

Research, Writing, and Analysis

BRIEFING A CASE

A case brief is a written analysis of a judicial opinion. A judicial opinion is also commonly known as a case or a decision. There are many different methods of case briefing, but all methods have the same basic goal: to help you understand the significance of an opinion. Lawyers often use some form of case briefs to keep track of their research. Law students also use case briefs as aids for class discussion, as well as for studying and review.

A complete case brief includes all that is relevant to the court's decision: who the parties are, what they want, how the trial and any previous appellate courts responded to the parties' arguments, the relevant facts, the issue, the court's holding, and the court's reasoning.

The obvious first step of case briefing is reading the case. Before you begin to read, determine why you are reading the case. You will understand the case more easily if you read with a purpose. Effective lawyers read methodically and carefully. Chapter 3 of A Lawyer Writes contains many excellent suggestions regarding how to effectively read a case. Though assigned later, you may want to read Section 3.2 before preparing your case brief. In any event, first read through the opinion at least once, noting the basic facts, procedural history, and outcome. Then, read the case again and complete your brief. Use your own words whenever possible but do quote the opinion when the court's precise language is important for understanding the case. After writing your case brief, you may want to go back and change some parts of it. For example, you may realize that you did not include all the relevant facts or that you included some irrelevant ones. There is nothing wrong with this back-and-forth process: in fact, it shows that you are thinking about what you are doing. The case brief is a record of your understanding of the case and, as such, should always be open to revision.

It is important that you read and understand every word in a case. Use both a standard dictionary and a legal dictionary, such as Black's Law Dictionary, which is available on Westlaw, to look up words you do not understand.

Ideally, a court’s opinion should clearly lay out the court’s application of the relevant law to the facts for each issue in the case. However, an opinion may not state the issue explicitly; important facts may be scattered throughout the opinion or even be missing; the law on which the court relied may be unstated or incomplete; the court’s application of law to facts may be cursory. Because cases can be confusing to read, do not expect to understand every case completely the first (or even the second) time you read it.

Here is one case-briefing format. You may have seen other, similar ones. Again, they all attempt to do the same thing: to help you to understand the case and to provide you with a summary that will make it unnecessary for you to re-read and re-analyze the case every time you need to refer to it in the future – for example, when you are reviewing for class or studying for an exam. Professors in other courses may suggest a different format. In each course, you should follow the advice of that professor, just as you would follow differing instructions from various supervising attorneys once you start practicing law.

A CASE-BRIEFING FORMAT

(1) CASE NAME AND CITATION, INCLUDING COURT AND YEAR

Which court decided the case? When did it do so? Where may the text of the case be found (i.e., the legal citation)? (You will learn more about citation form in later RWA classes).

(2) PARTIES

Identify the parties. Who is the plaintiff (or appellant or petitioner)? Who is the defendant (or appellee or respondent)? Because it is ambiguous, do not label the parties as only appellant or appellee and petitioner or respondent. Identify the parties through labels that indicate their roles in the underlying factual dispute (e.g., buyer, seller, borrower, lender, accident victim, driver of car that struck victim). While you may want to include the proper names of the parties, proper names and procedural role labels alone (e.g., “Plaintiff is Smith”) are not sufficient. Instead, “Plaintiff is Smith, the homeowner” is better.

(3) FACTS

What happened before the parties arrived in court – before the plaintiff even thought of filing a lawsuit? Such facts are an integral part of the legal analysis because judges rule only in the context of a particular factual dispute. State all – but only – those facts that are necessary, or relevant, to the court’s decision regarding the relevant issue. Chronological order is usually the clearest. If an opinion omits what you believe is an important fact, indicate that omission. As stated earlier, it may take a few attempts to separate the irrelevant from the relevant facts. Keep in mind that the “Facts” section should not be the largest part of your case brief.

(4) PROCEDURAL HISTORY

What has happened legally? Who sued whom, and under what legal theory of recovery (e.g., negligence, trespass, breach of contract)? If the case is on appeal, what was the result at the trial court level (e.g., summary judgment granted for plaintiff; defendant’s motion for directed verdict granted)? Who appealed? If only part of the trial court’s judgment was appealed, which part? What happened in any prior appellate proceeding? (You will, for the most part, read appellate opinions in law school.)

