
**Professors Emily Berman and D. Theodore Rave**

“I go into the office, I sue the federal government, and I go home.”  
– Greg Abbott, Texas Attorney General, April 30, 2013

**Course Description:** Everything is bigger in Texas, including the state’s impact on Constitutional Law. Seminal decisions originating in Texas have shaped every area of constitutional doctrine from abortion to voting rights. This class will explore the role that the state of Texas and localities within Texas have played in instigating constitutional change in our federal system. It will engage in in-depth analysis of landmark Supreme Court cases that came out of Texas, including inquiries into how the case developed, why the Supreme Court granted certiorari, and the impact of the eventual decision on Texas and the nation.

**Class Hours:** Tuesdays 2:30-5:30pm via Zoom. The Zoom link is available on Blackboard.

**Office Hours:** By appointment. Rave’s office is 142 BLB, his email is [dtrove@central.uh.edu](mailto:dtrove@central.uh.edu), and his assistant is Lillian White. Berman’s office is 228 TU2, her email is [ebberman@central.uh.edu](mailto:ebberman@central.uh.edu), and her assistant is Melissa Fleet.

**Required Reading:** There are no required books for this class. Required reading for each class meeting will consist of the full text of the Supreme Court opinion that we discuss in that class and the paper drafts that your fellow students will be presenting. We may post additional readings to Blackboard from time to time.

**Supplemental Resources:** You may find the following texts helpful throughout the course. We have placed them on reserve in the library.

- LUCAS A. POWE, JR., AMERICA’S LONE STAR CONSTITUTION: HOW SUPREME COURT CASES FROM TEXAS SHAPED THE NATION (2018)
- CONSTITUTIONAL LAW STORIES (Michael C. Dorf, ed., 2009)
- CIVIL RIGHTS STORIES (Myriam E. Gilles & Risa L. Goluboff, eds., 2008)
- ELECTION LAW STORIES (Joshua A. Douglas & Eugene D. Mazo, eds., 2016)

**Learning Outcomes:** Learn about constitutional law and Texas’s role in shaping it. Improve critical thinking and writing skills.

**Class Format and Assessment:** On the first day of class, each student will select one Texas-related Supreme Court case. Grades will be based on three components:

Presentation (30% of grade): The first half of each class will consist of one student presenting and then leading a discussion about the case they have chosen. The second half of the class will be devoted to a works-in-progress style discussion of that student’s paper. As the semester progresses, students will be expected to be further along in the writing process, so the workshop format will vary accordingly. Early in the semester, some students might present only a topic; later in the semester, students will be expected to have a more well-developed outline or draft. Student presentations will count for 30% of the grade.

Paper (50% of grade): Students will be expected to write a paper exploring some aspect of their chosen case. Some good examples of the types of papers you might write can be found in the

*Constitutional Law Stories* book or other books in the “Stories” series. We are open to trying different media in this class. In lieu of a paper, students may create a video documentary or “podcast,” if they prefer. Projects submitted in such alternative formats are expected to have the same level of content as a traditional paper and will be held to the same standards. Additionally, the medium must suit the message. Don’t choose audio unless you have recordings or interviews. Don’t choose video unless you have visuals. Please note that while appropriate alternative media are acceptable for your grade in this class, only a traditional paper of at least 10,000 words (including footnotes) will satisfy the Upper Level Writing Requirement. A final version of the paper or project will be **due on May 4** and will count for 50% of the grade.

**Participation (20% of grade):** Students will be expected to read and participate in the discussions about both the cases and their colleagues’ papers. All students must keep their webcams on during class. Student participation will count for 20% of the grade.

**Attendance:** You are expected to attend all class sessions. If you fail to attend at least 80% of class meetings you will be in violation of ABA and Law Center policy and may be dropped from the course. Because this is a small class and your colleagues depend on your feedback on their papers, attendance will be relevant to the class participation component of your grade.

**Sensitive Topics:** Many of the cases we will discuss deal with sensitive topics about which people have strongly held and widely divergent opinions. We find that class discussion is the most productive when students feel free to try out positions with which they (or others) may not agree and to test the assumptions underlying their own (or others’) views. For this reason, class discussion is strictly “off the record.” Outside of the classroom, you may not attribute any statements made in class to any of your classmates.

**No Recording of Class:** Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Center for Students with Disabilities. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor’s recordings for their own studying and notetaking. Instructor’s recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

**Accommodation:** If you have a disability and require an accommodation, please contact the Center for Students with Disabilities.

**Counseling:** Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS ([www.uh.edu/caps](http://www.uh.edu/caps)) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the “Let’s Talk” program, a drop-in consultation service at convenient locations and hours around campus. [http://www.uh.edu/caps/outreach/lets\\_talk.html](http://www.uh.edu/caps/outreach/lets_talk.html)

**Syllabus Changes:** Due to the changing nature of the COVID-19 pandemic, please note that we may need to make modifications to the course syllabus and may do so at any time. Such

modifications may include changes to the modes of assessment for the course. Notice of such changes will be announced as quickly as possible by email.

**First Assignment:** Please come prepared to choose a case to present and write about during the semester. Select 2 or 3 cases you would be interested in, as only one student will be able to select any given case. Below is a non-exhaustive list of Texas-related cases from which you might select, though you may propose a Texas-related case that does not appear on this list if there is one you would prefer. Please also read the introduction to Powe, *America's Lone Star Constitution*, which is posted on Blackboard.

### **Texas-Related Cases**

*Abbott v. Perez*  
*Alabama v. Texas*  
*Buck v. Davis*  
*Bush v. Vera*  
*Cleburne v. Cleburne Living Center*  
*Evenwel v. Abbott*  
*Fisher v. University of Texas*  
*Garcia v. San Antonio Municipal Transit Authority*  
*Hernandez v. Texas*  
*Houston v. Hill*  
*Lawrence v. Texas*  
*LULAC v. Perry*  
*Medellin v. Texas*  
*NAMUDNO v. Holder*  
*Panama Refining Co. v. Ryan*  
*Penry v. Lynaugh*  
*Plyler v. Doe*  
*Pointer v. Texas*  
*Railroad Commission v. Pullman Co.*  
*Reagan v. Farmers' Loan & Trust Co.*  
*Roe v. Wade*  
*San Antonio v. Rodriguez*  
*Santa Fe v. Doe*  
*Shreveport Rate Cases*  
*Sterling v. Constantin*  
*Sweatt v. Painter*  
*Texas v. Johnson*  
*Texas v. White*  
*United States v. Lopez*  
*United States v. Texas (1950)*  
*United States v. Texas (2016)*  
*Van Orden v. Perry*  
*Walker v. Sons of Confederate Veterans*  
*White Primary Cases*  
*Whole Woman's Health v. Hellerstadt*