

SYLLABUS

CRIMINAL PROCEDURE AND PRACTICE SPRING 2017

Professor Anna Saxman ***NOTE- MY E-MAIL ADDRESS:

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Office hours (first floor in Waterman): before class on Wednesdays or before or after class on Mondays by special appointment.

Grading: You will be graded on 4 written assignments: 1 motion to suppress physical evidence and a motion to suppress statements (combined); 1 decision on a motion for judgment of acquittal; and 1 motion for new trial or a sentencing memorandum. You will also be graded on your 2 oral presentations, 2 judging of student arguments and class participation which may include *written and oral quizzes*. Some extra credit opportunities may be available.

TEXTS: Brent Newton, Criminal Litigation & Legal Issues in Criminal Procedure (NITA 4th ed. 2014) Joshua Dressler, Understanding Criminal Procedure, Volume I: Investigation (LexisNexis 6th ed. 2016).

1. AUGUST 28th MONDAY Intro to Class/ Bail

ASSIGNMENT: read pages 5-19 in Dressler and 1-6 in Newton, READ hypo ADVICE HANDOUT on TWEN.

2. WEDNESDAY AUGUST 30th BAIL

ASSIGNMENT: Read Newton text entitled Bail Hearings; 18 U.S.C. § 3142 (federal Bail Reform Act); Read Hypos and cases cited in preparation at the end of the hypotheticals and be prepared to discuss and judge the hypo.

TEAM A Hypo# 1 *United States v. Mahmoudi* p. 31 **NOTE:** Don't read *United States v. Byrd*--just the other two cases listed at the end of the HYPO

TEAM B Hypo# 3 *United States v. Johnson* p. 37

*****No class on Monday**- Labor Day***

3. WEDNESDAY SEPTEMBER 6th BAIL HYPOS/INTRO TO 4TH A

ASSIGNMENT: read hypos 4 & 5 and the case and statutes cited in preparation. Be prepared to discuss and judge the hypos.

TEAM C Hypo # 4 *United States v. Duff* p.39

TEAM D Hypo #5 *United States v. Marquez* p. 41

4. MONDAY SEPTEMBER 11th WHAT IS A SEARCH/ note- readings in Dressler will discuss some issues not covered in the hypos, but will be addressed in class lecture and handouts.

ASSIGNMENT: read Dressler pp. 50-61, 70-top of 81.

5. WEDNESDAY SEPTEMBER 13th - 4th AMENDMENT SEARCHES

ASSIGNMENT: Read Dressler-pgs. p. 261-269 and *Terry v. Ohio*, 392 U.S. 1 (1967) (majority opinion and J. Harlan's concurrence).

6. MONDAY SEPTEMBER 18th REASONABLE SUSPICION/TERRY STOPS

ASSIGNMENT: Read Dressler pgs. 270- 288 and Newton: Pretrial suppression Motions pgs. 55-58 and *Alabama v. White*, 496 U.S. 325 (1990). Be prepared to discuss and judge the hypos.

TEAM E HYPO # 1 *United States v. Gonzalez* p. 59

NOTE-TEAM E ARGUE only the first argument in HYPO # 1

TEAM F HYPO # 2 *United States v. Peterson* p.61

****First suppression motion given*

7. WEDNESDAY SEPTEMBER 20th WARRANTS/ BEGIN WARRANT

EXCEPTIONS ASSIGNMENT: Read Dressler, pgs. 81-104. Read the hypos listed below and the cases cited in preparation for the hypo and be prepared to discuss and judge it.

TEAM G HYPO# 3 *State v. Johnson* p.63

TEAM H HYPO # 4 *United States v. DeBeer* p. 65– **NOTE:** Assume that the sentence at the bottom of page 65 to top of page 66 has been omitted and Replace the cases listed at the end of this hypo with *Rodriguez v. United States*, 135 S. Ct. 1609.

