

How to Read a U.S. Supreme Court Opinion

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Reading U.S. Supreme Court opinions can be intimidating. Yet, in the digital age, it has never been easier to access them. The average opinion is about 4,750 words, and is one of approximately 75 issued by the Court each year. It might be reassuring to know that opinions contain similar parts and tend to follow a similar format. There are also useful key words to identify amid the pages of a PDF or HTML text to help focus reading. Here, “Looking at the Law” offers a basic guide for reading and analyzing these important primary legal documents.

Step 1: Identify the Parts.

Typically, a U.S. Supreme Court opinion document is comprised of one or more, or all, of the following:

Syllabus

The syllabus appears first, before the main opinion. It is generally identified by a heading. The syllabus is not part of the official opinion, though it is often printed in the opinion document; but is rather, a summary added by the Court to help the reader better understand the case and the decision. The syllabus may be several pages long, and outlines the facts of the case and the path that the case has taken to get to the Supreme Court. The syllabus was particularly significant in the recent health care ruling.¹ It was, for many media outlets, the quickest summary of breaking news available for public reporting. The syllabus often concludes with a summary of which justice authored the main opinion, which justices joined in the main opinion, and which justices might have issued concurring or dissenting opinions.

Main Opinion

Following the syllabus is the main opinion. This is the Court’s *official* decision in the case. It is often set apart from the

syllabus with a heading: “Opinion of the Court,” or will announce a particular justice delivering the opinion for the Court. Typically, one justice is identified as the author of the main opinion, as in “Mr. Chief Justice Warren delivered the opinion of the Court,” from *Brown v. Board of Education*.² This practice originated in the early nineteenth century with Chief Justice John Marshall, who felt it presented a unified front, and would ultimately bolster the Court’s prestige.

Per curiam opinions, however, do not identify any authors, and are simply, opinions of the Court. Latin for “by the court,” *per curiam* opinions tend to be shorter in length, and address questions where individually authored opinions may not be the most effective. *Bush v. Gore*, for example, was a *per curiam* opinion issued to resolve the 2000 presidential election dispute.³

In legal terms, the opinion announces a decision and provides an explanation by articulating the legal rationale that the justices relied upon. The main opinion may take different forms, depending on how the justices decide certain issues. Sometimes all of the justices agree on both the result and the legal rationale for their decision. The Court, in these cases, issues one *unanimous opinion*.

Brown, for example, was a unanimous opinion with all nine justices agreeing on the decision and the legal rationale. When more than half of the justices agree on the same result and the rationale, the Court issues a *majority opinion*. *Tinker v. Des Moines*, for example, was a majority opinion, with seven justices ruling for the petitioner, Tinker, and agreeing with the rationale, and two justices not in agreement with the majority.⁴

Other times, there is no majority, but a plurality, so the Court issues a *plurality opinion*. The 2008 case concerning voter identification, *Crawford v. Marion County Election Board*, was a plurality decision with six justices agreeing on the decision, but disagreeing on the legal rationale. Three justices agreed on one rationale, while three justices agreed on another. Three other justices did not agree with the decision.

Concurring and Dissenting Opinions

Often, there are multiple opinions included in the opinion document because the justices are not in agreement. These are set apart from the rest of the opinion with specific identifying headings. The justices who agree with the result of the main opinion, or the resolution of the dispute between the two parties, but base their decision on a different rationale may issue one or more *concurring opinion(s)*. Likewise, justices who disagree with the main opinion in both result and legal rationale may issue one or more *dissenting opinion(s)*. The opinion in the 2011 free speech case, *Snyder v. Phelps*, for example, includes

both a concurring and dissenting opinion.⁵ Justice Stephen Breyer agreed with the decision, but not the rationale, so he issued a concurring opinion. Justice Samuel Alito, however, disagreed with both the decision and the rationale, and issued a dissenting opinion.

