

CRJ 721  
Seminar on Capital Punishment  
Spring 2006

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Mon. 9:00-12:00  
DR 246  
2-4 Credits

Course Description and Requirements

This seminar examines legal, empirical, and policy issues related to capital punishment. We will focus on judicial decisions involving the constitutionality of the death penalty and its administration. This focus will allow us to explore historical, philosophical, moral, procedural, and political aspects of capital punishment.

Class meetings will rely heavily on discussion. Accordingly, reading assignments must be completed in advance of scheduled classes. Students will be expected to attend class regularly and participate in discussion.

The class is graded S/U (Satisfactory/Unsatisfactory). Students may register for two, three, or four credits, although registration for at least three credits is advised. All students will be required to participate in a class research project. Completion of reading assignments and satisfactory participation in class discussion and the research project are sufficient to earn three credits for the class. Students who opt to take the class for only two credits (based on tuition considerations or other reasons) may do so, but they nevertheless will be expected to complete the above requirements. Students who wish to earn four credits for the class must complete the above requirements and, in addition, write a research paper (approximately 15 pages) on an approved topic. A proposed topic statement for the paper must be submitted and approved not later than Feb. 13. Papers are due on or before April 24.

Our class research project involves compiling a detailed description of the conditions of confinement confronting offenders sentenced to death under state, federal, and U.S. Military jurisdiction. Teams of two or more students will be assigned to research one or more jurisdictions' death rows. The task will be to compile as much information as possible about death-row confinement in the various states and under federal and U.S. Military authority. Thus, for each capital punishment jurisdiction, at least the following information should be collected: (1) the place of confinement of male and female death-sentenced prisoners; (2) a description of the conditions of confinement (*e.g.*, cell size, number of prisoners to cell, policies governing matters such as hours per day within cell, exercise, visitation, programs and programmatic opportunities, access to spiritual advisors and/or religious worship, grooming, diet, access to library, access to television, radio, movies, music, etc., opportunities to communicate with other prisoners, medical, dental, and psychological care, special construction features of condemned unit, etc.); (3) age and size of prison institution; (4) annual changes in death-sentenced population; (5) relevant historical information; (6) a detailed bibliography and

documentation of sources of information. We will jointly plan a research strategy. At the conclusion of the semester, we will discuss our findings and their implications.

### Required Readings

Evan J. Mandery, *Capital Punishment: A Balanced Examination* (Jones and Bartlett, 2005)

James R. Acker, Robert M. Bohm & Charles S. Lanier, eds., *America's Experiment With Capital Punishment: Reflections on the Past, Present, and Future of the Ultimate Penal Sanction* (Carolina Academic Press, 2d ed. 2003)

A packet of photocopied cases and readings, available at Shipmates, at Stuyvesant Plaza.

These materials are abbreviated in the reading assignments as follows:

Mandery

AB&L (Acker, Bohm & Lanier)

\* cases and materials from the photocopy packet

### Tentative Schedule of Class Assignments

(Note: All assignments are subject to change. At least one week's notice will be given prior to any changes.)

Jan. 23        Introduction

Course overview

Discussion of class research project

Death penalty facts and figures

Jan. 30        The Road to *Furman*; *Furman v. Georgia*; Retribution

Mandery 162-190

5-21

Blecker, in AB&L 169-231

van den Haag, in AB&L 233-249

Feb. 6        The Modern Death Penalty Era: The 1976 Decisions—Guided Discretion and Mandatory Capital Punishment; Deterrence

Mandery 190-205

\**Proffitt v. Florida*, 428 U.S. 242 (1976)

Mandery 238-246

\*(*Harry*) *Roberts v. Louisiana*, 431 U.S. 633 (1977)

\**Sumner v. Shuman*, 483 U.S. 66 (1987)

Mandery 41-76

Peterson & Bailey in AB&L 251-282

Feb. 13        Future Dangerousness; Incapacitation; Cost; Mitigation

Mandery 246-250

\**Barefoot v. Estelle*, 463 U.S. 880 (1983)

Mandery 493-519; 77-99  
Sorensen & Marquart in AB&L 283-300  
Mandery 101-122  
Bohm in AB&L 573-594  
Mandery 250-254  
\**Mills v. Maryland*, 466 U.S. 367 (1988)  
\**State v. Guzek*, 86 P.3d 1106 (Or. 2004), *cert. granted*, *Oregon v. Guzek*,  
125 S.Ct. 1929 (2005)  
Haney in AB&L 469-500

