SYLLABUS

LAW AND SEX

STRONG & SEXUALLY EXPLICIT LANGUAGE WILL BE USED IN THIS CLASS. IF YOU ARE OR MAY BE OFFENDED BY PROFANITY, NUDEITY, SEXUALITY, OR OBSCENITY YOU SHOULD NOT TAKE THIS CLASS

Special Topics in American Politics: LAW AND SEX
POLI 104M
University of California San Diego
Spring 2007
MATTHEUS E. STEPHENS, ESQ.

March 28, 2007
INTRODUCTION

This four-credit course will explore legal issues surrounding sexuality and the ways in which law regulates sexuality. The objective is to familiarize students with the historical relationships between the law and sex; introduce current controversies in legal theory and doctrine; foster independent thinking about the relationship between the law and sex; and enable students to explore aspects of the interrelationships between sexuality and law through course readings and class discussion. The course will focus on constitutional law in the areas of privacy, free speech, association, sexual conduct, reproductive rights, and the regulation of family status.


The class meets twice a week, on Monday and Wednesday from 5:00 p.m. to 6:20 p.m.

You will be required to do a lot of reading, re-reading and case summaries. Class attendance is critical. It is also helpful to talk in and after class about the materials.

CONTROVERSIAL TOPICS

Students of all viewpoints, philosophies, religions, and backgrounds are encouraged to express their thoughts in this class. In fact, it is critical to our success. Open communication between classmates, regardless of your social, political or religious views or status is fundamental to achieving a full dialogue on these dangerous topics. There is only one rule that MUST unequivocally be followed: all class participants must treat each other with courtesy and respect. There will be ABSOLUTELY no personal attacks or name-calling. This class emphasizes reasoning and analysis - not positions.

DISCLAIMER

Strong and sometimes offensive language will be used in the class. There will also be frank and graphic discussions about sexuality, including but not limited to, viewing graphic and sexually explicit photographs (particularly during the film "Dirty Pictures.") The candor required for this course, and the use of said language and pictures, is in my view necessary to properly convey the material - particularly the material on the First Amendment. If you believe you will find such language or photographs offensive, you need to drop this class!

OFFICE HOURS AND CONTACT INFORMATION

I am not a full-time professor. I am a practicing lawyer, which makes regular office hours challenging. Office hours will be at [TBD] following class or at the address below by appointment.

SYLLABUS FOR LAW AND SEX
Contact Information: Phone: (619) 234-5488; Email: mestephens@stockstephens.com. My office is located at 110 West "C" Street, Suite 3010, San Diego, California (on the corner of First and "C" in the "Chamber Building").

**ACADEMIC DISHONESTY**

Fair and effective education requires academic honesty, and any violation is a very serious matter. UCSD rules concerning academic dishonesty are spelled out in the General Catalog. Exams are closed-book, with no aids allowed. These rules will be strictly enforced. Any academic dishonesty will **without exception** be reported to the student's dean for disciplinary action. Please go to the following website for the entire UCSD Policy on Integrity of Scholarship:

[http://www-senate.ucsd.edu/manual/appendices/app2.htm#AP14](http://www-senate.ucsd.edu/manual/appendices/app2.htm#AP14)

**READING ASSIGNMENTS**

**April 2 [Class One]**
- Overview of the Class/Syllabus
- How to read case law & brief cases
- Common terms
- Kinsey Hand-Out

**April 4 [Class Two]**
- Introductory Materials
  - Eskridge & Hunter, *Preface on Constitutional Rights*, pp. xlix-1cv

**April 9 [Class Three]**
- Sexual Privacy (State v. Individual): Contraception
  - N.Y. v. Sanger
  - Roe v. Wade
  - Griswold v. CT
  - Bork, "Neutral Principles"
- *Eskridge & Hunter, Chapter One*, pp. 1-23 (Up to Part B)

**April 11 [Class Four]**
- Expanding Sexual Privacy:
  - Contraception, Abortion and Pornography
   - Stanley v. Georgia
   - Eisenstadt v. Baird
- *Eskridge & Hunter, Chapter One*, pp. 23-30 (Up to Part C)

SYLLABUS FOR LAW AND SEX
April 16 [Class Five]

Pregnancy & Privacy
Roe v. Wade
Planned Parenthood v. Casey
South Dakota
California
Eskridge & Hunter, Chapter One, pp. 30-43

