

GBA 335 Case Brief 1 Guidelines and Rubric

How and Why to Brief a Law Case

Prof. Joseph Little, Jr., Saint Leo University

Purpose

The purpose of reading in the practice of law is different from the purpose of reading in many other disciplines. In law, you read not just to familiarize yourself with someone else's ideas but to be able to use the information to answer a question. This requires understanding judicial opinions in depth and being able to use the information in a number of cases to formulate an answer to a new question. Therefore, passively reading cases is not sufficient; you must deconstruct the opinion into its component parts and state those components in your own words and in an easily accessible format. Then the information is at hand for you to apply to a new set of facts.

Briefing a case requires you to put the material into your own words. To do this, you have to understand it. Underlining text does not require you to understand it. Moreover, briefing a case reduces the volume of material so you can find what you need. Underlining does not accomplish this goal either.

Assignment

You will complete a brief on the following case and submit it to the Dropbox **no later than Sunday 11:59 PM EST/EDT** of Module 4:

Brady v. National Football League, 640 F.3D 785 (2011)

Instructions

Every lawyer briefs cases differently. A case brief generally consists of a series of topic headings with the specific information from the case under each heading. Most case briefs contain similar information but the headings and their sequence may be different. Some professors have a preferred briefing format. You are only required to follow the general format as set forth below.

The following is adapted from *A Practical Guide to Legal Writing and Legal Method* (Dernbach, et al., 2007).

1. **Case name:** Include the full citation, including the date of the opinion, for future reference and citation. An example would be as follows: *State v. Holloran*, 140 NH 563 (1995). Refer to Bluebook to determine the correct name for the case.
2. **Pincites:** Include pinpoint cites (cites to a particular page in the case) throughout the case brief so you can find material again quickly within a case.
3. **Procedural History:** What happened to the case before it arrived in this court? If it is an appellate case, list the decisions made by the lower court(s) and note what decision is being reviewed (e.g., jury verdict, summary judgment). You may need to look up procedural phrases with which you are unfamiliar.
4. **Facts:** Include only the facts that were relevant to the court's decision. You are unlikely to know what these are until you have read the entire opinion. Many cases may include procedural facts that are relevant to the decision in addition to the facts that happened before litigation.
5. **Issue:** The particular question the court had to decide in this case. It usually includes specific facts as well as a legal question. It may be expressed or implied in the decision. Cases may have more than one issue.
6. **Holding/Decision:** The legal answer to the issue. If the issue is clearly written, then the holding can be expressed as "yes" or "no." (Be careful not to confuse the holding with implicit *reasoning*. See # 8 below.)

7. **Rule:** The general legal principle(s) relevant to the particular factual situation presented in the case.
8. **Reasoning:** The logical steps the court takes to arrive at the holding. It can be straightforward and obvious, or you may have to extrapolate it from the holding. Some reasoning is based on social policy, which tells you why the holding is socially desirable. Understanding the reasoning behind a decision is essential.
9. **Disposition:** A statement of what the court actually did in the case (affirmed, overruled, etc.)
10. **Dissent/Concurrence:** Although this part of the opinion is not considered law, it may help you better understand some information about the legal reasoning in the case. Not all cases have a dissent or concurrence, while some may have more than one.
11. **Comments:** Include your own responses to the case here. For example, does the reasoning make sense? Is the holding consistent with other cases you have read? Is the case relevant to the question you are trying to answer? This is a good place to note connections between the case you are briefing and other cases you have read.

Sample Case Brief

Remember, most case briefs contain similar information but the headings and their sequence may be different than what is outlined above. You should include in your brief all elements that you deem necessary whether or not they are included in the sample below.

Name

Luke Records, Inc. v. Navarro, 960 F.2d 134 (11th Cir. 1992)

Procedural History

Appealed from the trial court decision.

Facts

Luke Records, Inc., a recording label, held a contract with the musical group 2 Live Crew. This group was well known in the genre of "Rap" music, which has repeatedly been accused of incorporating "obscene" lyrics into the music. Obscene, in this sense, pertains only to the legal definition of obscenity, not what any particular person or moral code may deem obscene. Luke Records, Inc. was a Florida Corporation and Nick Navarro was the sheriff of Broward County at the time. The sheriff obtained an ex-parte injunction (this means an injunction without both parties being present at the initial hearing) granting the sheriff an injunction (a court order to "stop" doing a particular act). This injunction was served on local record stores in an effort to have the music removed from Florida retail sale. After the local Florida Circuit Court in Broward County issued the injunction, the decision was appealed to the United States District Court for Southern Florida where the Court ordered the sheriff to stop enforcing the injunction, but did, in fact, rule that the music was obscene, especially the song "As Nasty As They Wanna Be." The sheriff appealed the case to the United States Court of Appeals, 11th Circuit, in Atlanta.

Issue

Is this music obscene under Florida state law and/or federal Constitution?

