Case Brief Rubric

Overview: A case brief is a summary of a case, written with the goal of fully informing a reader of the case without needing additional material. Your case brief should be two pages in a standard 12pt font.

1. Name of the Case. Provide the name and citation of the case, including the year. The names of court cases are always italicized. Be sure your name and citation matches that of the case that is assigned to you; students occasionally brief a case other than the one assigned to them.

2. Facts and Procedural History. Describe the circumstances that led one party to initiating a legal case against the other party in the court of original jurisdiction. The facts of the case include the alleged harm the "plaintiff" suffered, the allegedly unlawful actions the "defendant" took to cause that harm, and the alleged remedy the "plaintiff" desired. Be sure to include the information that was referenced by the justices as being relevant to deciding the outcome of the case. Each case also has a procedural history of how the case came to be decided by the Supreme Court, including the court where the case originated and any subsequent courts that heard the case before it arrived at the Supreme Court. Procedural histories should use the full name of the lower court(s) that heard the case, state how the lower court(s) decided the case, and method used to bring the case to the Supreme Court.

3. Question(s). State all of the questions of the case. The main question of the case will be a question of constitutional law regarding the constitutional provision(s) we will be discussing that week in class, as stated on the syllabus. Cases may also have additional questions of constitutional law, questions of federal or state law, and question(s) of procedure. Rarely will a case have questions of fact. All questions should be phrased to reference at least one party in the case. All constitutional questions should be phrased to reference specific constitutional provisions. The easiest place to locate the questions of a case is in the briefs for the parties involved in a case, as found on Westlaw.

4. Decision. Provide the substantive answer(s) given by the controlling opinion to the questions of the case. All questions in the previous section should be answered. Also provide the procedural resolution of the case. When the Court serves as an appellate court, it makes a procedural decision on the validity of the lower court's decision, typically affirming or reversing the judgment of the court below. When reversing, the Justices may remand a case to the lower court for additional proceedings.

5. Opinions. State which justice authored the controlling opinion and which other justices joined that opinion. Also state whether an additional opinion(s) was authored and, if so, what kind of opinion it was, who authored the opinion, and who joined the other opinion(s). Each justice serving on the Supreme Court when the case is decided typically participates in the decision by either writing an opinion or joining one, sometimes doing both. If a justice does not participate in a case at all, note that they abstained.

6. Constitutional Test. Describe the test used by the controlling opinion to describe the circumstances in which the main constitutional provision at issue in the case would be violated. A test will be general enough to help decide the present case as well as future cases when cited as precedent. A test will not, however, refer to the facts of the particular case in front of it. A test should be presented as an if-then statement. Tests are justified by referencing jurisprudence, which should be noted. Any hypothetical examples provided by the justice to better clarify the articulated test should also be provided.

7. Application of the Test. Explain how the controlling opinion reached the substantive answer given for the main constitutional question of the case. Given the facts of the case and the constitutional test, the controlling opinion will deduce the conclusive answer as to whether the Constitution has been violated. While written descriptions of the application of a test are necessary to avoid ambiguity, they will be somewhat of a formality for a good writer; if the facts of the case and the constitutional test have been well described, then how the test should be applied to the facts should be obvious to the reader. New case facts or descriptions of the constitutional test should not be introduced when discussing the application of a test; instead, information already presented should be contextualized to determine if the Constitution has been violated.

8. Answers to Other Questions. Explain how the controlling opinion reached the substantive answers given for the other questions of the case. These additional questions can be summarized by discussing a test and an application, similar to the previous two sections. But the summaries should be much shorter: a couple of sentences for procedural questions and a short paragraph for statutory and constitutional questions. This section will not be necessary for every case. Even when it is necessary, prioritize the previous two sections over this section.

9. Reasoning of Separate Opinions. Explain why the author of each separate opinion felt the need to write separately. For dissents, state the alternative procedural resolution they reached and identify whether they disagreed with the test provided by the controlling opinion, the application by the controlling opinion, or both. Also state what alternative test and/or application they would have used and how that alternative would result in a different outcome in the case. For concurrences in judgement, identify whether they disagreed with the test provided by the controlling opinion, the application of the test by the controlling opinion, or both. Also state what alternative test and/or application they would have used and how that alternative would result in the same outcome in the case. For regular concurrences, identify what new information the justice provides and why it is necessary for deciding this case. In cases where a justice explicitly authors a partial concurrence and partial dissent, identify the outcomes with which they concur and the outcomes with which they dissent. Then provide the information necessary from other opinions as relevant.

10. Personal Opinion. State how you would vote as a justice, including which opinions you would join and whether you would file your own opinion. Explain your vote in terms of the question(s) in the case, describing a constitutional test you would adopt and how you would apply that test to the facts of the case.

##. Additional Grading Criteria. Your case brief should be professional quality, with appealing formatting, a clear writing style, and correct use of proper nouns. A references section should be included that mentions all sources used when writing the brief, including the case itself and any third-party summaries.