

HOW TO WRITE A CASE BRIEF

WHAT IS A CASE BRIEF?

A case brief is a written summary of a legal decision. It outlines the facts, history, issues, outcome and reasoning of a particular case.

HOW ARE CASE BRIEFS HELPFUL?

Case briefs are useful because they:

- Identify the most important aspects of a case, making it easier to synthesize the information;
- Outline the legal principles and rules that were established in a case;
- Put cases in context with other material learned in a course; and
- Are a great study tool.

WHAT IS INCLUDED IN A CASE BRIEF?

1. **Who** was involved in the case? [**case name and citation**]
2. **What happened** in the case? [**facts**]
3. **Which courts** have heard the case already? [**procedural history**]
4. **What** are the legal issues the court must decide? [**issues**]
5. **How** did the judge decide the case? [decision]
6. **What legal principle** does this decision stand for? [**the ratio**]
7. **What is the explanation** the court gave for its decision? [**reasons**]

OVERVIEW OF A CASE BRIEF

CASE NAME AND CITATION¹

Also referred to as the “style of cause”, this section identifies the parties involved in the case.

For example:

R v Patrick, 2009 SCC 17, [2009] 1 SCR 579.

FACTS

This section provides an overview of the most important facts of the case, including all of the relevant people, actions, locations and objects involved. Only the material facts of the case (i.e. the facts that really matter to the outcome) need to be included. The goal is to tell the story of the case without forgetting something important or including something irrelevant. When outlining the facts of the case, be sure to include the titles of the people being written about.

For example:

- Police suspected the appellant, Mr. Patrick, of operating an ecstasy lab in his home, and on several occasions, seized garbage bags that had been left at the rear edge of his property for city garbage pickup. Police did not set foot on the appellant’s property, but did reach through the airspace over his property line in order to seize the bags. Police used items in the bag, some of which were contaminated with ecstasy, to acquire a search warrant of the appellant’s property and to charge him. The appellant argued that police

¹ For further information, refer to OJEN’s *Guide to Legal Citation for High School Student*.

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violated his right under s. 8 of the Canadian *Charter of Rights and Freedoms* by searching his garbage.

- At trial, it was found that the appellant did not have a reasonable expectation of privacy over his discarded garbage bags, making their search and seizure a lawful exercise of police powers. The trial judge therefore admitted the seized evidence and convicted the appellant of unlawfully producing, possessing and trafficking in a controlled substance.

WHO'S WHO IN COURT

First trial in **civil** court:

- **Plaintiff** (the party is bringing a claim)
- **Defendant** (the party accused of wrongdoing)

First trial in **criminal** court:

- **Crown** (the government)
- **Accused/Defendant** (the party accused of a crime)

In the case of an **appeal** trial:

- **Appellant** (the party who is bringing the appeal)
- **Respondant** (the party who won the previous trial and is now responding to the appeal)

PROCEDURAL HISTORY

This section should explain how the case has moved through the court system, starting from the time the matter went to trial to the present decision. The procedural history should include the following information:

- The **original trial decision** [often the trial is the first level, but sometimes there are steps before];
- The court level of the **decision made before this trial** [what court was the case previously heard in?]; and
- The **current status** of the case being reviewed (i.e. what court is the case at now?)

For example:

The trial Court convicted Mr. Patrick of unlawfully producing, possessing and trafficking a controlled substance and the Court of Appeal for Alberta upheld the conviction. Mr. Patrick appealed this decision to the Supreme Court of Canada.

ISSUES

This section outlines the main legal questions that the court was asked to decide. The legal issues can be written in question form and should summarize what legal questions are being addressed by the case. It is often helpful to write the questions in "yes/no" format.

For example:

Was the warrantless search and seizure of garbage bags from the appellant's property a lawful exercise of police powers in accordance with s. 8 of the *Canadian Charter of Rights and Freedoms*?

Or in an appeal case

Appeal dismissed; conviction upheld.

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DECISION

The decision section outlines what the Court decided and what action or remedy was ordered, if any. This section provides the answers to the questions outlined in the Issues section.

For example:

The evidence from the garbage bags was admitted and Mr. Patrick was convicted.

Or in an appeal case

Appeal dismissed; conviction upheld.

