

Reli 364.001 Religion and Law in the United States

Syllabus Spring 2024

Prof. John Farina

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Office Hours: MW 1:40-3:30

Office: Horizon 3135

Class meetings: MW 12:00 – 1:15

Exploratory L102

Course Description

This course will explore issues relating to law and religion. The course will focus on the legal doctrines that have arisen in cases under the Establishment and Free Exercise Clauses of the First Amendment. Topics addressed will include religion and public schools, government aid to religious institution (including school vouchers), government endorsement of religious symbols, freedom of religious expression, and freedom of religious practice.

Course Goals

1. To provide students with a basic understanding of the religion clauses of the First Amendment.
2. To provide students with a knowledge of the principles of constitutional interpretation.

Recommended Text

Frank S. Ratvitch, ed. *Law and Religion, A Reader: Concepts, Cases, and Theory*, 2nd or 3rd ed. Thompson/West 2008, 2015). Renting is fine; you do not need to own this.

As an alternative, I have provided on the Blackboard site, a book of all the cases we will be using, arranged in chronological order, Farina, ed. *Cases in Chrono Order*. You may use it instead of Ratvitch, and at times we will have to use it for cases not included in Ratvitch.

Course Requirements and Evaluation

Class Attendance and Participation. 15% of grade. Students will be assigned cases to present in pairs throughout the term.

Midterm exam. 35% of grade. Date TBA. A take-home exam.

Final exam. 50% of grade. A take-home exam.

Important Dates

First Class: January 17th

Last Day to Drop: January 30th

Spring Break: March 4th and March 6th
Last Class: April 29th

Final Due: May 6th by 11:59 pm via BB submission portal **AND** email a copy to the TA
Submit as a .docx file, not a .pdf file

Academic Integrity

GMU is an Honor Code university; please see the University Catalog for a full description of the code and the honor committee process. The principle of academic integrity is taken very seriously, and violations are treated gravely.

Office of Disability Services

If you are a student with a disability and you need academic accommodations, please see the professor and contact the Office of Disability Services (ODS) at 993-2474. All academic accommodations must be arranged through the ODS. <http://ods.gmu.edu>

Other Useful Campus Resources:

Writing Center: (703) 993-1200; <http://writingcenter.gmu.edu>

University Libraries "Ask a Librarian"

<http://library.gmu.edu/mudge/IM/IMRef.html>

Counseling and Psychological Services (caps): (703) 993-2380;

<http://caps.gmu.edu>

University Policies

The University Catalog, <http://catalog.gmu.edu>, is the central resource for university policies affecting student, faculty, and staff conduct in university affairs.

Classroom Etiquette

The use of cell phones in texting, browsing, or voice mode is strictly prohibited in class. Laptops, cell phones, watches, netbooks, tablets, ebook readers, etc. may only be used for reading assigned texts under discussion or taking notes. Any emailing, tweeting, or browsing is strictly prohibited. Students engaging in those activities will be asked to leave the class. Cell phones must be off or in airplane mode and must NOT BE VISIBLE to students.

Class Assignments

Readings should be done prior to class. Students *must* have either of the course textbooks with them in each class. Students who arrive without textbook and otherwise unprepared will be asked to leave the class.

Part One: The Establishment Clause

1-17 Cantwell v. Connecticut
 310 U.S. 296 (1940). Everson v. Board of Education
 330 U.S. 1 (1947)

1-22 Engel v. Vitale. **370 U.S. 421. Abington v. Schempp 374 U.S. 203**
 (1963)

- 1-24 Lee v. Weisman 505 U.S. 577 (1992). Santa Fe Indep. School Dist. V. Doe, 530 U.S. 290 (2000)
- 1-29 Wallace v. Jaffree, 472 U.S. 38 (1985). Edwards v. Aguillard, 482 U.S. 578 (1987)
- 1-31 Elk Grove Unfd Sch Dist v. Newdow, 542 U.S. 1 (2004). Marsh v. Chambers, 463 U.S. 783 (1983)
- 2-5 Lemon v. Kurtzman, 403 U.S. 602 (1971)
- 2-7 Wolman v. Walters, 433 U.S. 229 (1977). Witters v. Washington Dept. Servs. For the Blind, 474 U.S. 481 (1986)
- 2-12 Zobrest v. Catalina Foothills School Dist., 509 U.S. 1 (1993). Agostini v. Felton, 521 U.S. 203 (1997)
- 2-14 Mitchell v. Helms 530 U.S. 793 (2000)
- 2-19 Zelman v. Simon-Harris, 536 U.S. 639 (2002)
- 2-21 Lynch v. Donnelly, **465 U.S. 668. (1984). Allegheny County v. ACLU, 492 U.S. 573 (1989)**
- 2-26 Capital Square Review and Advisory Board v. Pinette, 515 U.S. 753 (1995)
- 2-28 McCreary County v. ACLU, 545 U.S. 844 (2005). Van Orden v. Perry, 2005, 545 U.S. 677 (2005)
- 3-11 Salazar v. Buono, 559 U.S. 700 (2010).
The American Legion v. American Humanist Association, Oyez, <https://www.oyez.org/cases/2018/17-1717> (last visited Feb 27, 2019). Fourth Circuit Court of Appeals opinion <http://www.ca4.uscourts.gov/Opinions/Published/152597.P.pdf>
Beckett Fund Brief
<https://s3.amazonaws.com/becketnewsite/Bladensburg-Cross-Corrected-Amicus-Brief.pdf>
ACLU Brief
<https://www.aclu.org/legal-document/american-legion-et-al-v-american-humanist-association-et-al-aclu-amicus-brief>