8. MONDAY SEPTEMBER 25th WARRANT EXCEPTIONS/ SILA

ASSIGNMENT: Read Dressler 185-192 and 197-208

9. WEDNESDAY SEPTEMBER 27th EMERGENCY EXCEPTION/ EXCLUSIONARY RULE/ FRUITS

ASSIGNMENT: Read Dressler pgs. 179-183, 205-218. Read the hypo *United States v. Shaeffer* listed below and the cases cited in preparation for and be prepared to discuss and judge it.

TEAM I HYPO # 5 *United States v. Shaeffer* p.67

10. MONDAY OCTOBER 2nd CONFESSIONS-5TH AMENDMENT AND VOLUNTARINESS

ASSIGNMENT: Read Dressler pgs. 388-390, 405-419 and *J.D.B. v. North Carolina*, 131 S.Ct. 2394, 2400–2401(2011). Read the hypos listed below and the cases cited in preparation and be prepared to discuss and judge them.

TEAM J HYPO # 2 *State v. Davis* p.77

TEAM K HYPO #3 *State v. Tindall* p. 79

11. WEDNESDAY OCTOBER 4th MIRANDA

ASSIGNMENT: Optional reading: *Miranda v. Arizona*, 384 U.S. 436 (1966); mandatory reading: Dressler pgs. 462-486. Read the hypo listed below and the

cases cited in preparation for the hypos and be prepared to discuss and judge them.

TEAM L HYPO # 4 *United States v. Porto* p. 81

Note: NO CLASS on Monday October 9th-Fall Break

12. WEDNESDAY OCTOBER 11th- MIRANDA RIGHT TO COUNSEL/ 6TH AMENDMENT/ Eyewitness ID

ASSIGNMENT: Finish Dressler pgs. 457- 482

Oral quiz on 4th and 5th amendment

Suppression motion due

13. MONDAY OCTOBER 16th DOUBLE JEOPARDY/COMPULSORY PROCESS

ASSIGNMENT: Read Dressler pgs. 527-538. Read the hypos listed below and the cases cited in preparation for the hypos and be prepared to discuss and judge them.

TEAM M HYPO Double Jeopardy fact pattern handout

TEAM N HYPO # 3 *United States v. Rodriguez-Hernandez* p. 51

14.WEDNESDAY OCTOBER 18th LEGAL OBJECTIONS-COMMENTS ON THE RIGHT TO SILENCE

ASSIGNMENT: Read Newton p. 95-96 and the hypos listed below and the cases cited in preparation, and Be prepared to discuss and judge the hypothetical exercises listed below.

TEAM O Hypo #1 *State v. Reno* p. 97 **NOTE** read *Salinas v. Texas*, 133 S.Ct. 2174 (2013) and *United States v. Jones*, 2014 WL 950025 (E.D.N.Y.) instead of *Velardez-Gomez*, 269 F.3d 1023 (9th Cir. 2001).

Team O only argue only Part A-Rest of class be prepared to argue to discuss Part B

*****TEAMS SWITCH-** if you were prosecution-you are now defense and vice versa

TEAM A Hypo #2 *State v. Herman* p.101

15. MONDAY OCTOBER 23rd OBJECTIONS/ JUDGMENT OF ACQUITTAL

ASSIGNMENT: Read F.R.Cr.P. 29; Read Newton on Motions for Judgment of Acquittal, (pgs. 113-116) and the hypos listed below and the cases cited in preparation. Be prepared to discuss and judge the hypos listed below.

TEAM B Hypo # 1 *United States v. Doggett* p. 117

TEAM C *United States v. Willie*, p.121

JOA assignment given

16. WEDNESDAY OCTOBER 25th JUDGMENT OF ACQUITTAL

ASSIGNMENT: Read hypos listed below and the cases cited in preparation. Be prepared to discuss and judge the hypos listed below.