Step 2: Understand the Formal Elements

Regardless of which, or how many, parts comprise the opinion, they will share several formal elements. Headings, also known as the “caption,” typically include the Court term in which the opinion was announced. Supreme Court terms begin in October of each calendar year, and extend into the summer of the following year. So a decision announced in March 2013 would be part of the 2012 Term, since the term began in October 2012. Opinions also include the case docket number, argument dates, and decision

date. Another important element is the case name, which identifies the parties involved in the case. Generally, the party listed first is the petitioner, or party petitioning, or suing, the court for judgment against the other party, known as the respondent. For example, the name of the case *Snyder v. Phelps* originates from the fact that Albert Snyder filed suit against Fred Phelps, Sr. The case name *U.S. v. Jones* denotes that the United States government filed suit against Antoine Jones.⁶

The heading might also include an explanation of where the case came from before reaching the Court. Often, there is a note about *certiorari*, a Latin word for “to be informed of,” and in legal terms, an order by which a higher court reviews the decision of a lower court. For example, the opinion in *Brown* notes “appeal from the United States District Court for the District of Kansas.” That means the case is being reviewed upon appeal from the

U.S. District Court for the District of Kansas. *Bush v. Gore* notes “on writ of certiorari to the Florida Supreme Court.” This means that the case was being reviewed for the Florida Supreme Court.

Finally, just as opinions have commonalities in their openings, they also have commonalities in closings. Main opinions end with the phrase, “It is so ordered.” This is meant to reinforce the notion that this decision is coming from the Court, not an individual justice, despite who might be identified in the opinion documents, and shall be executed or enforced.

Step 3: Read Purposefully

When reading an opinion, it is important to focus on a few “big picture” takeaways:

Facts

Pinpoint the stated facts of the case, or the “story” or narrative—who, what,

Before the Opinion: Three Ways that a Case Reaches the U.S. Supreme Court

Original Jurisdiction

The first, and least common, way that a case reaches the Supreme Court is when the case falls under the Court’s original jurisdiction. The Court is able to hear the case directly. It does not need to go through another court first, it simply goes to the Supreme Court. These types of cases are set forth by Article III of the Constitution, and other congressional acts—the Federal Judiciary Act, for example. The Supreme Court is the only court able to hear cases involving disputes between different states. Other original jurisdiction examples include cases where one or more states is the plaintiff in the case—suing another party, or cases where the United States government is suing another state. These cases are rare, and may appear once or twice during any term.

Writ of Certiorari

The most common way for a case to reach the Supreme Court is on appeal from another lower federal court. The United States is divided into 94 different geographic federal judicial districts—including at least one district in each state, Washington, D.C., and Puerto Rico. Federal cases that originate in the district are tried in that district’s federal court, a U.S. District Court. The district courts hear both civil and criminal cases, as well as all bankruptcy cases.

The districts are further organized into 12 circuits, and each circuit has at least one U.S. Court of Appeals. If parties appeal a

decision from the district court, the case may be heard in the next higher court in the federal system, part of the U.S. Court of Appeals.

If parties are unhappy with the resolution in the circuit’s Court of Appeals, they may appeal to the Supreme Court. Parties seeking to appeal a decision of a circuit court may petition the Court for a writ of certiorari, an order by which a higher court reviews the decision of a lower court. If the Court grants the petition, then the case is scheduled for future argument.

Unlike other courts, the Supreme Court is able to decide which cases it will hear on appeal. The Court receives approximately 10,000 petitions for certiorari each term, but only hears a fraction—fewer than 100. The case is only heard if four of the nine justices agree that there is an important need for review. If the case is denied certiorari, then the decision of the lower court is final.

State Supreme Courts

Another way, also common, that a case reaches the U.S. Supreme Court is through review of a state supreme court decision. Each state has its own supreme court that is the final authority on all state matters. Parties appealing decisions from the state supreme court may petition the Supreme Court to review the case. Most of the time, the U.S. Supreme Court will not hear cases appealed from a state supreme court, unless, constitutional issues are involved.

when, and where. Supreme Court opinions tend to begin with a person, place, thing, or event, often in everyday scenarios. Knowing the story being told helps to make the case more relatable to the reader and the resolution easier to understand. The knowledge that 13-year-old Mary Beth Tinker was suspended from school for wearing black arm bands in protest of the Vietnam War helps to understand the final decision that she had a First Amendment right to do so without penalty. The reading goal is to be able to tell the story of the case, including its procedural history. Mary Beth Tinker's father filed suit in federal court. Initially, the court decided in favor of the school. Tinker appealed. The Court of Appeals could not decide! The court was equally divided, so the decision in favor of the school from the lower court stood. Again, the Tinkers appealed, this time to the Supreme Court. How the case reached the Supreme Court is an essential part of the opinion, as it provides familiarity and context for understanding the ruling.

