

CRITICAL LEGAL THEORY

Professor Gilda Daniels

Law Center, Room 1012

410-837-4607

E-mail: gdaniels@ubalt.edu

Website: www.gildadaniels.com

Office Hours: Mondays and Wednesdays, 3 to 4 p.m.

Week One Assignments

Course Materials

Required Text. Students are *required* to bring the following material to each class:

David Kairys, *THE POLITICS OF LAW* (3d. ed. 1997).

Suggested Materials. The following materials are suggested:

Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction* (2012 NYU Press);

Nancy Levit and Robert R.M. Verchick, *A Primer Feminist Legal Theory* (2006 NYU Press).

Class One Reading Assignment and Discussion Questions

“Obama Makes Empathy a Requirement for Court,” *The Washington Post*, May 13, 2009 (TWEN)

Ledbetter v. Goodyear Tire & Rubber Co., 550 US 618 (2007)(TWEN)

Prepare answers to the following questions in light of the opinions in *Ledbetter* and the *Washington Post* article.

1. Should legal reasoning be characterized by objectivity, neutrality, predictability and determinacy? In *Ledbetter*, how do you think Justices Alito, and Ginsburg would each answer this question?
2. Do the Justices have a different “story” to tell about the facts of this case apart from their doctrinal differences? If so, what are these stories and how are they related to the Justices’ doctrinal differences?

3. Discuss whether President Obama's approach to choosing Supreme Court Justices reinforces the notion that law is objective and rational or strives to achieve the goal of objectivity and neutrality.
4. What role should fairness or justice play in judicial decision making?

Note: Your typed answers to these questions must be handed in after Class #2. Written answers may not exceed three pages.

Class Two Reading Assignment and Discussion Questions

Read: *DeShaney v. Winnebago County Department of Social Services*, (1989)(TWEN)

Write answers to the following questions in light of the opinions in *DeShaney*.

1. Should legal reasoning be characterized by objectivity, neutrality, predictability and determinacy? In *DeShaney*, how do you think Justices Rehnquist, Brennan, and Blackmun would each answer this question? In *Ledbetter*, how do you think Justices Alito, and Ginsburg would each answer this question?
2. What role should or must sympathy play in reaching a correct result? How do you think Justices Rehnquist, Brennan, and Blackmun would each answer this question?
3. Should law have grounding in morality? Is this what Justice Blackmun means when he says that law "should have a moral ambition?"
4. What does Justice Blackmun mean when he accuses the majority of "sterile formalism"?
5. Do the Justices have a different "story" to tell about the facts of this case apart from their doctrinal differences? If so, what are these stories and how are they related to the Justices' doctrinal differences?
6. Do your answers to these questions hold any lessons for advocates?
7. Discuss whether President Obama's approach to choosing Supreme Court Justices reinforces the notion that law is objective and rational or strives to achieve the goal of objectivity and neutrality.

8. What role should emotion play in judicial decision making? What role should justice?

Note: Your typed answers to these questions must be handed in after Class #2. Written answers may not exceed three pages.