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

Duncan v. Louisiana

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 and his cousins enter the car. During this time, Duncan allegedly struck one of the white children. Duncan was later arrested and charged with simple battery. Before the trial, 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.

Duncan appealed his conviction to the U.S. Supreme Court for certiorari to challenge his conviction on 14th Amendment grounds.

Questions: Does the 14th Amendment require a jury trial for the crime that Duncan was accused of committing?

Decision: Jury trials are required for all serious crimes in both federal and state courts.

Votes:
Majority Opinion: White
Concurrence: Black, Fortas
Dissent: Harlan

Constitutional Test: The due process clause prevents the states from violating certain aspects of the Bill of Rights. The Court determines what rights the due process clause protects 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."

Application of Test: The right to a trial by jury is guaranteed for serious criminal cases by almost every other state in the country. As such, denying a person a jury trial for a serious crime denies them a fundamental right in violation of due process of law. All serious crimes must have a jury trial.

Answers to Other Questions: There are no other questions in this case.

Reasoning of Other Opinions: Justice Black concurred. He rejects Harlan's dissent, arguing that Harlan's vague definition of due process will result in judicial activism.

Justice Harlan dissented. 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.

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.