

# Stone Moot Court

## Brief Writing Workshop

In The  
**Supreme Court of the United States**

—◆—  
JAMES OBERGEFELL, et al.,  
*Petitioners,*

v.

RICHARD HODGES,  
Director, Ohio Department of Health, et al.,  
*Respondents.*

—◆—  
**On Writs Of Certiorari To The  
United States Court Of Appeals  
For The Sixth Circuit**

—◆—  
**BRIEF OF *AMICI CURIAE* SCHOLARS  
OF THE CONSTITUTIONAL RIGHTS OF  
CHILDREN IN SUPPORT OF PETITIONERS**

—◆—  
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# Your name is on the brief!

- **The Law School's name is on the brief!**
- **Turn in a copy you can be proud of!**
  - **Typos**
  - **Citation errors**
  - **General sloppiness**



## Purpose of Brief

- **Every sentence should support your case!**
- **Accurate but persuasive**
- **Persuade the court**
  - **Make positive arguments**
  - **Do not make opponent's case**
  - **“Appellant will argue...”**

# Questions Presented

- **Question of Law**
- **Material Facts**
- **Persuasive**
- **Readily Comprehensible**



# Examples

- **Whether Proposition 8 violates Appellees fundamental right to marry.**
- **Whether Proposition 8 is rationally related to California's interest in promoting responsible childbearing.**

# Statement of Facts

- **Background plus chronology**
- **Accurate**
- **Sympathetic**
- **Cite to record**
  - Appellees fired Appellant on June 2, 2016. [R. at 5].

# Argument Headings

- **Headings are statements, not titles**
- **Facts plus conclusions**
- **Persuasive**
- **Main headings answer questions presented**
- **Subheadings logically set forth arguments**

# Example

## I. The Recognition Bans Are Unconstitutional Under *Windsor*

A. The Recognition Bans' "Design, Purpose, And Effect" Are To Impose Inequality

B. *Windsor's* Principles Apply To State As Well As Federal Marriage Recognition Bans

II. Ohio's Refusal To Recognize Existing Marriages Of Same-Sex Couples Is Subject To Heightened Scrutiny Under The Due Process Clause

III. Ohio's Recognition Bans Trigger Heightened Equal Protection Scrutiny Because They Discriminate Based on Sexual Orientation and Sex

## Summary of Argument

- **Brief – one to two pages per issue**
- **Can use headings as a framework**
- **Minimal citations**
- **Write it first, write it last**

# The Argument

- **Contention**
- **Law**
- **Apply**
- **Conclude**



# Contention

- **Every section starts with a contention**
- **Statement of Law and material facts**
- **What you want court to find**
- **Example:**
  - Ohio's recognition bans strip married same-sex spouses and their children of hundreds of legal and financial protections, as well as the security and dignity conferred by marriage.

# Law

- **General to specific**
- **Authority for any statement of law**
- **Limit string cites**
- **Use of parentheticals**
- **Avoid block quotes**
- **Don't ignore unfavorable authority**
  - **Distinguish on law or facts**
  - **Criticize if absolutely necessary**
- **Use proper Bluebook form for documents filed with a court**

# Apply

- **The “in this case” section**
- **Use the facts of the case**
- **Example**
  - **History, standing alone, does not warrant applying heightened equal protection scrutiny to laws that classify on the basis of homosexuality. Cite. Plaintiffs cannot prove that homosexuality is determined solely by accident of birth. The evidence is overwhelming that gays and lesbians have the “ability to attract the attention of the lawmakers.” Cite.**

# Conclusion

- **Restates contention**
- **What you want the court to find**
  - **Therefore, homosexuals do not qualify for heightened scrutiny under the Equal Protection Clause.**

# Use of Authority

- **For any statement of law**
- **Limit string cites**
- **Use parentheticals**
  - **Why are you citing the case?**
- **NO BLOCK QUOTES**
- **Proper introductory signals**
- **Proper Bluebook form**

# Writing Tips

- **Be positive**
- **Lead from strength**
- **Simple language**
- **Short sentences**
- **Use transitions**



# The Three “P’s”

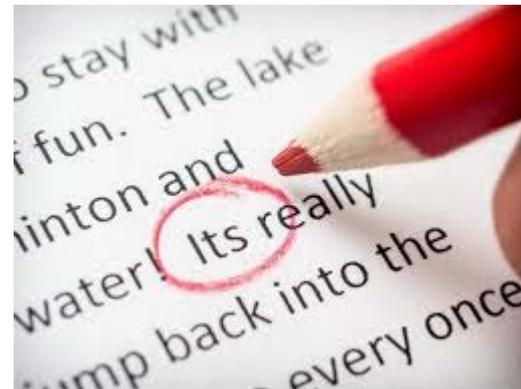
- **Passive**
  - Adds needless words
  - Detracts from force of language
  - Only use deliberately
    - “The victim was murdered.”
- **Prepositions**
  - Makes sentences long and complex
  - Circle prepositions to shorten your sentences
- **Pronouns**
  - Create ambiguity – who is “she?”

## Things to avoid

- **“it is” and “there are” sentences**
  - **“It is apparent that Appellees have breached their duty of care”**
- **In A v. B, the New Jersey Supreme Court held that noncompetition agreements must be reasonable in time and scope.**

## Edit and revise!

- Save time to edit
- Read partner's section
- Save time to put parts of brief together



**Your mantra!**

**Every sentence should advance  
your case!**

