

## HOW TO WRITE A CASE BRIEF

A case brief is a tool to clarify your analysis of the facts and law of a case. It can be extensive or short, depending on the depth of analysis required. A comprehensive brief includes the following elements:

1. Title and Citation
2. Facts of the Case
3. Issues
4. Rulings (Decisions or Holdings)
5. Reasoning (Rationale of the court)
6. Separate Opinions, if any
7. Analysis

Brief the case *after* you have read it through at least once. Sometimes only contemplation will tease out the hidden essence or perspective. Some students read the case, then brief it the next day. Look for unarticulated premises, logical fallacies, manipulation of the factual record, or distortions of precedent. Ask how the case relates to other cases in the same general area of law? What does it show about judicial policymaking? Does the result violate your sense of justice or fairness? How might it have been better decided? Why?

### 1. Title and Citation

The title of the case shows who is opposing whom. The name of the person who initiated legal action in that particular court will always appear first. Since the losers often appeal to a higher court, this can get confusing. Frequently, reading the case will divulge who first brought the action in the trial court, and the loser there is the appellant to a higher court.

The citation tells how to locate the case in the appropriate case reporter. If you know only the title of the case, the citation to it can be found using the case digest covering that court, or one of the computer-assisted legal research tools (Westlaw or Lexis-Nexis).

### 2. Facts of the Case

A good case brief will include a summary of the pertinent facts and legal points raised in the case. It will show the nature of the litigation, who sued whom, based on what occurrences, and what happened in the lower court(s). Be careful to identify and avoid meaningless facts.

The facts are often summarized at the beginning of the court's published opinion. It is hazardous to depend on these "headnotes," because they are usually written by an observer, not the judge, and might be incorrect about the holding or rationale. Learn to depend on your own analysis! Sometimes, the best statement of the facts will be found in a dissenting or concurring opinion. Remember, judges are sometimes selective about the facts they emphasize. This is very important when you try to reconcile apparently inconsistent cases, because the way a judge chooses to characterize and "edit" the facts often determines which way he or she will vote and, as a result, which rule of law will be applied.

The fact section of a good case brief will include the following elements:

- a. A one-sentence introduction of the pertinent facts of the case.
- b. A statement of the applicable law, with underlining or bold type to draw attention to the key words or phrases that are in dispute.
- c. A summary of the complaint (in a civil case) or the indictment (in a criminal case), plus relevant evidence and arguments presented in court to explain who did what to whom and why the case was thought to involve illegal conduct.
- d. A summary of actions taken by the lower courts, for example: defendant convicted; conviction upheld by appellate court; Supreme Court granted certiorari.

### 3. Issues

The court often explicitly states the issues or questions of law raised by the facts. Watch out for the occasional judge who misstates the questions raised by the lower court's opinion, by the parties on appeal, or the nature of the case.

Many cases involve multiple issues, some of interest only to litigants and lawyers, others of broader and enduring significance to citizens and officials alike. Be sure to include both if they are present. Mention of policy issues is appropriate here.

With rare exceptions, the outcome of an appellate case will turn on the meaning of a provision of the Constitution, a statute, or a judicial doctrine. Capture that provision or debated point when you state the issue. Set it off with underlining or bold type. This will help you later when you try to reconcile conflicting cases.

When noting issues, phrase them in terms of questions that can be answered with a precise "yes" or "no."

For example, *Brown v. Board of Education* involved whether a provision of the 14th Amendment to the U.S. Constitution applied to a school board's practice of excluding African-American pupils from public schools solely due to their race. The Amendment says, "no state shall... deny to any person within its jurisdiction the equal protection of the laws." The careful student would begin with those words and decide which of them were really at issue. First, there can be no doubt that the school board was acting as the "state." Also, Miss Brown was a "person within its jurisdiction." Thus, the key issue was "Does the exclusion of students from a public school solely on the basis of race amount to a denial of 'equal protection of the laws'?"

The legal implications of *Brown* went far beyond the situation of Miss Brown, the Topeka School Board, or even public education, because they cast doubt on the continuing validity of prior Supreme Court decisions in which it held that restriction of African-Americans to "separate but equal" facilities did not deny them "equal protection of the laws." Make note of

any such implications in your statement of issues at the end of the brief, in which you set out your observations and comments.

Many new paralegals misread cases because they fail to see the issues *in terms of the applicable law or judicial doctrine*. Carefully frame the questions so that they actually include the key provisions of the law so that the answer will be precise. It may also help to label the issues, for example, “procedural issues,” “substantive issues,” “legal issues,” and so on. Also, instructors may use the same case for different purposes, so part of the challenge of briefing is to identify those issues in the case that are of central importance to the topic under discussion.

#### 4. Rulings (Decisions or holdings)

The court’s decision, or ruling, is also called a holding. It is the court’s answer to a question presented to it by the parties or raised by the court in its reading of the case. There are narrow procedural holdings, for example, “case reversed and remanded,” and broader substantive rulings that deal with the interpretation of the Constitution, statutes, or judicial doctrines. If the issues have been drawn precisely, the holdings can be stated in simple “yes” or “no” answers or in short statements taken from the language used by the court. Sometimes the court’s ruling will cleanly state, “We hold today that the question presented must be answered in the affirmative.” Sometimes it is more obtuse.

#### 5. Reasoning

The reasoning, or rationale, is the chain of argument that led the judges in either a majority or a dissenting opinion to rule as they did. This may be outlined point by point in numbered sentences or paragraphs, but it is usually sufficient to state the reasoning in a sentence or two.

#### 6. Separate Opinions

Both concurring and dissenting opinions should be subjected to the same depth of analysis to bring out the major points of agreement or disagreement with the majority opinion. Note which justice or judge emphasized what facts. Note how each justice voted and how he or she lined up. Knowledge of how judges of a particular court normally line up on particular issues is essential to anticipating how they will vote in future cases involving similar issues.

#### 7. Analysis

Here the student should *briefly* evaluate the significance of the case, its relationship to other cases, its place in history, and/or what it shows about the Court, its members, its decision-making processes, or the impact it has on litigants, government, or society. It is here that the implicit assumptions and values of the Justices should be probed, the “rightness” of the decision debated, and the logic of the reasoning considered.

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