(5) ISSUE

The issue is the precise legal question the court must resolve to decide the case. If there is more than one issue in the case, number them. Phrase the issues in question form. An issue involves (a) a dispute between the parties over (b) the meaning or application of one or more rules of law (e.g., statutory or common law) based on (c) the key facts of the case. A key fact is one which, if changed or omitted, might lead to a different result. When framing the issue, narrow your question to the specific issue the court must answer. If you phrase a question too broadly, the case brief may not be useful to you when you refer to it later.

Here are some examples:

(a) Under the Michigan dog bite statute, did a girl provoke a dog to bite her when she picked up a football she had dropped, while juggling approximately six inches from the dog as he was eating?

Note that this question identifies the key facts (the girl was bitten as she picked up the ball, the dog was eating at the time, the girl dropped the ball as she was juggling approximately six inches from the dog) and the relationship between these facts and the legal principle involved (were the girl's actions provocation as defined by the Michigan dog bite statute).

Another example:

(b) Did a police officer hold the status of a licensee (who takes the premises as he finds them) when he fell through a rotten deck while investigating a suspected burglary at the defendant-homeowners' residence, in response to an automatic burglar alarm?

Over time and with practice, you will develop the skill of stating the issue "narrowly" enough (but not too narrowly) by identifying both the legal principle and the key facts accurately. The statement of the issue is important; take the time and effort to get it right.

(6) HOLDING

The holding is the court's answer to the question posed in the issue. Stated another way, the holding is the court's decision on the issue before it. If there is more than one issue, there will be more than one holding.

Examples:

(a) No. The girl's actions did not constitute provocation under the statute.

(b) Yes. A police officer held the status of a licensee when he was on private residential property in his official capacity in response to a burglar alarm.

(7) REASONING

Why did the court rule as it did? Explain, step by step, the analysis the court used to support or justify its holding. This includes a statement of the law on which the court relied, the logical analytical steps the court took in applying the law to the

specific facts of the case, and any public policy or policies on which the court relied. This section of the case brief will usually be the longest.

The reasoning begins with a statement of the controlling principle of law on which the court relied in reaching its decision. The principle of law may have come from a constitution, a statute, a regulation, a previous case, or any combination of these. The rule of law is the framework for the legal analysis that follows. It provides a general legal principle that applies to a particular set of facts.

The reasoning section then describes each logical step the court took to apply the controlling rule of law to the case at hand and the justifications that the court gave, including any public policy reasons for its choices.

Often, a statement that may appear to be a part of a court's holding will be mere dictum, which is an opinion or other remark by a judge that goes beyond the facts of the case at hand and is not a necessary part of the court's reasoning or result for the parties before the court. Even though statements of dicta are not necessary to the case in which they appear and thus are not part of the binding rule of the case, they can offer important guidance as to how the legal rule of that case may be applied in future cases (especially when they come from the highest court of a jurisdiction). Thus, include and identify dicta, if any, in your case brief.

The following pages contain an edited version of a case, Vosburg v. Putney, and a sample brief of that case. Consider first briefing the case yourself and then comparing your brief to the sample that follows.

Supreme Court of Wisconsin
Vosburg v. Putney, 50 N.W. 403 (Wis. 1891)¹

Lyon, J.

“[The plaintiff, 14 years old at the time in question, brought an action for battery against the defendant, 12 years old. The complaint charged that the defendant kicked the plaintiff in the shin in a schoolroom in Waukesha, Wisconsin, after the teacher had called the class to order. The kick aggravated a prior injury that the plaintiff had suffered and caused his leg to become lame. The jury found, in a special verdict, that the plaintiff had, during the month of January 1889, received an injury just above the knee, which became inflamed and produced puss and that such injury had, on February 20, 1889, nearly healed at the point of the injury. The jury further found that the plaintiff had not, prior to February 20, been lame as a result of such injury, nor had his tibia in his right leg become inflamed or diseased to some extent before he received the blow or kick from the defendant. Instead, it was the defendant’s kick that was the exciting cause of the injury to the plaintiff’s leg. And, although the defendant, in touching the plaintiff with his foot, did not intend to do plaintiff any harm, the jury awarded plaintiff twenty-five hundred dollars. The trial court entered a judgment for the plaintiff on the special verdict and the defendant appealed.]

