Note: the following is an example of a good case brief. This example is given in conjunction with the bad case brief for this case so that you can precisely identify mistakes that will cost you points. For reference, this brief would receive an A+.

Duncan v. Louisiana
391 U.S. 145 (1968)

Facts: In 1966, Gary Duncan, a black man, was driving in Louisiana when he saw two of his young cousins walking down the street with a group of white boys. Fearing for the boys' safety, he pulled over, exited his car, and demanded that his cousins enter the car. Before entering his car again, Duncan allegedly struck one of the white children. Duncan was later arrested and charged with simple battery, a crime with a maximum penalty of two years imprisonment and a $300 fine. Before the trial in the Twenty-fifth Judicial District Court of Louisiana, Duncan's lawyer requested a jury trial. The judge denied by citing Louisiana's constitution which did not require a jury for such a case. Instead, Duncan had a trial by judge.

Duncan was convicted and sentenced to pay a fine and spend 60 days in jail, and the Supreme Court of Louisiana affirmed this decision. Duncan successfully petitioned for certiorari from the U.S. Supreme Court to challenge his conviction on Sixth and Fourteenth Amendment grounds.

Questions: Does the Due Process Clause of the Fourteenth Amendment apply Duncan's Sixth Amendment right to a trial by jury to Louisiana state courts? If so, does the Sixth Amendment require a jury trial for the crime Duncan was accused of committing?

Decision: The judgment of the Supreme Court of Louisiana is reversed, and the case is remanded for proceedings not inconsistent with the majority opinion. The Due Process Clause protects the right to a trial by jury, with twelve jurors and a unanimous verdict, for all persons accused of a serious crime. Duncan's crime has a sufficient maximum penalty to make it a serious crime; therefore, his conviction without a trial by jury violates his Sixth Amendment rights.

Votes:
Majority Opinion: White, joined by Warren, Black, Douglas, Brennan, Fortas, Marshall.
Concurrence 1: Black, joined by Douglas.
Concurrence 2: Fortas.
Dissent: Harlan, joined by Stewart.

Constitutional Test:
Through a series of cases spanning 70 years, the Court has increasingly determined that the requirements of due process of law, as detailed in the Due Process Clause of the Fourteenth Amendment, should be informed by the Bill of Rights. The Court has already found over a dozen rights from the Bill of Rights are implied by due process and, because of that, States cannot prevent individuals from exercising those rights. The test used by the Court to determine whether a right is incorporated has been described in many ways, but can be summarized by determining whether a right is among those "fundamental principles of liberty and justice which lie at the base of all our civil and political institutions." If a historical analysis determines that a right in the Bill of Rights is at the core of America's justice system, then that right is incorporated into

the protections of the Due Process Clause; any state action which contradicts that right is unconstitutional.

Application of Test: The right to a trial by jury has an extensive history in American traditions, tracing as far back as the Magna Carta and continuing in the Declaration of Independence and Article III of the Constitution. Contemporaneously, the right is also guaranteed for serious criminal cases by almost every other state in the country. The cumulative historical evidence indicates that a jury trial is at the core of America's justice system. As such, Louisiana cannot deny someone a jury trial when they are accused of a serious crime without violating that person's fundamental rights in violation of due process of law under the Fourteenth Amendment. If Duncan is accused of a serious crime, then his trial must be decided by a twelve-person jury delivering a unanimous verdict. Only trials concerning trivial offenses can be decided by a judge.

Answers to Other Questions: Defining a serious crime can be done by examining the laws across the entire country. Every other state requires a jury trial for a maximum punishment of imprisonment for one year, and the federal government requires it for six months. Meanwhile, Duncan's alleged crime has a maximum punishment of two years, clearly an outlier from the rest of the nation. As such, Duncan's crime is serious enough to require a trial by jury. It is inconsequential that Duncan received a lower sentence; it is the possible sentence that drives whether a crime is serious.

Reasoning of Other Opinions: Justice Black authored a regular concurrence, stating the analysis in the case is consistent with recent precedent. He does note that he disagrees with such precedent; his dissent in *Adamson v. California* argues that the history of the Fourteenth Amendment suggests that the entirety of the Bill of Rights should be incorporated through the Privileges and Immunities Clause. But Black has largely been happy with gradual incorporation and supports the continued process. He further rejects Harlan's dissent, arguing that Harlan's vague definition of Due Process is inconsistent with historical evidence and will result in judicial activism.

Justice Fortas authored a special concurrence, agreeing that Duncan's trial was unconstitutional and the majority's Fourteenth Amendment analysis. He did not, however, agree that jury trials need exact specifications. Mandating that juries have exactly twelve jurors and unanimous verdicts goes beyond the Court's authority and is not required by the Constitution.

Justice Harlan dissented and would have affirmed the conviction. The Court has repeatedly ruled that jury trials are not required by the Constitution, and the Court should not break this precedent. The Due Process Clause requires fundamental fairness in procedures, but it does require nationwide uniformity as to what those procedures are. A trial without a jury is not fundamentally unfair, and no evidence suggests that the judge in Duncan's trial was unfair. Harlan also criticizes the definition of serious crimes, noting that what Americans have considered a serious crime has varied over time.

Personal Opinion: I would have joined the majority opinion and Black's concurrence. The Privileges and Immunities Clause, and not the Due Process Clause, is the proper textual and historical basis for incorporation. Further, the privileges and immunities of the citizens of the U.S. include the entirety of the Bill of Rights. Finally, Duncan's alleged crime was serious enough to warrant a jury trial.

References:

Gary Duncan v. Louisiana, 391 U.S. 145 (1968)
Adamson v. California, 332 U.S. 46 (1947)