POVERTY LAW SYLLABUS

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Because I am a practicing attorney, I will only be at the law school for the classes. I will be happy to stay after class to discuss any particular problems or concerns with students. Depending on my schedule, I may be able to get to the school before classes are scheduled to begin. If anyone wants to discuss something with me before class, please call or email me to let me know and I will do my best to accommodate you.

This course will address two distinct, but related and overlapping, aspects of “poverty law,” theory and practice. Theory and philosophy will discuss the general questions of how to best serve the needs of the poor and who decides, as well as the right to representation and how that is achieved. We will also discuss the Affordable Care Act and immigration, focusing on last term’s Supreme Court decisions and how they affect poor people.

While I hope that students will gain some understanding of poor people’s needs and the challenges they face, I also hope they will learn some skills that they can apply in practice. We will therefore discuss how to represent people in specific areas of the law, disability claims, landlord and tenant, debt collection.

Thus, it is expected that, by the end of the course, students will gain a deeper understanding of how the law and our legal system affects poor people. In fact, nearly every area of law has an impact on the poor. While it is impossible to cover all of those in this course, students should be able to look to any particular area of concentration with the ability to analyze how it does affect the poor and the potential effects of alternate approaches on the poor.

It is also expected that students will have the tools to effectively represent clients in the specific areas of substantive law covered. That does not mean that students will be expected to have expertise in those areas, but that they will have a fundamental understanding of the basic issues involved and know what resources to look to and how to analyze a particular problem.

I will expect one paper, which should be on some theoretical or philosophical aspect of poverty law. By the fifth week, students should determine what the paper will be on, discuss it with me and get approval. The paper should be approximately 3,500 words, but length is less important than covering a subject as concisely as possible, with clarity and with an analysis that presents an opinion but recognizes and addresses opposing views. Papers will be due on, or before, the last class. If a student is unable to complete the paper on time, I should be advised at least one week prior to the due date of the fact, the reason and of the date it will be completed. I would prefer a telephone call so that we can discuss how much additional time is appropriate and so that I can approve the request.

Students will be tested on the practical parts of the course. The exam will be “open
book,” since being a good lawyer means being able to find the right answers, not having them in your head.

I emphasize that, for both the paper and the exam (particularly the former), it is expected that there will be no misspelling or bad grammar. With the exam, of course, there will be time constraints and errors are to be expected. With a paper, however, such errors are not acceptable. I would note, for instance, that Justice Black, when writing an opinion, would go through several edits, including one for the sole purpose of eliminating extraneous commas. He did this before there were computers, so it is not too much to expect that papers be error-free. I say this, I confess, having too often reviewed my pleadings and briefs well after they were filed and being embarrassed by mistakes.

Class participation will be considered and may result in an increase of one letter grade. Based on my understanding of the class size in the past, I do not intend to reduce grades because of lack of participation. Otherwise, the paper will count towards two-thirds of the grade and the exam towards one-third.

The law school is committed to meeting the needs of students with physical, learning and other disabilities, and provides appropriate accommodations and services tailored to each individual’s specific needs and requirements. I would add, on a personal note, that Harriet McBryde Johnson was a friend of mine and I count among my friends others with disabilities who have made me conscious of the difficulties that people with disabilities must overcome. I also had a personal experience that gave me a more visceral understanding of just how difficult it is for someone with disabilities to manage, so I think the requirements of the Americans with Disabilities Act are minimal. That being said, I also recognize that oftentimes, a disability may not be apparent to others and students should not hesitate to apprise others of her or his needs. The law school’s assistant deans and the University’s Office of Disability Services work together to help individuals with disabilities achieve and maintain individual autonomy. Students with disabilities are encouraged to contact Claude Arrington, Associate Dean for Students/Academic Services at 205-348-5751 or arrington@law.ua.edu so that the individual’s need for support services can be evaluated and accommodated in a timely manner.

I note, as well, that I value diversity in all its forms (note the proposed Birmingham human rights ordinances, which I drafted). While I encourage argument and disagreement and expect students to challenge each other and me, that should never become ad hominem or based upon a person’s characteristic, such as ethnicity, religion, nationality, sexual orientation or gender identity.

All students in attendance at the University of Alabama are expected to be honorable and to observe standards of conduct appropriate to a community of scholars. The University expects from its students a higher standard of conduct than the minimum required to avoid discipline. Academic misconduct includes all acts of dishonesty in any academically related matter and any knowing or intentional help, or attempt to help, or conspiracy to help another student. (I assume this refers to assisting another student in an act of dishonesty. I would personally encourage students to help each other with advancing their knowledge and understanding. In the days before
email, when I attended law school, one of our professors counseled that the most important instrument of legal research is the telephone.)