Feb. 20        No Class

Feb. 27        Arbitrariness

\**Godfrey v. Georgia*, 446 U.S. 420 (1980)  
\**Zant v. Stephens*, 462 U.S. 862 (1983)  
\**Barclay v. Florida*, 463 U.S. 939 (1983)  
\**Brown v. Sanders*, \_\_\_ S.Ct. \_\_\_, 2006 WL 47402 (2006)  
\**State v. Marsh*, 102 P.3d 445 (Kan. 2004), *cert. granted*, *Kansas v. Marsh*,  
125 S.Ct. 2517 (2005)  
\**Blystone v. Pennsylvania*, 494 U.S. 299 (1990)  
\**Walton v. Arizona*, 497 U.S. 639 (1990)  
\**Pulley v. Harris*, 465 U.S. 37 (1984)  
Mandery 205-233; 254-262  
Steiker & Steiker in AB&L 55-83

March 6        The Capital Jury; Religion; Public Opinion

\**Spaziano v. Florida*, 468 U.S. 447 (1984)  
\**Ring v. Arizona*, 536 U.S. 584 (2002)  
Mandery 461-491  
Sandys & McClelland in AB&L 385-411  
Bowers, Fleury-Steiner & Antonio in AB&L 413-467  
Mandery 23-39  
Bohm in AB&L 27-54

March 13      Race; Victim Impact Evidence

Mandery 379-429  
Baldus & Woodworth in AB&L 501-551  
\**Booth v. Maryland*, 482 U.S. 496 (1987)  
Mandery 431-459  
Vandiver in AB&L 613-645

March 20      Innocence

Mandery 123-153  
543-570  
\**United States v. Quinones*, 313 F.3d 49 (2d Cir. 2002)  
Radelet & Bedau in AB&L 325-344

Freedman in AB&L 553-571  
In-class video: *The Thin Blue Line*

March 27      Assistance of Counsel; Proportionality—Rape, Felony Murder

Mandery 521-531

\**McFarland v. Scott*, 512 U.S. 1256 (1994) (Blackmun, J., dissenting from denial of *certiorari*)

\**Rompilla v. Beard*, 125 S.Ct. 2456 (2005)

Mandery 531-541

Bright in AB&L 127-146

Mello & Perkins in AB&L 347-384

Mandery 263-278; 279-308

April 3          Proportionality—Mentally Retarded Offenders; Juveniles

Mandery 339-361

309-338

\**Roper v. Simmons*, 125 S.Ct. 1183 (2005)

Streib in AB&L 301-323

April 10      No Class

April 17      No Class

April 24      Life Under Sentence of Death: Competency for Execution; Clemency

Johnson in AB&L 647-671

\**Groseclose v. Dutton*, 609 F.Supp. 1432 (M.D. Tenn. 1985), *vacated*, 829 F.2d 581 (6<sup>th</sup> Cir. 1987)

\**Gates v. Cook/Russell v. Johnson*, 376 F.3d 323 (5<sup>th</sup> Cir. 2004)

\**Lackey v. Texas*, 514 U.S. 1045 (1995) (Stevens, J., dissenting from denial of *certiorari*)

\**Knight v. Florida*, 528 U.S. 990 (1999) (Breyer, J., dissenting from denial of *certiorari*)

Mandery 573-588

Mandery 363-378

\*Ewing in AB&L 597-612

\**Ohio Adult Parole Authority v. Woodard*, 523 U.S. 272 (1998)

Mandery 599-615

Kobil in AB&L 673-692

\*Petition for Executive Clemency on behalf of Stanley Tookie Williams (Nov. 9, 2005)

\*Statement of Decision, Request for Clemency by Stanley Williams (Gov. Arnold Schwarzenegger, Dec. 12, 2005)

May 1          Execution

\**Louisiana ex rel. Francis v. Resweber*, 329 U.S. 459 (1947)

\**Glass v. Louisiana*, 471 U.S. 1080 (1985) (Brennan, J., dissenting from denial

of certiorari)

\**Fierro v. Gomez*, 77 F.3d 301 (9<sup>th</sup> Cir. 1996), *vacated based on mootness*,  
117 S.Ct. 285 (1996)

Denno in AB&L 693-762

Mandery 589-598

In-class video: *Fourteen Days in May*

May 8            Review and Discussion

Mandery 617-628

653-667

Discussion of class research project