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HOW TO BRIEF A CASE

Case briefs help readers understand court cases better and are used extensively as a learning tool in law schools and in the practice of law. In case briefs, students read a case, break it into segments, and then reassemble it in a more concise and organized form to facilitate learning.

To familiarize readers with the basics of case briefing, a sample case brief is presented in this section. There is no agreement among scholars on how a case should be briefed for instructional purposes. The elements of a brief ultimately depend on the preferences of the instructor or student doing the briefing. The sample brief given here is as simple as it gets. Some briefs are more complex; they include dissenting and concurring opinions (if any), comments, case excerpts, and other elements an instructor or student might deem necessary.

The basic elements of a simple case brief are as follows:

1. Case title
2. Citation
3. Year decided
4. Facts
5. Issue or issues
6. Court decision
7. Holding
8. Case significance

The case of *Minnesota v. Dickerson* could be briefed in the following way. (For comparison, read the original version of this case on the Internet by searching on "Minnesota v. Dickerson.")

1. Case title: *Minnesota v. Dickerson*
2. Citation: 508 U.S. 366
3. Year decided: 1993

Note: In your brief, the above elements go in this order: *Minnesota v. Dickerson*, 508 U.S. 366 (1993). This means that the case of *Minnesota v. Dickerson* is found in volume 508 of the *United States Reports*, starting on page 366, and was decided in 1993.

4. Facts: During routine patrol, two police officers spotted Dickerson leaving an apartment building that one of the officers knew was a crack house. Dickerson began walking toward the police but, upon making eye contact with them, reversed direction and walked into an alley. Because of his evasive actions, the police became suspicious and decided to investigate. They pulled their vehicle into the alley and ordered Dickerson to stop and submit to a pat-down search. The search revealed no weapons, but one officer felt a small lump in Dickerson's pocket, thoroughly examined it with his fingers, and subsequently determined that it felt like a lump of cocaine in cellophane. The officer then reached into Dickerson's pocket and pulled out the lump, which turned out to be a small plastic bag containing crack cocaine. Dickerson was arrested and charged with possession of a controlled substance.

Note: The facts section can be too detailed or too sketchy, both of which can be misleading. In general, be guided by this question: Which minimum facts must be included in your brief so that somebody who has not read the whole case (as you have) will nonetheless understand it? The amount of detail required is for you to decide—you must determine the facts that are important or unimportant. Keep the important; weed out the unimportant.

5. Issue or issues: Was the seizure of the crack cocaine valid under stop and frisk? No.

Note: The issue statement should always be in question form, as it is here. The issue statement should not be so broad as to apply to every case even remotely similar in facts, nor so narrow as to apply only to the particular facts of that case. Here are some examples: Are police seizures without probable cause valid? (*Too broad.*) Is police seizure of something that feels like a lump in a suspect's pocket valid? (*Too narrow.*) Was the seizure of the crack cocaine valid under stop and frisk? (*Just right.*) Some cases have more than one issue. If these issues cannot be merged, they must be stated as separate issues.

6. Court decision: The U.S. Supreme Court affirmed the decision of the Minnesota Supreme Court that held the seizure to be invalid.

Note: The Supreme Court decision answers two questions: (1) Did the Court affirm, reverse, or modify the decision of the immediate lower court (in this case, the Minnesota Supreme Court); and (2) what happened to the case? Sometimes students confuse the Court decision with the holding (see item 7). The difference is that the Court decision is a brief statement that tells you what happened to the case on appeal and what the Court said is to be done with it. In this ~~briefed~~ case, the case ends because the lower court decision was affirmed. It would have been different had the Court ordered that the case be "reversed and remanded." The case would then have gone back to the lower court for reconsideration in light of the Supreme Court's ruling.

7. Holding: A frisk that goes beyond the scope allowed in *Terry v. Ohio* in stop and frisk cases is not valid. In this case, the search went beyond the pat-down search allowed by *Terry* because the officer "squeezed, slid, and otherwise manipulated the packet's content" before determining it was cocaine. The evidence obtained is not admissible in court.

Note: State in brief, exact, clear language what the Court said. In some cases, the holding may be taken verbatim from the case itself, usually toward the end. The holding is the most important element of the case because it states the rule announced by the Court. The holding becomes precedent, which means the same rule is applicable to future similar cases to be decided by the courts.

8. Case significance: This case is important because it sets the limits of how the police can frisk in stop and frisk cases. Here the officer went beyond merely patting down the suspect for a weapon. Instead, the officer squeeze, slid, and manipulated the item after feeling it. Only then did he realize it could be drugs. Doing that without probable cause went beyond what is allowed by as part of a frisk.

Note: This part of a case brief can be optional and is written primarily for the benefit of the student so he or she can evaluate the importance of the case. Some professors, however, require it as part of the case brief. Case significance generally indicates whether the case is important or not in the context of a topic. Some cases, such as *Miranda v. Arizona*, 384 U.S. 436 (1966), and *Mapp v. Ohio*, 367 U.S. 643 (1961), are obviously important in that their impact is widespread and immediate. Others, however, are not as obvious in importance and thus are left to the judgment of the case brief writer. Some might consider a case significant, others may not.

Miranda v. Arizona (1966)

SUMMARY

The United States has a dual court system, meaning it has two levels of courts—federal and state.

Where a criminal case is to be tried is determined by this rule: If an act violates federal law, it is tried in federal court; if it violates state law, it is tried in state court. If an act violates both federal and state laws, it can be tried in both courts.

Judicial precedent means that decisions of courts have value as precedent for future cases similarly circumstanced.

Jurisdiction is the power of a court to try a case.

Venue is the place where the case is tried.

Judicial review is "the power of any court to hold unconstitutional and hence unenforceable any law, any official action based on a law, or any

other action by a public official that it deems to be in conflict with the Constitution."

Rule of law generally means that no person is above the law, and that every person, from the most powerful public official down to the least powerful individual, is subject to the law and can be held accountable in court for what he or she does.

The incorporation controversy is about whether the Bill of Rights protects against violations of rights by the federal government only or also limits actions of state and local government officials. The four approaches to incorporation are selective incorporation, total incorporation, total incorporation plus, and the case-by-case approach.