RATIO

The ratio (or *ratio decidendi*) is a statement of the legal rule that the Court used to make its decision. The ratio identifies what is important about a case from a legal perspective and also what effect it might have on society. Outlining the ratio is important because in a common law system like Canada's, the legal precedents set by the Supreme Court of Canada are binding on lower courts and will therefore influence how they decide similar cases. The ratio should be written as a statement.

For example:

There is no reasonable expectation of privacy over garbage left out for collection on personal property such that a person's s. 8 rights to privacy under the *Canadian Charter of Rights and Freedoms* is activated or infringed by police search and seizure.

REASONS

This section provides an explanation of how the Court reached its decision, including the legal rules or precedents it followed and how it justified its application of the law in this particular case.

For example:

The Court indicated that at issue was whether the appellant retained a reasonable expectation of privacy in the contents of his garbage. The majority found that the appellant had abandoned his privacy interest by leaving his garbage bags out for collection at the edge of his property. The Court indicated that placement of the bags was key, as it suggested that bags placed nearer to the house might have been protected by s. 8 of the *Charter*, while bags left just inside the property line (unprotected from passersby) were not.

In a concurring judgment, Justice Abella held that the appellant retained a privacy interest in his garbage bags, as the waste was left out for the specific purpose of garbage collection. However, Justice Abella found that since the police had a reasonable suspicion that the appellant was operating an ecstasy lab, the search was lawful and not in violation of the Defendant's s. 8 *Charter* right.

SAMPLE CASE BRIEF

SL v COMMISSION SCOLAIRE DES CHÊNES, 2012 SCC 7, [2012] 1 SCR 235

Facts

In 2008, a mandatory Ethics and Religious Culture (ERC) program was introduced in Quebec elementary and secondary schools. The program replaced existing Catholic and Protestant religion programs and provides general instruction to students about ethics, morality and world religious traditions including Christianity, Hinduism, Islam and Judaism, among others.

That same year, two Catholic parents requested that their children's school board exempt their children from the ERC program on the grounds that the program infringed both their own and their children's right to freedom of conscience and religion. The parents argued that they had an obligation to pass on the tenets of their Catholic religion to their children. They argued that the ERC interfered with their ability to do so by confusing their children and causing disruption by exposing them to different religious ideas.

Ultimately, the school board refused to exempt the children from the program. As a result, the parents sought a declaration from the Quebec Superior Court that the ERC program infringed their freedom of conscience and religion.

Procedural History

The Superior Court held that the objective presentation of various religions to students does not infringe the parents' or student's freedom of conscience and religion. The decision was appealed and the Court of Appeal for Quebec upheld the Superior Court decision.

Issues

Does compelling children to be exposed to religious diversity necessarily infringe upon freedom of conscience and religion?

Is a sincere belief that such exposure threatens parents' ability to pass on their faith to their children sufficient proof that it does so?

Decision

The Supreme Court of Canada (SCC) unanimously found that the claimants had failed to show that the mandatory program violated their freedom of religion or conscience.

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Ratio

The SCC considered whether the course infringed the right to freedom of conscience and religion under section 2(a) of the Canadian *Charter of Rights and Freedoms*. This decision clarifies what is required to establish a violation of the right to freedom of conscience and religion. To prove an infringement, the claimant must demonstrate, on the basis of objective proof, that s/he cannot actually practice his/her religion or exercise his/her beliefs. A claimant's mere belief that his/her religious practices or beliefs have been infringed is not sufficient to establish an infringement.

Reasons

The SCC unanimously concluded that although exposure to a variety of religious facts can be a source of friction, exposing children to a variety of religious traditions does not in and of itself infringe the parents' or children's freedom of conscience and religion. The Court found that while the parents sincerely believed that they had an obligation to pass on the tenets of their faith to their children, they could not prove that the ERC interfered with or obstructed this practice.

In addition, two of the SCC judges held that the Superior Court erred in failing to consider content of the ERC program in assessing the program's impact on the parents' ability to fulfill their religious obligations. Nevertheless, these two concurred with their colleagues in finding that the parents had failed to prove that freedom of conscience and religion had been infringed, as the program material filed as exhibits for the case provided no insight into how the program would be implemented and taught. As a result, these two SCC judges left the door open to the possibility that the ECR program and the teaching methods used to implement it may in the future be found to infringe individuals' freedom of conscience and religion.