

Checklist for Case Briefing

* Remember, *before* you even begin to write a brief determine the purpose for reading the case, by placing it in the context of the previous cases, Table of Contents, syllabus, etc.

FACTS:

- Who are the parties
 - Terms for the parties & position as litigants
(plaintiff/defendant, appellant/appellee, petitioner/respondent)
Non-case terms - buyer/seller, employer/employee, landlord/tenant
 - The relationship of the parties – any legal significance?
- Why* have the people come to court in the first place? What is the cause of action?
- What does the Plaintiff allege?
- What does the Defendant argue in response?
- What facts actually matter to the outcome?
- Revisit this section of your brief after completing the rest, to ensure relevancy of facts.

PROCEDURAL HISTORY:

- How* did the parties get to court in the first place? What is Plaintiff's original cause of action?
- What happened at the trial court level?
- How did the matter get to this court now?
 - Who appealed?
 - What are they asking for in the appeal?
- Watch for intermediate steps and any unusual procedure

ISSUE/QUESTION PRESENTED:

- * Much of your briefing time will be spent determining what the question is that the court must decide.
- First decide, "What is the main dispute in the case?"
 - Start with broad legal question, then incorporate specifics
 - Phrase it as a question
 - Three parts:
 - Question word (does, is)
 - Key facts
 - Relevant law/legal rule
 - Should be phrased neutrally – not with bias from one side's viewpoint
 - Realize that what the court's use of the word "issue" may not be *the* issue for purposes of your brief, but it probably will help you to phrase the issue.
 - Check to see if the court tells you what the issue is NOT

HOLDING/RULE:

- What was the court's answer to the issue?
- The rule/holding should mirror the issue – use the same wording, but be a statement rather than a question.
- Test this rule with a hypothetical.

DISPOSITION/JUDGMENT:

- Affirmed, reversed, reversed and remanded

REASONING:

- Why did the court answer the way it did?
 - Statutes
 - Facts similar to another case/facts different from another case
 - Policy
- Put the court's explanation in your own words
- Identify Dicta and place in its own subsection
 - Does the court identify different facts that would have led to a different conclusion?
 - Does the court identify laws in other jurisdiction that would alter the conclusion?
 - Does the court suggest legislative changes?

OTHER OPINIONS (DISSENTING AND CONCURRING OPINIONS):

- What did the other judge/s disagree with about the majority opinion?