Holding/Decision

No

Rule

Obscenity must meet three part rule. Based on Supreme Court case *Miller v. CA*. All three parts must be met:

- (a) whether “the average person, applying contemporary community standards” would find that the work, taken as a whole, appeals to the prurient interest;
- (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Reasoning

The burden of proof could be clear and convincing or preponderance of the evidence test: however, at the time the sheriff was granted the music, he offered nothing into evidence except a tape of the music played before the court. There was no additional evidence presented that showed an average person applying contemporary community standards would find the song appealing only to a prurient interest. Further, the sheriff failed to prove part (b) and (c) of the test as well simply because he made no attempt to enter any other testimony or evidence into consideration before the court. The sheriff failed to meet his burden, although it is well possible that had he submitted all evidence as required, he *could possibly* have met the test.

Comments

Case really determined by the sheriff's failure of proof. No discussion of nature of music. No discussion of rule. No proper evidence submitted to the court.

WestLaw

To complete the assignment, you will need to first locate the case in the WestLaw database through the Saint Leo University Online Library. Follow the steps below and contact the university library directly if you have any technical difficulty (see the syllabus for contact info). Do not contact the eCollege Help Desk. If you have access to a local law library, feel free to obtain copies of the assigned cases there instead.

1. Log on to the Saint Leo Portal at <http://my.saintleo.edu>.
2. Click **Library** at the top of My Saint Leo Home page.
3. Click **Databases** under FIND INFO.
4. A new browser window will open. Click **WestLaw** from the list of databases (you may need to scroll down). **Note:** As long as you are logged on to My Saint Leo, you will not need to enter a separate password for WestLaw. If you are not logged on to the portal, you will be prompted to logon (use your portal UD and password).
5. Search for the case by entering the case name as your search terms. You can use any of the search tools available, though the simplest may be “Find a document by title” under Shortcuts. This allows you to enter the names of the parties in the case. For example, to search for *Brown v. Board of Education*, you would type "Brown" in the first text box and "Board of Education" in the second text box.
6. Click **Go** after entering the names of the parties.
7. The case documentation will display once the search completes. If the search is unsuccessful, check that you entered the names of the parties correctly. You are encouraged to print a copy of the case to better assist you in completing the assignment.

Scoring Rubric

Students will complete the assignment with attention to the following criteria:

Rating Scale

Exemplary: Corresponds to an A- to A (90-100%)
Proficient: Corresponds to a B- to B+ (80-89%)
Basic: Corresponds to a C- to C+ (70-79%)
Novice: Corresponds to a D to D+ (60-69%)
Not Attempted: Corresponds to an F (0-59%)

Elements	Criteria					Score
	<i>Not Attempted</i> (Criterion is missing or not in evidence) 0-14.99%	<i>Novice</i> (does not meet expectations; performance is substandard) 15-17.49%	<i>Basic</i> (works towards meeting expectations; performance needs improvement) 17.5-19.99%	<i>Proficient</i> (meets expectations; performance is satisfactory) 20-22.49%	<i>Exemplary</i> (exceeds expectations; performance is outstanding) 22.5-25	
Case Name Citation and Procedural History 25%	There was little or no evidence of proper citation of the case and procedural history.	Case citation and procedural history is evident, but the citations are incorrect as to form, spelling, numeric correctness or the essential procedural history of the case is incomplete.	The case brief addresses most, but not all, of parts of the citation and history, but the procedural history is out of sequence or difficult to discern or minor formatting or spelling errors have occurred.	The case brief addresses all parts of the citation and procedural history in full, but same is not entirely clear or straight-forward.	The case brief citation and procedural history are correct and adequately addresses all parts of clearly and in proper chronological sequence.	___/25
Length Requirements 25%	There was little or no evidence of a case brief.	The case brief is entirely too short.	The case brief contains a great deal of "fluff" and still does not meet the length requirement.	The case brief is just a little on the short side and/or it meets the requirements only because it contains "fluff" that could use trimming.	The case brief falls within the required length requirements without going over and without straying from the main topic.	___/25
Mechanics of Writing 25%	Little to no evidence of proper writing mechanics.	The grammar of the case brief greatly impedes understanding of content, and/or the paper contains no citations.	The case brief needs a good deal of improvement with respect to grammar, citations, spelling, and/or style.	The case brief is mostly free of errors with respect to grammar, citations, spelling, and/or style, but needs some improvement in this area.	The case brief is nearly perfect with respect to grammar, citations, spelling, and style.	___/25
Understanding 25%	The case brief exhibits a complete lack of understanding of the text and/or course materials.	The case brief exhibits very little understanding of the text and/or course materials.	The case brief exhibits basic understanding of the text and/or course materials, but needs improvement in this area.	The case brief exhibits sufficient understanding of the text and/or course materials, but some improvement needed.	The case brief does an excellent job demonstrating an accurate understanding of the text and/or course materials.	___/25

Total Score: ___/100

Comments/Feedback: