**PHIL 430: PHILOSOPHY of LAW (Fall 2014)**

**VKC 100, Tue./Thu. 9:30am-10:45am**

**Instructor: Alex Sarch (**[**sarcha@usc.edu**](mailto:sarcha@usc.edu)**)**

**Office Hours: Tue. 11:15am-12:15am, Stonier 115a**

**Grader: Alida Liberman (**[**aliberma@usc.edu**](mailto:aliberma@usc.edu)**)**

**Office Hours: By Appointment**

**Final Exam: Thursday, Dec. 11 (11am-1pm)**

**Course Objectives:**

This course is intended as an introduction to some of the main themes of contemporary philosophy of law, with a particular emphasis on criminal law, tort law and constitutional law. Partly, the course aims to demonstrate the wide range of issues that are debated in legal philosophy, and partly to engage in detailed and critical discussion of the main philosophical arguments in the relevant literature. By the end of this course, you should be able to:

* write an argumentative paper
* analyze a legal opinion
* use different methods of constitutional and statutory interpretation to better understand laws, and
* critically evaluate legal institutions and substantive legal doctrines.

**Course Readings:**

The following books are stocked at the local textbook stores and required for purchase:

* *Routledge Companion to the Philosophy of Law* (A. Marmor, ed.)

*NB!* This (rather expensive) book is fully available online through the USC library.

* *American Law & the American Legal System*, Lloyd Bonfield (Nutshell series)
* Additional readings (mostly court opinions) on the Blackboard site for the course

**Grades:**

The grading of this course is based on 1) an in-class mid-term (30%), 2) a short writing assignment due toward the end of the semester (30%) and 3) a final exam (40%). Instructions for the exams and paper will be provided in class.

*Grading Policies*:

* All assignments will be graded by the TA for the course, Alida Liberman.
* *Curve*: Each assignment is graded on a curve. The aim is to achieve approximately a (bell curve) distribution of grades, with a mean of B+.
* Receipt of a passing grade requires completion of all course assignments and regular attendance. (Not handing in an assignment means you fail the class.)
* No extra credit will be given in this class.
* All papers and exams for this course must be your own individual work. *No collaboration*.
* Take-home assignments must be submitted on time, except in an emergency with my express permission. Late assignments face a stiff penalty of one grade per day late.
* Grades will be based mainly on the extent to which you (1) answer the questions asked in the assignment, (2) back up your opinions with sound arguments, evidence, and reasoning and (3) pursue and respond to objections to your position.

*Complaints*

* In the unlikely event that you disagree with your grade, you must first make your case in writing to the grader for the course, Alida Liberman, within one week of getting your assignment back. If she deems the complaint to be justified, she will then follow up with me and an appropriate decision will be reached.

**Other Policies:**

Students who need accommodations based on a disability are required to register each semester with the Disability Services and Programs. In addition, a letter of verification to the instructors from the Disability Services and Programs is needed for the semester you are enrolled in this course. If you have any questions concerning this procedure, please contact the course instructor and Disability Services and Programs at (213) 740-0776, STU 301.

**Schedule & Readings—SUBEJCT TO CHANGE**

RH = Routledge Handbook (Marmor)

Nutshell = American Law & the American Legal System (Bonfield)

Blackboard = Reading available as a link on the Blackboard website for the course

**Week 1: Overview of Criminal Law**

*Tue. Aug. 26*—Start Intro to Criminal Law: Procedure

*Thu. Aug. 28*—Intro to Criminal Law: Substantive law

* Nutshell ch. 10
* *US v. Morisette* (only pp. 1-5, 8) (Blackboard)

**Week 2: Sept. 2-5 (Labor Day Sept. 1)—Justification of Punishment**

*Tue. Sept. 2*—Justifications of Punishment 1

* RH ch. 10, M. Berman, The Justification of Punishment

*Thu. Sept. 4*—Justifications of Punishment 2

* *Regina v. Dudley & Stephens* (excerpts) (Blackboard)
* *US v. Bergman* (only sections I-IV) (Blackboard)

**Week 3: Sept. 8-12—The Insanity Defense**

*Tue. Sept. 9*—Insanity 1

* RH ch. 14, Gary Watson, The Insanity Defense

*Thu. Sept. 11*—Insanity 2

* *US v. Lyons* (only majority opinion) (Blackboard)

**Week 4: Sept. 15-19—Attempts**

*Tue. Sept. 16*—Attempts 1 (Why punish attempts more harshly?)

