**James Cobb**

**English 105i: Writing in Law**

**Spring 2021**

**University of North Carolina at Chapel Hill**

**Unit 1 Assignment Sequence: The Case Brief**

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| **Genre** | **Purpose** | **Audience** | **Role** | **Rhetorical Situation** |
| Case brief | Briefly analyze the holding and reasoning of a court opinion. | Senior Partner who needs to know practical knowledge about the case. | Lawyer | You are an associate who has been asked by a senior attorney to analyze a case. |

You are a first-year associate in the constitutional law section of a major law firm. Your supervising partner has been retained as counsel in a case that challenges the constitutionality of law enforcements power over foreign nationals both domestically and on foreign soil. In preparation for the case, the partner has asked you to write case briefs on two historically significant decisions handed down by the United States Supreme Court: *Arizona v. United States, 567 U.S. 387 (2012)* and *United States v. Verdugo-Urquidez, 494 U.S. 259 (1990)*.

**Feeder 1.1 Rhetorical Analysis #1**

**Length: 500 – 600 words (approx. 2-2.5 pages double spaced)**

**Due: 1/28/2021**

For this assignment, you will engage in a rhetorical analysis of the Court’s opinion in *Arizona v. United States, 567 U.S. 387 (2012)*. The purpose of this assignment is to learn to read a court opinion and analyze how legal arguments are made and influenced by rhetorical elements such as audience, speaker, message, and appeals. Specifically, the rhetorical analysis should:

* Be organized into three subheadings: speaker/ethos, audience/pathos, and message/logos;
* Identify and analyze the speaker, audience, and message of the opinion; and
* Identify and analyze one instance of each of the three major rhetorical appeals made in the opinion.

Before you begin the analysis, you will want to conduct some research on the case, including who the parties were and the historical context in which the legal conflict arose. You should also find out more about the judge or judges who authored the opinion. Be sure you understand all of the legal terms and concepts mentioned in the opinion.

**Feeder 1.2 Rhetorical Analysis #2**

**Length: 600-700 words (approx.. 2.5-3 pages double spaced)**

**Due: 2/11/2021**

For this assignment, you will further hone your rhetorical analysis skills by identifying and analyzing the *Arizona v. United States, 567 U.S. 387 (2012)* majority’s use of legal topoi. The purpose of this assignment is to learn to assess how judges and lawyers reason through the legal arguments that they present in opinions, briefs, and other common forms of legal writing.

The rhetorical analysis should:

* Set forth the issue and holding of the case
* Be organized around three legal topoi that you have identified in the case
* Identify and provide evidence of each use of topoi; and
* Discuss the persuasive value of each use of topoi (consider the impact of any rhetorical fallacies if you find them).

**Unit 1 Project: Case Brief and Reflection of United States v. Verdugo-Urquidez, 494 U.S. 259 (1990)**

**Length: 1-1.5 pages single spaced / Analysis = 350-450 words**

**Due Date: 2/25/2019 (Rough Draft by 2/18/2021)**

According to legal writing expert Ruth McKinney, a case brief is “a tool that law students, law professors, and lawyers can use to help organize the information presented in legal opinions in a way that makes that information manageable and easy to retrieve.”\* Essentially, a case brief is an outline of the important parts of a judicial opinion; it creates a framework for understanding an opinion's complex parts. Generally, a case brief should use sub-headings in bold or capital letters to aid in quick retrieval of information.

The purpose of this assignment is threefold: (1) to learn the elements of a judicial opinion; (2) to learn the fundamentals of legal argument; and (3) to learn to write the case brief genre.

Each brief will have six parts: (1) Case name and citation, (2) Issue, (3) Facts, (4) Holding, (5) Reasoning. Use sub-headings to indicate parts 2 through 5.

**Recommendations for Success:**

* **Read the Case Twice**: Read the case you are to brief two times. The first time, you should annotate the text with the parts of a brief--underline and label the issue, the description of the facts of the case, the holding, etc. The second time you read, write your case brief as you go.
* **Relevant Facts Only**: Beginning brief writers put too many facts in their briefs. Remember: Only include *relevant* facts in your brief, the facts that have a direct impact on the outcome of the case .
* **Reasoning Section Should be Half**: The reasoning section is the most important part of your brief and should be at least half of the total length. You should use the Court’s organizational structure to organize the reasoning section (i.e., Section II, III, etc.); within your discussion, you should identify the relevant rule or test that the Court applies to the issue in question and you should analyze how the Court invokes legal topoi to reason through its application of the rule/test.
* **Analysis:** The analysissectionshould discuss the significance of *Schuette*? What facts, evidence, or topoi seem most important?
* **Revise and Proofread**: After you draft your brief, you should set it aside for a day or two. Then, you should read it again very critically and revise, examining each part of the brief and each argument you present in the reasoning section. Also, be sure that you follow the guidelines for APA documentation format.
* **Frame the Issue as a Yes/No Question**: Your issue statement should start with "Did" or "Does," not "Whether." It should end with a question mark. The holding should *answer* this question with a declarative sentence.
* **Record Initial and Final Perceptions and Rhetorical Differences**: As you develop your case briefs, record your ongoing perceptions of the cases, including your reactions to the reasoning used in the majority, concurring, and dissenting opinions. Further, note any similarities and/or differences in the way in which the judges present their arguments, including what elements (evidentiary or otherwise) they find more or less persuasive. This information will help you formulate your analysis.

\* McKinney, Ruth Ann. *Reading Like a Lawyer: Time-Saving Strategies for Reading Law Like an Expert.* Durham, NC: Carolina Academic Press, 2005. 19.

Assignment adapted from material created by Dr. Jennifer Larson and Suzanna Gaiser