Legal Dispute(s)

What are the legal issues in the case? What questions are being presented? Is the Court interpreting the U.S. Constitution or a statute—e.g., an act of Congress? Try to identify the parties' particular dispute(s) and their main arguments. For example, the question presented in *Snyder v. Phelps* was: "Does the First Amendment protect protesters at a funeral from liability for intentionally inflicting emotional distress on the family of the deceased?" Often, a substantial portion of the main opinion outlines the legal questions presented, the arguments presented to the Court, and the legal reasoning that the justices used to arrive at their decision.

Disposition

Generally, the end of the main opinion includes the disposition, or what action the Court is taking. When reviewing decisions from a lower court, the Supreme Court typically has three options:

1. Affirm—allow the lower court's ruling to stand;
2. Reverse, Void, or Vacate—overturn the lower court's ruling; or
3. Remand—send the case back to a lower court for a retrial.

In *Tinker*, for example, the Court reversed the lower court's judgment. Sometimes the Court combines the options to reverse and remand—and not only overturns the lower court's decision, but also orders a retrial.

Law

The main opinion will include a section on law, which includes the Court's legal reasoning or holding. In some opinions, this will be clearer than others, but try to identify at least one principle of law that the Court outlines as a basis for its ruling. Sometimes, the opinion cites past cases—legal precedent, policy, or outlines other considerations. Finally, if there were any concurring or dissenting opinions, try to determine the differences in reasoning.

What Does that Case Citation Mean?

Each of the elements of the case citation means something, as illustrated below:

Gideon v. Wainwright 372 U.S. 375 (1963)
 1 2 3 4 5

- 1 Case name
- 2 Volume of the report series in which the full decision is officially documented
- 3 Name of the report series in which the decision is documented: "U.S." stands for the *U.S. Report*, which is printed by the Supreme Court. Sometimes a case name refers to an independently published series, such as "S. Ct.," which refers to the *Supreme Court Reporter* published by West Publishing.
- 4 Page number in the referenced volume on which the decision begins
- 5 Year the opinion was released

A Note on Case Names

Cases are named according to the parties involved. When there are two parties, the first name is the petitioner, or the party filing

the lawsuit against the second party, the respondent.

Sometimes case names do not list two parties, such as cases whose names include *In re* or *Ex parte*. *In re* is a Latin term meaning "in the matter of" and is typically used in cases where there are not two designated adversarial parties. Such cases might involve property disputes, court orders, or situations where the Court is asked to clarify matters, such as *In re Debs*. In this example, Debs was challenging an injunction, or court order, issued by the federal government during a labor strike. The term is also used in certain cases involving juveniles, such as *In re Gault*.

Ex parte is also a Latin term, which refers to a case "from one party." Typically, one or more of the parties is absent from the legal proceedings. *Ex parte* is followed by the name of the party who initiated the case, as in *Ex parte Merryman*. One individual, Merryman, arrested during the Civil War, challenged the government's right to hold him without charges. He sought an order that would require the government to charge him with something, or let him go.

Significance and Scope

Consider the significance of the opinion. What was the significance of the decision in *Brown* declaring school segregation unconstitutional? How does it resolve the original story presented in the case? This may not be readily apparent simply from reading the text of the opinion. What do you think will be its application beyond the particular facts of the case? Consider other possible fact patterns to which it might apply. What else do you think will be the consequence of the opinion, especially considering its holding or legal reasoning? What precedent might it establish?

After all of this, please do not be shy about reading U.S. Supreme Court opinions. They are primary sources that tell stories, and hopefully, this primer gives you a few things to keep in mind as you set out to analyze them. 🌐

Notes

1. *National Federation of Independent Business, et al. v. Sebelius, Secretary of Health and Human Services, et al.* (2012)
2. *Brown, et al. v. Board of Education of Topeka, et. al.* (1954)
3. *Bush v. Gore* (2000)
4. *Tinker v. Des Moines Independent Community School District* (1968)
5. *Snyder v. Phelps* (2010)
6. *United States v. Jones* (2012)

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Locating Supreme Court-Related Documents

ABA *PREVIEW* of United States Supreme Court Cases

www.supremecourtpreview.org

Provides briefs and analysis for every case scheduled for oral argument before the Court.

Legal Information Institute

www.law.cornell.edu

Comprehensive site from Cornell University Law School that offers opinions and notes on "significant" cases from each term.

Oyez Project

www.oyez.org

Managed by the Illinois Institute of Technology Chicago-Kent College of Law; offers opinions, audio of oral argument, and summary analysis of each opinion.

U.S. Supreme Court

www.supremecourt.gov/opinions

The Court posts opinions for the current term as well as PDF copies of bound volumes of opinions from previous terms.



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