The jury having found that the defendant, in touching the plaintiff with his foot, did not intend to do him any harm, counsel for defendant maintains that the plaintiff has no cause of action, and that the defendant’s motion for judgment on the special verdict should have been granted. In support of his proposition, counsel quotes from 2 Greenl. Ev. 83, the rule that ‘the intention to do harm is of the essence of an assault.’ Such is the rule, no doubt, in actions or prosecutions for mere assaults. But this is an action to recover damages for an alleged assault and battery. In such cases, the rule is correctly stated, in many of the authorities cited by counsel, that plaintiff must show either that the intention was unlawful or that the defendant intended the act itself, even if he did not intend the subsequent harm. If the intended act is unlawful, the intention to commit it must necessarily be unlawful. Hence, as applied to this case, kicking the plaintiff by the defendant was an unlawful act, and the defendant desired to kick plaintiff. Had the parties been upon the playgrounds of the school, engaged in the usual boyish sports, the

¹ This edited version of Vosberg is from Ruta K. Stropus & Charlotte D. Taylor, Bridging the Gap Between College and Law School 31-32 (2d ed. 2009).

defendant being free from malice, wantonness, or negligence, and intending no harm to plaintiff in what he did, we should hesitate to hold the act of the defendant unlawful or that he could be held liable in this action. Some consideration is due to the implied license of the playgrounds. But it appears that the injury was inflicted in the school, after it had been called to order by the teacher and after the regular exercises of the school had commenced. Under these circumstances, no implied license to do the act complained of existed, and such act was a violation of the order and decorum of the school and necessarily unlawful. In addition, although the defendant might not have intended the plaintiff to become lame, there is no question that he intended to kick him. One who intends the act is also responsible for the subsequent harm. Hence, we are of the opinion that, under the evidence and verdict, the action may be sustained.”

Sample Case Brief

(1) Case Name and Citation, Including Court and Year

Vosburg v. Putney, 50 N.W. 403 (Wis. 1891).
Supreme Court of Wisconsin

(2) Parties

Plaintiff-appellee (Vosburg) is a child who was kicked and subsequently rendered lame by the defendant.

Defendant-appellant (Putney) is the child who kicked the plaintiff.

(3) Facts

After the teacher had called the class to order and while in the classroom, the defendant-student intentionally kicked the shin of the plaintiff, a fellow classmate. Aggravating a prior injury, the kick caused the plaintiff to become lame. The defendant did not intend any harm to the plaintiff.

(4) Procedural History

Jury found for the plaintiff; the defendant appeals.

(5) Issue

Is the intent element of battery satisfied when a child kicked the shin of a school classmate in the classroom after class had been called to order, even though the child did not intend to harm the classmate.

(6) Holding

Yes. The intent element of battery is satisfied because the defendant intended to do the act and the act was unlawful. Kicking others is not lawful in a school classroom. The defendant does not have to intend the subsequent harm. Decision affirmed.

(7) Reasoning

In an action to recover damages for an alleged assault and battery, the plaintiff must show “either that the intention was unlawful,” i.e., that the defendant intended the unlawful harm (here that the defendant intended to render the plaintiff lame), or that the defendant intended an unlawful act (here that the defendant intended to kick the plaintiff, while in the classroom, when school was in session).

Here, the defendant intended to kick the plaintiff, and kicking the plaintiff was an unlawful act. Thus, the defendant intended an unlawful act.

The kick was unlawful because it occurred in the classroom after class had been called to order by the teacher. Therefore, there was no “implied license” to kick a classmate.

The kick was a “violation of the order and decorum of the school” and thus unlawful.

It does not matter that the defendant did not intend to make the plaintiff lame.
“One who intends the act is also responsible for the subsequent harm.”

Consider: What is the rule of the case?