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.

Lujan v. Defenders of Wildlife

**Facts of the Case**: The Endangered Species Act of 1973 (ESA) required federal agencies to consult with the Department of Interior before taking actions that might harm an endangered or threatened species. A 1978 regulation jointly created by the Fish and Wildlife Service and the National Marine Fisheries Service required this for both domestic and foreign activities, but a follow-up regulation in 1986 reduced that requirement to only domestic activities.

In response to the reduced regulation, Defenders of Wildlife sued for a declaration of the new regulation illegal under the ESA and an injunction to restore the original regulation. Multiple of its members had travelled internationally to study wildlife and posited that rollback of regulations would result in the authorization of government projects in Egypt and Sri Lanka that would harm their ability to study wildlife in the future. Lujan, the Secretary of the Interior, moved to dismiss the case and Defenders appealed to the Supreme Court.

**Questions**: Do the Defenders of Wildlife have standing to bring the suit?

**Decision**: The lower court is overturned and the case is dismissed.

**Opinions**:
Majority: Scalia
Concurrence: Kennedy, Stevens
Dissent: Blackmun

**Constitutional Test**: The judicial power is limited by the cases or controversies clause to only those cases in which a party can demonstrate standing, which has three elements. A party must have suffered an concrete injury, their injury must be caused by an illegal action, and their injury must be capable of being redressed by a favorable court ruling.

**Application of Test**: The Defenders of Wildlife have failed to demonstrate of how their members will be adversely affected by the government's actions, in part because they have no plan of returning overseas in the near future. There is no demonstrable evidence that the government's actions will affect ecosystems located more closely to their membership.

**Other Opinions**: Kennedy writes a concurrence indicating that he agrees with the majority about the injury requirement for standing. Because the members of Defenders have no plans to visit the specific international locations in question, and travel to such destinations is not typical for most citizens, then fail the injury prong of the test described for standing.

Stevens writes a concurrence arguing that the Endangered Species Act specifically mentions when it applies to government actions relating to foreign countries. Because the relevant sections

of the ESA that authorize the regulations in question do not mention foreign countries, then those regulations could never affect government actions related to foreign countries. As such, the regulation is lawful under the ESA.

Blackmun argues that a plaintiff does not have to prove an injury to demonstrate standing to a judge, but simply demonstrate enough evidence exists that a jury might believe they have been injured. Such a threshold is reached in this case, and the precise nature of the injury is a question of fact best left to a jury. Redressability is demonstrated in this case because agencies have to follow federal law and will be bound by the results of this case. And precedent suggests Congress can grant standing via statute to individuals that would not otherwise have standing.

**Personal Opinion:** I see no reason why individuals cannot sue executive agencies to ensure they are following Congress' law if Congress allowed for such suits in the text of that law. Provisions for civilian suits grant individuals' interests that are injured by unlawful government action and are redressed by lawful government action. But the Endangered Species Act does not generally apply to foreign wildlife, so the regulations at issue are perfectly lawful.

**References**:
*Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992)