MBA535: Case Brief Guidelines and Rubric
How and Why to Brief a Law Case

Purpose
The purpose of reading in the practice of law is different from the purpose of reading in many other disciplines. In law, you read not just to familiarize yourself with someone else’s ideas but to be able to use the information to answer a question. This requires understanding judicial opinions in depth and being able to use the information in a number of cases to formulate an answer to a new question. Therefore, passively reading cases is not sufficient; you must deconstruct the opinion into its component parts and state those components in your own words and in an easily accessible format. Then the information is at hand for you to apply to a new set of facts.

Briefing a case requires you to put the material into your own words. To do this, you have to understand it. Underlining text does not require you to understand it. Moreover, briefing a case reduces the volume of material so you can find what you need. Underlining does not accomplish this goal either.

Assignment
You will complete two Case Briefs as follows and submit each to the Dropbox no later than Sunday 11:59 PM EST/EDT of the module in which it is due. (Each Dropbox basket is linked to Turnitin.)

Details for each Case Brief are located within Modules 4 and 8.

Instructions
Every lawyer briefs cases differently. A case brief generally consists of a series of topic headings with the specific information from the case under each heading. Most case briefs contain similar information but the headings and their sequence may be different. Some professors have a preferred briefing format. You are only required to follow the general format as set forth below.

The following is adapted from A Practical Guide to Legal Writing and Legal Method (Dernbach, et al., 2007).

1. Case name: Include the full citation, including the date of the opinion, for future reference and citation. An example would be as follows: State v. Holloran, 140 NH 563 (1995). Refer to Bluebook to determine the correct name for the case.
2. Pincites: Include pinpoint cites (cites to a particular page in the case) throughout the case brief so you can find material again quickly within a case.
3. Procedural History: What happened to the case before it arrived in this court? If it is an appellate case, list the decisions made by the lower court(s) and note what decision is being reviewed (e.g., jury verdict, summary judgment). You may need to look up procedural phrases with which you are unfamiliar.
4. Facts: Include only the facts that were relevant to the court’s decision. You are unlikely to know what these are until you have read the entire opinion. Many cases may include procedural facts that are relevant to the decision in addition to the facts that happened before litigation.
5. Issue: The particular question the court had to decide in this case. It usually includes specific facts as well as a legal question. It may be expressed or implied in the decision. Cases may have more than one issue.
6. **Holding/Decision**: The legal answer to the issue. If the issue is clearly written, then the holding can be expressed as “yes” or “no.” (Be careful not to confuse the holding with implicit *reasoning*. See # 8 below.)

7. **Rule**: The general legal principle(s) relevant to the particular factual situation presented in the case.

8. **Reasoning**: The logical steps the court takes to arrive at the holding. It can be straightforward and obvious, or you may have to extrapolate it from the holding. Some reasoning is based on social policy, which tells you why the holding is socially desirable. Understanding the reasoning behind a decision is essential.

9. **Disposition**: A statement of what the court actually did in the case (affirmed, overruled, etc.)

10. **Dissent/Concurrence**: Although this part of the opinion is not considered law, it may help you better understand some information about the legal reasoning in the case. Not all cases have a dissent or concurrence, while some may have more than one.

11. **Comments**: Include your own responses to the case here. For example, does the reasoning make sense? Is the holding consistent with other cases you have read? Is the case relevant to the question you are trying to answer? This is a good place to note connections between the case you are briefing and other cases you have read.

### Grading Rubric

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Scoring Ratings</th>
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<tbody>
<tr>
<td><strong>Organization, formulation, logic, and identification of all topics</strong></td>
<td>Missing (Criterion is missing or not in evidence) 0 Points, Insufficient (does not meet expectations; performance is substandard) 1-17 Points, Basic (works towards meeting expectations; performance needs improvement) 18-19 Points, Proficient (meets expectations; performance is satisfactory) 20-23 Points, Exceptional (exceeds expectations; performance is outstanding) 24-25 Points</td>
</tr>
<tr>
<td><strong>Synthesis, Analysis, and Comprehension</strong></td>
<td>0 Points, 1-17 Points, 18-19 Points, 20-23 Points, 24-25 Points</td>
</tr>
<tr>
<td><strong>Grammar, Word Choice, and Terminology</strong></td>
<td>0 Points, 1-17 Points, 18-19 Points, 20-23 Points, 24-25 Points</td>
</tr>
<tr>
<td><strong>Proper use of the APA formatting style</strong></td>
<td>0 Points, 1-17 Points, 18-19 Points, 20-23 Points, 24-25 Points</td>
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Sample Case Brief
Remember, most case briefs contain similar information but the headings and their sequence may be different than what is outlined above. You should include in your brief all elements that you deem necessary whether or not they are included in the sample below.

Name

Procedural History
Appealed from the trial court decision.

Facts
Luke Records, Inc., a recording label, held a contract with the musical group 2 Live Crew. This group was well known in the genre of “Rap” music, which has repeatedly been accused of incorporating “obscene” lyrics into the music. Obscene, in this sense, pertains only to the legal definition of obscenity, not what any particular person or moral code may deem obscene. Luke Records, Inc. was a Florida Corporation and Nick Navarro was the sheriff of Broward County at the time. The sheriff obtained an ex-parte injunction (this means an injunction without both parties being present at the initial hearing) granting the sheriff an injunction (a court order to “stop” doing a particular act). This injunction was served on local record stores in an effort to have the music removed from Florida retail sale. After the local Florida Circuit Court in Broward County issued the injunction, the decision was appealed to the United States District Court for Southern Florida where the Court ordered the sheriff to stop enforcing the injunction, but did, in fact, rule that the music was obscene, especially the song "As Nasty As They Wanna Be." The sheriff appealed the case to the United States Court of Appeals, 11th Circuit, in Atlanta.

Issue
Is this music obscene under Florida state law and/or federal Constitution?

Holding/Decision
No

Rule Obscenity
Obscenity must meet three part rule. Based on Supreme Court case *Miller v. CA*. All three parts must be met:

a) Whether "the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to the prurient interest.

b) Whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law.

c) Whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Reasoning
The burden of proof could be clear and convincing or preponderance of the evidence test: however, at the time the sheriff was granted the music, he offered nothing into evidence except a tape of the music played before the court. There was no additional evidence presented that showed an average person applying contemporary community standards would find the song appealing only to a prurient interest. Further, the sheriff failed to prove part (b) and (c) of the test as well simply because he made no attempt to
enter any other testimony or evidence into consideration before the court. The sheriff failed to meet his burden, although it is well possible that had he submitted all evidence as required, he could possibly have met the test.

Comments
Case really determined by the sheriff's failure of proof. No discussion of nature of music. No discussion of rule. No proper evidence submitted to the court.