April 18 [Class Six]
State Regulation of Unmarried Sexual Practices:
Fornication, Adultery & Sodomy
People v. Onofre
Bowers v. Hardwick
KY v. Wasson
Powell v. State
Eskridge & Hunter, Chapter One, pp. 44-63 (Up to Section 5)

April 23 [Class Seven]
The Watershed
Lawrence & Garner v. Texas
Glucksberg - compare right to die
Eskridge & Hunter, Chapter One, pp. 74-98 (Up to “Part C”)

April 25 [Class Eight]
Theories of Sexuality: Kinsey hand out
Finnis, "Law, Morality" pp. 506-511 (Up to "Congregation")
Rubin, "Thinking Sex" pp. 551-560 (Up to “Note on the Clash”)
Eskridge & Hunter, Chapter Four, pp. 505-511; 551-560

April 30 [Class Nine]
Law and Social Construction
Foucault: Butler
Price Waterhouse
Eskridge & Hunter, Chapter Four, pp. 584-589; pp. 598-613 (Up to Section 3)

May 2 [Class Ten]
A Film: Dirty Pictures

May 7 [Class Eleven]
MIDTERM

SYLLABUS FOR LAW AND SEX
May 9 [Class Twelve]
Sex and the First Amendment: Obscenity or Political Speech?
One, Inc.
GSO v. Bonner
PT & T
Cole & Eskridge, "Hand-Holding to Sodomy"
Eskridge & Hunter, Chapter Three, pp. 323-339 (Up to "Part B")

May 14 [Class Thirteen]
Sexuality and the First Amendment: Don't Tell
National Gay Task Force
Rust v. Sullivan; Rowanberger
Weaver v. Nebo School Dist.
Rowland v. Mad River (pp. 629-634)
Eskridge & Hunter, Chapter Three, pp. 339-352; 629-634

May 16 [Class Fourteen]
First Amendment: Identity & Viewpoint
Roberts v. Jaynes
Hurley v. Irish American
BSA v. Dale; Barnes-Wallace v. BSA
Eskridge & Hunter, Chapter Three, pp. 383 ("The Right of Assoc.") - pp. 418

May 21 [Class Fifteen]
Sexual Speech & Censorship
Lake Records
Crenshaw, "Mapping the Margins"
Barnes v. Glen Theatre ("Kitty Kat Lounge")
Cole, "Playing by Ferno's Rules"
Kandyland
Eskridge & Hunter, Chapter Three, pp. 419-421; 427-445 (Up to "Part B")

May 23 [Class Sixteen]
Sex Education & Sexuality in the Classroom
Tinker; Fricke; Friner
Younts; Till; Board of Ed. v. Pico
"Harmful to Minors" H.O.
Eskridge & Hunter, Chapter Seven, pp. 901-927

May 28 [Class Seventeen]
*** No Class ***
May 30 [Class Eighteen]

Equal Protection: Equality Arguments about Sexuality & Race
Leving v. Virginia
Romer v. Evans
Lawrence & Garner (Take 2)
Eskridge & Hunter, Chapter Two, pp. 165-169; 259-282

June 4 [Class Nineteen]

Arguments About Marriage
Zablocki & Turner
Baehr v. Lewin (also @ pp. 304-307)
Banar v. Miike
Baker v. State (T) (@ pp. 283-287)
Goodridge v. Dept. of Health (MA) (@ 1553-1563)
Eskridge & Hunter, Chapter Eight, pp. 1064-1083 (To "In re Estate")

June 6 [Class Twenty]

Marriage Continued
Interstate Recognition of Domestic Partners; California Statutes
Langen v. St. Vincent’s Hospital
DOMA; Cali Mini Doma
AB 205 & Woo Marriage Cases
The Federal Marriage Amendment
Eskridge & Hunter, Chapter Eight, pp. 1086-1097

MIDTERM & FINAL EXAMS

The midterm will be May 7, 2007 and will count for 40% of your grade. The final exam is scheduled for June 13, 2007 from 7:00 p.m. to 10:00 p.m. The final will count for 60% of your grade. A class review session can be scheduled.

The class is designed to have substantive content and expand your reading and analysis skills. To get the most out of it, you must attend, do the reading and participate in what no doubt will be lively discussions. I hope you enjoy this class.

Matthew E. Stephens