The Academic Misconduct Disciplinary Policy will be followed in the event of academic misconduct.

**NOTE: It is likely that some additional readings will be assigned during the course of the semester.**

Also, if students have difficulty finding any particular assigned reading, email me at pass.gandjlaw@gmail.com so I can provide it.

Week One: The human rights framework and poverty – economic rights as human rights


Proposed Birmingham Human Rights Ordinances (attached to this syllabus)


2. **Approaches (2 weeks):**

Addressing individual needs for particular legal services or addressing needs for stability and security. Should the human rights framework guide the provision of legal services to the poor or do lawyers have the responsibility to meet their clients’ specific needs – Reagan & California Legal Services - Maryland Legal Aid

**Week Two**

[http://www.cato.org/research/articles/vas-0109.html](http://www.cato.org/research/articles/vas-0109.html)


Using a Human Rights Framework at the Maryland Legal Aid Bureau – Peter Sabonis
44 Clearinghouse Rev. 450
Keynote Presentation by Cathy Albisa, on October 12, 2009 at Maryland Legal Services Conference

2009 Maryland Legal Aid Strategic Plan

“Keep the Dream of Equal Justice Alive” – Steven Bright address to Yale Law School Commencement

Week Three

“Rethinking Legal Services Corporation Program Integrity Rules” Andrew Haber, Virginia Journal of Social Policy & the Law, Volume 17, Number 3, Spring 2010
http://www.student.virginia.edu/~vjspl/17.2/Haber%20--%20LSC%20Program%20Integrity%20Rules.pdf
http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1842&context=ulj
Mauricio Vivero - “From Renegade Agency to Institution of Justice

Quigley - “Legal Services: the Demise of Law Reform and the Triumph of Legal Aid: Congress and the Legal Services Corporation from the 1960's to the 1990's”

3. Week Four What rights do we keep/what rights are given up

Wyman v. James, 400 U.S. 309, 91 S. Ct. 381  (1971)

Peter Edelman, Changing the Subject: from Welfare to Poverty to Living Income


4. Week Five: What is poverty in the legal system? At what level of income does one escape the disadvantage of being poor? For what kinds of cases? Can someone earning $50,000 a year afford representation?

Heritage Foundation: Poverty in the US –

“Why Heritage is Wrong About Poverty in America”

Week Six: The Effects of Poverty

*Nickel and Dimed*, by Barbara Ehrenreich (This is a full-length book, available at the book store. While it is pretty fast reading, I advise not waiting until the week before class to start reading it)

5. Week Seven: Disability Benefits – Social Security and SSI - Making a living representing the poor


Understanding the Grids

6. Week Eight - Landlord and Tenant

*Burton v. Tampa Housing Authority*, 271 F.3d 1274 (11th Cir. 2001)

*Ala Code 35-9A*

7. Week Nine – Civil Right to Counsel (Guest lecturer, John Pollok, Coordinator, National Coalition for a Civil Right to Counsel. John Pollock)

*Turner v. Rogers*

The right to representation - civil Gideon - Should poor people be appointed lawyers in civil cases? Under what circumstances? Consequences of not having representation


*Quail v. District Court*, 171 Cal.App.3d 572, 217 Cal.Rptr. 361

ABA Resolution – Task Force on Access to Civil Justice

The Case Against Civil Gideon: http://overlawyered.com/2008/06/the-case-against-civil-gideon/


*Boddie v. Connecticut*, 401 U.S. 371, 91 S.Ct. 780, 28 L. Ed.2d 113
8 Week Ten: Immigration and its impact on the poor


http://www.cis.org/node/1582


http://www.irp.wisc.edu/publications/focus/pdfs/foc262e.pdf

http://www.nber.org/papers/w17570

8. Week Eleven: Health Care - The Affordable Care Act & Medicaid

*National Federation of Independent Business v. Sebelius*, 11-393

42 CFR 435

While I expect students to review the entire decision, we will be focusing in this class on the Medicaid provisions and the effect of the ruling on those who cannot afford insurance, particularly in Alabama. When reviewing the provisions of the Code of Federal Regulations, students should be aware that Alabama has provided only the minimal, mandatory coverage.

9. Week Twelve: Landlord/Tenant - What rights do tenants have: in Alabama; other states.

   Ala. Code § 35-9A: Uniform Residential Landlord and Tenant Act

10 Week Thirteen. Criminal Law – Plans for insuring proper defense: public defender/appointed counsel/contract attorneys


*Burdine v. Johnson*, 231 F.3d 950 (5th Cir. 2000)

*Burdine v. Johnson*, 262 F. 3d 336 (5th Cir. 2001)
Optional but recommended, whether now or later: *The New Jim Crow* by Michelle Alexander

11. Week Fourteen Debtors’ Rights