Midterm Examination Distributed. Due TBD, 11:59 pm via BB portal

Part Two: The Free Exercise Clause

- 3-13 Braunfeld v. Brown, 326 U.S. 599 (1961). Sherbert v. Verner, 374 U.S. 398 (1963)
- 3-18 Wisconsin v. Yoder, 406 U.S. 205 (1972). Goldman v. Weinberger, 475 U.S. 503 (1986)
- 3-20 Lyng v. Northwest Cemetery Protective Association, 489 U.S. 439 (1988). Employment Div. v. Smith, 494 U.S. 872 (1990)
- 3-25 Church of Lukumi Babalu Aye v. City of Hialeah, 508 U.S. 520 (1993)
- 3-27 City of Boerne v. Flores, 521 U.S. 507 (1997). Gonzales v. O Centro Espirita Beneficente Uniao Do Vegetal, 546 U.S. 418 (2008)
- 4-1 Christian Legal Society Chapter v. Martinez, 561 U.S. 661 (2010). Holt v. Hobbs, 574 US __ (2015)
- 4-3 Hosanna-Tabor, 565 U.S. __ (2012). **OUR LADY OF GUADALUPE SCHOOL v. MORRISSEY-BERRU** No. 19–267. Argued May 11, 2020—Decided July 8, 2020¹
- 4-8 Burwell v. Hobby Lobby Stores, Inc., 573 U.S. __ (2014)
Little Sisters of the Poor v. Burwell, 794 F. 3d 1151 - Court of Appeals, 10th Circuit, 2015. **Zubik v. Burwell**, 578 US_ (2016).
- 4-10 Trinity Lutheran Church of Columbia v. Comer, 582 US_ (2017).

Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission (16-111) June 4, 2018

https://www.supremecourt.gov/opinions/17pdf/16-111_new2_22p3.pdf

https://www.courts.state.co.us/Courts/Court_of_Appeals/Opinion/2015/14CA1351-PD.pdf

Amicus curiae, for the Petitioner from the Becket Fund [http://www.scotusblog.com/wp-content/uploads/2017/09/16-111-tsac the becket fund.pdf](http://www.scotusblog.com/wp-content/uploads/2017/09/16-111-tsac%20the%20becket%20fund.pdf)

Amicus curiae for the Respondent from Americans United for the Separation of Church and State [http://www.scotusblog.com/wp-content/uploads/2017/11/16-111 bsac americans united for separation of church and state.pdf](http://www.scotusblog.com/wp-content/uploads/2017/11/16-111-bsac-americans-united-for-separation-of-church-and-state.pdf).

4-15 **303 Creative v. Elenis. (21-476), 2022-23 term.** [303 Creative LLC v. Elenis | Oyez](https://www.scotusblog.com/wp-content/uploads/2022/09/303-Creative-LLC-v.-Elenis-Oyez.pdf)

[QPreport \(supremecourt.gov\)](https://www.supremecourt.gov/opinions/22pdf/17-1717-j426.pdf)

[Harris v. EEOC; Altitude Express v. Zarda ; Bostock v. Clayton Cty Georgia. <https://www.scotusblog.com/case-files/cases/altitude-express-inc-v-zarda/>]

4-17 Maryland-National Capital Park and Planning Commission v. American Humanist Association. **588 U.S. ____ (2019).**
[https://www.supremecourt.gov/opinions/18pdf/17-1717 j426.pdf](https://www.supremecourt.gov/opinions/18pdf/17-1717-j426.pdf)

[American Legion v. American Humanist Association :: 588 U.S. ____ \(2019\) :: Justia US Supreme Court Center](https://www.supremecourt.gov/opinions/18pdf/17-1717-j426.pdf)

4-22 Town of Greece, 574 U.S.__(2014)

Espinoza v. Montana Department of Revenue, 12/12/18
[https://appecm.mt.gov/PerceptiveJUDSupremeCourt/APP/connector/1/527/url/321Z2DD oB14XK8E4000006.pdf](https://appecm.mt.gov/PerceptiveJUDSupremeCourt/APP/connector/1/527/url/321Z2DD_oB14XK8E4000006.pdf)

4-24 Kennedy v. Bremerton School District, 21-418

4-29 Carson v. Makin, 20-1088

**Distribution of Final Exam, due May 6th at 11:59 PM via BB portal. AND email a copy to TA
No .pdf file, ONLY .docx file**

Disclaimer

The professor reserves the right, in his sole discretion, to change this syllabus at any time by announcements in class or through written notices.