Boiling Down the Law: How to Write a Case Brief

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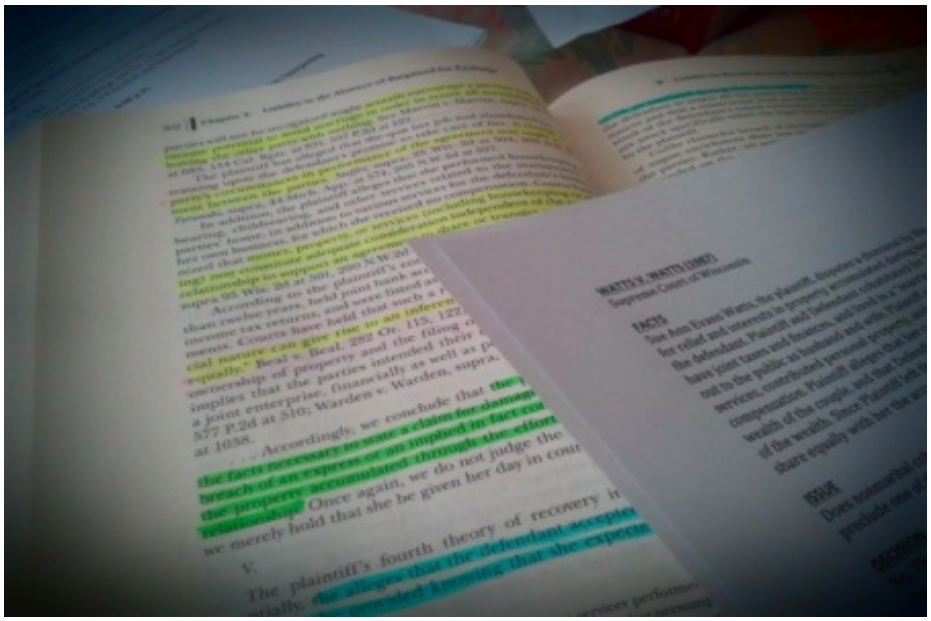
Trying to make sense of the law is a chore. All of the incessant legalese makes it absurdly difficult for the average citizen to understand what exactly the lawyers meant when one group of them drafted a law (the legislature), when another group of lawyers try to enforce that law (the bureaucracy), and yet another group of lawyers attempt to interpret the law (the judiciary). This is precisely why law students are taught by their professors to "brief a case," so as to better identify what is happening in a matter that has been brought before a court for adjudication.



A "case brief," simply put, is nothing more extravagant than a summary of a judicial decision (or court opinion). Nearly always one-page in length, or less, case briefs are incredibly useful for stressing the most pertinent elements of a case. Although there are various ways a brief could be structured, I would prefer to teach you how I brief cases. Keep in mind as I explain how I do this that United States Supreme Court cases typically are divided into a "syllabus," which is usually a clerk's summary of the circumstances of a case, whereas the "opinion" is the judge's actual written decision.

During my senior year as an undergraduate, I took this one semester-long course in constitutional law. As part of that course, the professor wanted to recreate a law school atmosphere, just to give us a taste of what it was like. Besides using the Socratic method, we were also taught how to brief cases. Since then, I have altered somewhat the structure of how I do that, but not by much. Now, I brief cases according to the following format:

- **Citation**
- **Procedural History**
- **Facts**

- **Issue**
- **Rule of Law**
- **Reasoning**
- **Result**
- **Concurrences**
- **Dissents**

The "citation" is where I place the title of the case, the source publication it may be found in, and usually the year the case was decided. "Procedural history" is maybe a tad extraneous, but typically stems from a case's syllabus, and seldom referred to in the case's opinion (at least, not all in one spot). "Facts," like procedural history, are the circumstances of a case (that is, the who, what, where, when, why, and how of the persons, places, and events involved in the matter before the court). The "issue" is, quite simply, the question at law that must be adjudicated.

Next comes the three R's, as it were, the first of which is the "rule of law," which is the legal precedent that is central to the issue being adjudicated. A judge's "reasoning" is his explanation for why the court ruled in its decision the way that it did, and the "result" is the court's actual decision. Even though the result is often called the "holding," I prefer calling it a result because not only is it factually true, but also because it makes it easier for me to memorize those three categories that I always want to include in my case briefs.

