

How to Brief a Case: Format for Writing a Certiorari Brief

Introduction to US Government
Tennessee Technical University

Spring 2006

Case Title
Case Citation

FACTS: State the facts of your case, giving a well-phrased overview of what actually happened. Please include information *you* consider vital to the case and make sure you include historical information which demonstrates *your* knowledge of what was going on in America at the time your case came about.

ISSUES: Identify the constitutional issues involved. Make sure you write it so that it represents either the petitioner's or the respondent's constitutional point of view. Use proper constitutional language in your statement. Begin the ISSUE statement with the word *Whether*.

ANSWERS: Briefly give the answer the Court found.

CASE PRECEDENTS: If possible, list previous cases that pertain to this case. You will get these from the court case. You will also have to determine which of the myriad cases are actually central to the case and which are just *dicta*. You should be able to defend your decision to include the case.

OPINION: In your own words, what did the Court find with respect to the issues of the case? How well-reasoned was the Courts stand(s)? What was the primary difference between the Opinion and the Dissenting Opinion? This should include none of *your* opinion; it is the Court's opinion that you are reporting here.

LENGTH: This whole thing should be around two to three pages.

Oregon v. Mitchell
400 U.S. 112 (1970)

Facts:

Several states, including Texas, Arizona, Idaho, and Oregon, challenged the recently-passed Federal Voting Rights Act Amendments of 1970. These amendments, among other things, lowered the minimum age of voters in both state and federal elections from twenty-one to eighteen, barred the use of literacy tests (and similar voting eligibility requirements) for a five-year period in state and federal elections in any area where such tests are not already proscribed by the Voting Rights Act of 1965, and forbade States from disqualifying voters in presidential and vice-presidential elections for failure to meet state residency requirements and provide uniform national rules for absentee voting in such elections.

Objecting to the law, and feeling it was an unconstitutional breach in the federal system, Oregon, and several other states, brought the case to the Supreme Court, holding that the federal government is not constitutionally allowed to force the states to implement such voting laws; voting laws are in the constitutional providence of the states.

Issues:

- Whether Congress can grant 18-year-olds the right to vote in federal and state elections.
- Whether Congress has the power to compel states to abide by federal election laws.

Answers:

- Not for non-federal elections.
- Not for non-federal elections.

Case Precedents:

- The Constitution, Article I
- The Constitution, Article II
- McCulloch v. Maryland, 4 Wheaton 316 (1819)
- Ex parte Virginia, 100 U.S. 339, 345 (1880)
- Smiley v. Holm, 285 U.S. 355 (1932)
- United States v. Classic, 313 U.S. 299 (1941)
- South Carolina v. Katzenbach, 383 U.S. 301 (1966)

Opinion:

With respect to federal elections, the Court ruled to sustain the Voting Rights Act and its amendments. However, with respect to state and local elections, the Court struck it down in part. While the reduced electoral age was struck down, the bans on literacy tests and the like were upheld.

The focal point of the case was the application of the Fourteenth Amendment. Up to this point, the Fourteenth Amendment has been used to apply limits on the federal government to the states, especially vis-à-vis civil rights and liberties. Thus, because there remained a differential between the races in terms of equal protection under the law and voting rights, it was in the national interest to uphold those provisions of the Voting Rights Act that dealt with historic methods of disenfranchising minorities at the voting booth.

Those provisions that were not directly tied to the Fourteenth Amendment and did not have, as its primary purpose, an intent to reduce discrimination at the voting booth were allowed for federal elections, but disallowed for state and local elections. Namely, the provision in the Voting Rights Act to reduce the minimum voting age to 18 was struck down.

This decision was handed down on December 21, 1970. A mere three months later, Congress submitted the Twenty-Sixth Amendment to the states for ratification. On June 30, 1971, the states ratified the Twenty-Sixth Amendment which provided eighteen-year-olds the right to vote in *all* local, state, and federal elections.

Submitted by: Ole J. Forsberg
July 25, 2005