

E: Sample Moot Court Assignment

Each student will be assigned to a team and each team will be provided with a written packet describing the facts of a criminal case and the applicable laws. The holdings and opinion of the Court will not be provided and are not to be consulted as it is the responsibility of the students to formulate their own arguments and opinions. Each team will be assigned as either the *prosecution/appellee* or the *defense/appellant* on a random basis after review of the case from an objective perspective. (Note that it is important to first look at the case objectively because each team will not know initially which “side” it is on and it is prudent to be aware of both sides of the argument(s) to better anticipate opposing arguments and thus support the team’s position.) In addition to the in-class competition, a written report must be submitted the in class arguments are completed. The components of the “competition” and paper assignment are explicated further below.

Competition:

The presentation will take the form of an appeal similar to those held in appellate and circuit courts. One team will be designated the *prosecution/appellee* and the other as *defense/appellant*. The teams will be provided an opportunity to discuss the facts and law of their respective cases with their adversaries in order to clarify, add, and/or delete certain facts or law. The teams may not alter either the facts or law such that it unduly changes the nature of the case and/or legal argument. All students must participate in the presentation and the written report.

Facts and Law: [1] The *prosecution/appellee* will proceed first by providing a rendition of the case, acceptable to both teams, in order to inform the class of the facts. This is not to be a mere reading of the facts, but rather a more lay version such as that which would be given as an opening statement in court. [2] The *defense/appellant* will then provide the applicable law in a similar fashion. Each presenter may editorialize their respective renditions to emphasize aspects of the case they intend to exploit in their arguments, but not to the point that they compromise their adversary’s position.

Arguments: [3] The *prosecution/appellee* must argue the facts as they apply to the case. S/he should assume that the defendant was tried and convicted and speak in terms such as “the conviction should stand as the rule of law was correctly applied to the facts in the instant case.” S/he should then exhibit through argument that all of the elements had been met and/or that any defenses asserted were not adequately met in the case. [4] The *defense/appellant* should then argue that the prosecution did not meet the elements, that the defenses asserted were met, and/or that the law was misapplied in the case. S/he should speak in terms such as “the case should be overturned.

Questions: [5] Each team will be required to respond to questions from the professor [chief justice] and the students [associate justices]. The *senior justice* may ask questions at any time during the proceeding. The *associate justices* must wait until the question portion of the process and be recognized by the *senior judge* prior to asking questions. The *senior justice* will determine when the question session will conclude.

Summations: [6] During the *prosecution/appellee's* argument, the defense should take notes and present a rebuttal to the argument presented. S/he will also sum up the case from the *defense/appellant's* perspective. [7] Subsequently, the *prosecution/appellee* will present a rebuttal and summary argument. At the conclusion of the proceeding, the *associate justices* will rule by hand vote on the outcome of the case and the *senior justice* will make a final determination and commentary.

Appellate Brief:

As stated above, each team will be responsible for submitting a written report on the proceedings and their respective arguments. Each brief will include five (5) sections: [1] FACTS; [2] LAW; [3] ARGUMENT; [4] REBUTTAL; and [5] SUMMATION. The *prosecution/appellee* must provide the facts presented to the *defense/appellant* and the *defense appellant* must provide the law rendered in class to the *prosecution/appellee*. Each team member must also provide one page detailing his/her particular participation/contribution to the assignment, how the group dynamic worked during preparation, and what the individual and team should do differently to improve their presentation and written brief. (These papers will be turned in to the instructor, but will also be subject to review by the other team members at the instructor's discretion.) Each group member will receive the same point total unless it is determined that s/he did not play a satisfactory role in the project as determined by the instructor.