Occasionally, other judges may "concur" with the ruling decision, but want to write their own opinions because the majority opinion either ignored an aspect of the case they found relevant or those judges simply want to justify the exact same holding using a different line of reasoning; a "dissent" by contrast, is an inherent disagreement by the judges in the minority explaining why they disagree with the court's majority, yet unfortunately for the losing party, these dissents have no legal force since they mainly function more as an expression of the liberty of the press rather than a technique of making coercively binding political decisions by way of government law.

For example, using my own preferred method of briefing cases, here is how *Katz v. United States* would appear as my case brief:

> ***Citation:*** *Katz v. United States, 389 US 347 (1967)*
>
> ***Procedural History****: Petition Granted for a Writ of Certiorari*
>
> ***Facts:*** *Acting on a suspicion that Katz was transmitting gambling information over the phone to clients in other states, federal agents attached an eavesdropping device to the outside of a public phone booth used by Katz. Based on recordings of his end of the conversations, Katz was convicted under an 8-count indictment for the illegal transmission of wagering information from Los Angeles to Boston and Miami. On appeal, Katz challenged his conviction by arguing that the recordings could not be used as evidence against him. The Court of Appeals rejected this, noting the absence of a physical intrusion into the phone booth itself.*
>
> ***Issue:*** *Does the 4th Amendment protection against unreasonable searches and seizures require federal law enforcement officers to obtain a search warrant in order to wiretap a public pay phone?*

> ***Rule of Law:*** *Fourth Amendment (Search & Seizure Clause) – "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated…"*
>
> ***Reasoning:*** *Justice Stewart wrote that the search and seizure clause of the Fourth Amendment protects people, not places; as such, the phone booth is considered private to that extent.*
>
> ***Result:*** *The Court ruled 7-1, in favor of Katz, thereby reversing the Court of Appeals on the grounds that the 4th Amendment's provision on unreasonable search and seizure does protect individuals in a telephone booth from wiretaps by authorities without a warrant.*
>
> ***Concurrences:*** *Justice Douglas mentioned that the executive branch cannot simultaneously be a neutral 3rd party and also aggressive prosecutors. Justice Harlan introduced the idea of a 'reasonable' expectation of 4th Amendment protection. Justice White thought that if either the President or the Attorney General citied national security concerns and authorized electronic surveillance as reasonable, then the judiciary should not require warrants.*
>
> ***Dissent:*** *Justice Black argued that the 4th Amendment, as a whole, was only meant to protect things from physical search and seizure & not meant to protect personal privacy. Additionally, he said that the modern act of wiretapping was analogous to the act of eavesdropping, which was around even when the Bill of Rights was drafted. Black concluded that if the drafters of the 4th Amendment had meant for it to protect against eavesdropping they would have included the proper language.*

Notice how the brief limits itself to the crux of the case? Any extraneous material relating to long-winded judicial precedent or drawn-out hypothetical situations are removed, leaving only the core elements relevant to the decision, such as the names of all judges who wrote any part of an opinion, how the jury or judges voted, and whether an appellate decision was "affirmed" or "reversed" (either in whole or in part, and if the latter, which charges or elements of the case were reversed and affirmed, respectively; if there is neither a concurrence nor a dissent, simply write "N/A," which means "not applicable").

Again, I would like to emphasize that case briefs are supposed to be just that… *brief*. Part of the reason for this, besides the obvious, is that compiling a series of cases surrounding an area of law (or even a theme) can be done in a type of anthology referred to as a "casebook." In fact, law school professors commonly teach according to the casebook method, which is simply the teaching of law via collections of judicial case precedents in an organized manner. One could also say casebooks could be compiled according to a legal topic, such as eminent domain, free speech, or judicial review.

Case briefs are unique for being able to make sense out of the legalese so common in the law, *if* you know how to use it. Reading carefully (perhaps even "between the lines") is essential for spotting a detail crucial in understanding a case. Taking notes and highlighting the text within a case are indispensably useful for preparing a case brief; so, stay sharp.