* Lewis, The Punishment That Leaves Something to Chance (Blackboard)

*Thu. Sept. 18*—Attempts 2 (What is a “substantial step”?)

* RH ch. 13, A. Duff, Criminal Attempts (2nd half only)

**Week 5: Sept. 22-26—Attempts/Complicity**

*Tue. Sept. 23*—Attempts 3

* *People v. Rizzo* (Blackboard)

*Tue. Sept. 25:* The Mens Rea for Complicity

* Yaffe, “Intending to Aid,” 2014 (excerpts) (Blackboard)

**Week 6: Sept. 29-Oct. 3—Overview of Tort Law**

*Tue. Sept. 30*

* Nutshell ch. 7

*Thu. Oct. 2*

* *Vaughan v. Menlove* (Blackboard)
* *Walter v. Wal-Mart* (Blackboard)

**Week 7: Oct. 6-10—Proximate Cause**

*Tue. Oct. 7*

* RH ch. 17: Zipursky, Proximate Cause in the Law of Torts

*Thu. Oct. 9*

* *Palsgraf v. Long Island R. Co* (Blackboard)

**Week 8: Oct. 13-17—Midterm**

***Tue. Oct. 14: Midterm Exam***

*Thu. Oct 16:**The Reasonable Person Standard in Negligence Law*

* Legal Theory Lexicon 004: The Reasonable Person: <http://lsolum.typepad.com/legal_theory_lexicon/2003/10/legal_theory_le_3.html>
* *US v. Carroll Towing* (Blackboard)

**Week 9: Oct. 20-24— What’s the Point of Tort Law?, Begin Constitutional Law**

*Tue. Oct. 21*

* Stanford Encyclopedia of Philosophy, Theories of Tort Law <http://plato.stanford.edu/entries/tort-theories/>

*Tue. Oct. 23*

* Nutshell ch. 3

**Week 10: Judicial Review**

*Tue. Oct. 28*

* RH ch. 28, J. Waldron, Judicial Review of Legislation

*Tue. Oct. 30*

* *Marbury v. Madison* (excerpts) (Blackboard)

**Week 11: Nov. 3-7—Constitutional Interpretation**

*Tue. Nov. 4*

* RH ch. 27, W. Waluchow, Constitutional Interpretation

*Thu. Nov. 6*

* *Griswold v. Connecticut* (Blackboard)

**Week 12: Nov. 10-14—14A Equal Protection**

*Tue. Nov. 11*

* Nutshell ch. 12
* *Brown v. Board of Education* (Blackboard)

*Thu. Nov. 13*

* *Washington v. Davis* (Blackboard)
* *Grutter v. Bollinger* (Blackboard)

**Week 13: Nov. 17-21—Finish 14A Equal Protection; Start 1A Protection of Religion**

*Tue. Nov. 18*

* Finish 14A cases from last week
* *Sherbert v. Verner*, (Blackboard)
* *Employment Division v. Smith*, (Blackboard)

*Thu. Nov. 20*:

* *Lemon v. Kurtzman*, (Blackboard)
* *Lynch v. Donnelly*, (Blackboard)

**Week 14: Nov. 24-28—1A Protection of Religion**

*Tue. Nov. 25*

* Finish 1A cases

*Thu. Nov. 27*: ***No Class—Thanksgiving***

**Week 15: Dec. 1-5—General Jurisprudence**

*Tue. Dec. 2*

* RH ch. 1 and 4

*Thu. Dec. 4*

* No new reading

***Final Exam*: Thu. Dec. 11 (11am-1pm)**