

POL 123 – Module 1 Lecture Notes

Introduction

You have read in this module how the law has originated in the United States, coming from the origins of the English common law through the time of the Norman invasion. You've also read how the common law has developed here in the United States, initially developing as a result of Britain's colonization. Prior to codifying, or writing laws down into statutes, the common law guided us based on regional and national customs. As this common law developed through judicial decision (rather than statute), it became precedent, binding future decisions. Many of us have heard of the term "common law marriage" for example. This is when a marriage is recognized legally, even though no legal marriage ceremony is performed, or civil contract of marriage is entered into. This is important as background because the cases you read are based on this judicial precedent, or what we call stare decisis [star-ray dee-sigh-sis.]

Precedent and Stare Decisis

Stare decisis is a Latin term that literally means "to abide by it." To decided cases courts generally adhere to stare decisis, meaning when a court has passed down a principle of law as applicable to a certain set of facts, the courts have to follow that principle and apply it to all future cases with similar facts and circumstances. When courts practice stare decisis, it is called judicial precedent. That means that the previous decisions of the courts are valued as precedent, so the court is bound in future cases to follow the reasoning used in the prior decision when there are similar facts or circumstances.

Precedent is what prior cases are called. These cases give courts their reasons for more recent cases; but, judges are only required to follow stare decisis from higher courts within their own jurisdiction.

Dual Court System

Here in the United States, we have a dual court system. There's one system for federal cases and another system for state cases. Now keep in mind that although we have a dual court system, what that really means is that the United States has 52 separate judicial systems, one for each of the 50 states (state courts), then we have the overall federal system and then the courts in Washington, D.C. The highest Court in the federal court system is the U.S. Supreme Court. Many of the cases that you'll be reading are coming directly from the U.S. Supreme Court.

So in the court system we have the federal courts and we have the state court system. The lowest court or the trial court in the federal system is the U.S. District Court. If an appeal is made it's taken up to the U.S. Court of Appeals, and at that level if further appeal needs to be made, it is appealed to the U.S. Supreme Court. In the state court system there's a similar way of getting your case up to higher court. We have the lower court, or trial courts. Appeal can be brought to the appellate court within the state. Further appeal can be brought to the state Supreme Court. Then, if there is a federal question or constitutional issue, it can then be brought up to the U.S. Supreme Court, which is the highest court of the land.

Although the Supreme Court has original jurisdiction to hear cases brought to it directly, most of the cases that come before the U.S. Supreme Court are based on appeal or writ of certiorari.

How to Complete a Case Analysis

This leads us to your case analyses, one of the major types of assignments you'll complete in this course. For the case analyses, you will read cases from the courts, sometimes from the U.S. Supreme Court, other times from Court of Appeals. You'll first read the case to get an understanding of the facts, the issue that the court had before it, and the rule of law the court applied. This is usually where stare decisis or judicial precedent comes. You will then give a rationale as to how the court came up with the ruling and state the holding or conclusion.

How to Brief a Case

Case briefs are the other major type assignment you will complete. This course is designed to use case law analysis as a way to help you understand how the courts interpret statutory and constitutional law, and then by reviewing key court cases we can see how case law influences policy. Many of you may be unfamiliar with the concept of the case brief. It's a format that's used by lawyers to outline cases for case law analysis, so you are expected to be able to brief cases in this class. Briefing cases will help you understand historical context as well as analyze how the constitutional and legal rights have developed.

Essentially the case brief is a structured summary of the case, and it helps us practice learning by doing. Briefing is often better than just merely reading about the case, and as a summary, can help you remember the facts and issues of the case. It can also help isolate the legal rules, the tests, and the standards the courts have relied upon to come up with the ruling. Briefs help you distinguish relevant facts from irrelevant facts and provide practice framing issues.

Now, before we can actually get to the meat of the brief, we have to understand the preliminary analysis. We want to write down the case citation, which is the case name (it tells us who is involved in the case as plaintiff and defendant, or appellant and appellee). We also make note of the reporter (or book) so we know how to find the case. So, in the first case in your book, *American-Arab Anti-Discrimination committee v. City of Dearborn*, the case citation includes the names "American Arab anti-discrimination committee" versus "city of Dearborn." We also know that if we were physically sitting in a huge library, we can find it in the third series of the federal reporter. What this means is it's in volume 418 of the books or reporters that are called the federal third, and we'll find page 600, and the case will start on that page. We also know it was published in 2005.

The case brief should consist of the following items.

First, the illustration of the case, which is a general overview about the entire case, including the issue statement.

Your facts you should outline the essential facts of the case particularly those facts that bear upon the issue.

After your facts are the prior proceedings. Which courts reviewed this case before it got to the current court making a decision, and what was that decision? Why and how was the case appealed?

Next is your issue statement, an outline of the dispute trying to be resolved by this particular court. Perhaps it is an issue of which rule of law should apply, or maybe its checking to see which legal test should be applied to the given set of facts. When writing your issue statement it helps to phrase it in terms the question that can be answered with a yes or no.

Next are the holding and rationale. What did the court decide, and how did they arrive at that decision? Which cases were used as stare decisis or precedent? Was the current case distinguished from previous cases?

When you get to the conclusion, you can reiterate the court's holding. You can also place your personal thoughts about the case or the issue here; for example, if you think the judges were right or wrong, or if you think the dissenting judges had the better analysis.

Final Thoughts

Briefing cases can be a challenge in the beginning. It is often difficult to decipher relevant facts from irrelevant ones, and the issues may be embedded throughout the case. So don't forget that the actual case itself may not be laid out in the same format as a brief. And you can expect your briefs to get better over the course of the term!