

BRIEFING A CASE

***BE AS BRIEF AND SUCCINCT AS POSSIBLE
READ THE CASE FIRST THOROUGHLY***

(PGDNL 2014)

In order to facilitate preliminary examination of the Appeal or Review Petition filed in the Supreme Court and the High Court the Bench Clerks (law clerks) and lawyers must be able to understand the principles and patterns of law by reading judicial opinions. One must be able to identify the rules of law in each case, and the analysis that the Court uses to get to its ultimate holding. Therefore, the bench Clerks and lawyers must understand case structure and be able to separate the case into its components. The case brief organizes ones thinking and forces one, point by point, to consider all the important elements of the decision.

A. Briefing a Case

1. State the case:

- Who are the Parties (Appellant and respondent)?
- What do they want?

2. The Facts:

- A synopsis of only the essential facts of the case, i.e., those bearing upon or leading up to the issue.
- This should rarely be more than three or four sentences.

3. Procedural History:

- What happened in the litigation
- Who won or lost?
- Was there a trial?

4. Issue:

- A statement of the general legal questions answered by or illustrated in the case.
- To find the issue, ask who wants what and then ask why did that party succeed or fail in getting it
- Once this done, the “why” should be turned into a question?

5. What is the holding/decision:

- Of the Trial Court?
- Of the Bench or Full Bench of the High Court?
- How did the Court rule regarding the dispute?
- What is the legal rule that you can extract from the case? (law of the case – ratio decidendi)
- Consider separate opinions here, such as concurring or dissenting opinions as well. Know how the Judges or Justices stack up on separate issues.

6. What is the Court's rationale?

- Succinctly explain the Court's chain of reasoning.
- In summarizing the Court's "reasoning", you should always include an application of the general rule or rules of law to the specific facts of the case (IRAC).

7. The order:

- Describe the final procedural disposition.

8. Your Analysis

- You evaluate:
 - The significance of the case,
 - Its relationship to other cases,
 - Its place in history,
 - What it shows about the Court, its members, its decision-making processes, or the impact it has on litigants, government, or society.

Probe the implicit assumptions and values of the Justices, the "rightness" of the decision debated, and the logic of the reasoning considered.