Team D Hypo # 4 *United States v. Nixon* p.125

Team E Hypo # 5 *United States v. Watkins* p. 127

17. MONDAY OCTOBER 30th JURY INSTRUCTIONS

ASSIGNMENT: Read F.R.Cr.P. 29.1, 30 & 31; Read Newton on Jury Instructions p. 133-34. Read the hypos listed below and the cases cited in preparation. Be prepared to discuss and judge the hypos listed below.

TEAM F Hypo #2 *United States v. Fernandez-Ochoa* P. 141 **NOTE:**

Also read: *United States v. Giovannetti*, 919 F.2d 1223 (7th Cir.1990).

TEAM G Hypo # 3 *United States v. Shields* p. 145

18.WEDNESDAY NOVEMBER 1st JURY INSTRUCTIONS continued

ASSIGNMENT: Read the hypos listed below and the cases cited in preparation. Be prepared to discuss and judge the hypothetical exercises listed below.

TEAM H Hypo # 4 *United States v. Montcrief* p.149

TEAM I Hypo# 5 *United States v. Weston* p. 153

19.MONDAY NOVEMBER 6th MOTIONS FOR NEW TRIAL

ASSIGNMENT: and F.R.Cr.P. 16, 16.1,33 and *Brady v. Maryland*, 373 U.S. 83 (1963). Read the hypo listed below and the cases cited in preparation. Be prepared to discuss and judge the hypo listed below.

TEAM J HYPO # 1 *United States v. Nguyen* p. 183 **NOTE**- TEAM J just argue exercise 1 & rest of class be prepared to argue exercise 2.

*** Review Quiz****

20.WEDNESDAY NOVEMBER 8th MOTIONS FOR NEW TRIAL

ASSIGNMENT: Read the hypos listed below and the cases cited in preparation. Be prepared to discuss and judge the hypothetical exercises listed below.

TEAM J Hypo # 3 *State v. Sanchez* p. 197

TEAM K Hypo # 4 *United States v. Fullwood* P. 199

21. MONDAY NOVEMBER 13th GUEST PRESENTATION

JOA assignment due by 5:30 * last written assignment given**

22.WEDNESDAY NOVEMBER 15th SENTENCING

ASSIGNMENT: Read Newton on Sentencing Hearings pgs.159-163 and F.R.Cr.P. 32 Read the hypos listed below and the cases cited in preparation. Be prepared to discuss and judge the hypothetical exercises listed below.

TEAM L HYPO# 1 *United States v. Waller* p.165

TEAM M HYPO # 2 *United States v. Reed* p. 169

23. MONDAY NOVEMBER 20th SENTENCING/ PLEAS

ASSIGNMENTS: Read the hypo listed below and the cases cited in preparation. Be prepared to discuss and judge the hypo.

TEAM N Hypo # 3 *United States v. Iverson* p. 171

24. **WEDNESDAY NOVEMBER 22nd **Note: no class held** but assignment will be given!

ASSIGNMENT: TBA

25. MONDAY NOVEMBER 27th INEFFECTIVE ASSISTANCE OF COUNSEL

ASSIGNMENT: Read Newton pages 177-182 in Newton, the hypos listed below and the cases cited in preparation. Be prepared to discuss and judge the hypothetical exercises listed below.

TEAM O Hypo # 3 p. 223

26. WEDNESDAY NOVEMBER 29th VOIR DIRE

ASSIGNMENT: Read Newton pgs.85-88; Read *Batson v. Kentucky*, 476 U.S. 79 (1986) and *J.E.B. v. Alabama*, 511 U.S. 127 (1994).

*****Extra credit opportunity: Volunteer to argue or judge *State v. Gerger* on page 89 or *State v. Edwards* on page 90 or 91.**

27. MONDAY DECEMBER 4TH COMPETENCY/SANITY/ DIMINISHED CAPACITY

ASSIGNMENT: Read Handouts. Guest Presenter

Written assignment due in class!