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Chapter 1 : Supreme Court Requests Briefs on the Merits in both Steele and Nettles Cases

SUPREME COURT OF THE UNITED STATES 1 First Street, NE Washington, DC 1 First Street, NE Washington, DC

The memorandum and order of the district court J. A petition for rehearing was denied on May 24, J. The petition for a writ of cer tiorari was filed on August 22, , and was granted on January 6, The jurisdiction of this Court rests on 28 U. In addition, any "period of delay result ing from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the Government" is excluded "if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the pub lic and the defendant in a speedy trial," and the court "set[] forth, in the record of the case, either orally or in writing, its reasons for [that] finding. The Act provides that if a defendant is not brought to trial within the day period, "the information or indictment shall be dismissed on motion of the defen dant. Tay lor, U. On April 16, , petitioner was indicted on seven counts of attempting to defraud a financial institution, in violation of 18 U. The court scheduled another status conference for June 21, , and entered an order excluding the resulting delay from the speedy trial clock pursuant to 18 U. When petitioner and his counsel failed to appear at that conference, the district court scheduled another one for June 26, , and again en tered an order excluding the resulting delay from the STA clock. At the June 26, , status conference, petitioner requested time to review documents in Washington, D. The parties agreed, and the court found, that the case was complex. The court granted a continuance until September 6, , and excluded the resulting delay from the STA clock. On September 6, , the case was again ad journed, and the court entered another order of excludable delay until November 8, The court informed petitioner that to obtain a continuance of that length he would have to waive his speedy trial rights "for all time" because the court had lengthy trials pending and was concerned that petitioner would invoke his speedy trial rights at a time when the court could not hold a trial. The court explained that in a previous case, a defendant had tried to manipulate the court in that manner. That will not be a problem. That will not be an issue in this case. Addressing petitioner personally, the court then advised petitioner at length of his speedy trial rights. Petitioner stated that he understood his speedy trial rights and desired to waive them. Petitioner also represented that he was not coerced or threatened into waiving those rights, and that he was 42 years old and had completed two years of college. Petitioner signed a written waiver of his speedy trial rights, and the court found that he had knowingly and voluntarily waived those rights. For the duration of the case, however, the court issued no further orders excluding time from the speedy trial clock. Counsel explained that he had already spent "a lot of time" contacting a "lot of people," but needed "one more adjournment. After inquiring into the need for further investiga tion, and determining that petitioner had requested ex cessive delay, the court set trial for May 5, ap proximately six months before petitioner requested. But the court also noted that in May, the case would be a "year old. Petitioner consented to a psychiatric examination, and in August he was found competent to stand trial. In the meantime, the court substituted counsel for petitioner. In September , petitioner discharged his new attorney and represented himself. From to , petitioner filed numerous motions and subpoenas di rected at high-ranking government officials and ficti tious organizations, which caused the court to question his competency. On October 14, , the day trial was scheduled to begin, the court found that petitioner was not competent to stand trial and ordered him committed for hospitalization and treatment pursuant to 18 U. On interlocutory appeal, the Second Circuit vacated and remanded for a new competency hearing. On remand, the parties jointly requested that a com petency hearing be held on July 10, At that hear ing, Dr. Sanford Drob, the director of psychological as sessment at Bellevue Hospital and the senior psycholo gist on the Bellevue Prison Ward, testified that peti tioner understood the charges against him and could rationally talk to his attorney with one major exception: In light of Dr. The government filed a brief taking the contrary view on August 11, , and petitioner filed a pro se brief on August 23, The court did not act on the competency issue for some time. On March 21, , the court denied that mo tion on the grounds that the case was complex and peti tioner had waived his speedy trial rights. The court also found petitioner incompetent to stand trial. On interlocutory appeal, the Second Circuit affirmed the finding of incompetency. In May ,

petitioner entered a federal medical facility for examination. Near the end of his commit ment, petitioner obtained a day extension of his stay. The institution released petitioner on August 27, , and concluded that he was delusional but competent to stand trial. The district court accepted that conclusion and scheduled trial for April 7, , at which time peti tioner was convicted on six counts of attempting to de fraud a financial institution. The court of appeals affirmed the convictions, but remanded for resentencing in light of United States v. Petitioner argued, among other things, that he was denied the right to a speedy trial under the STA based on two peri ods of delay: After recognizing that defendants may not routinely waive their speedy trial rights, J. Thus, the court held, petitioner "cannot establish a Speedy Trial Act violation based on the grant of the delay he requested. As to the August March period, the court of appeals determined that petitioner "could not have been tried in this period, for two reasons": With respect to the second of those reasons, the court explained that the district court had found peti tioner to be incompetent and the court of appeals had affirmed that decision. The STA excludes "[a]ny period of delay resulting from the fact that the defendant is mentally incompetent or physically unable to stand trial. The court of ap peals noted that "[i]t might be argued" that "the delay did not result from the fact that [petitioner] was incom petent" to stand trial because the district court did not make a specific finding that the delay resulted from the incompetency. On that question, the court concluded that "[t]he failure to start trial when [petitioner] could not have been tried was, at worst, a harmless, technical error. After recognizing that many STA violations are not harmless, the court concluded that "failure to consider the harmlessness of certain errors under the [STA] can result in perverse outcomes" and is inconsis tent with 28 U. Here, the court of appeals concluded that "the error, if any, was harmless" because petitioner could not have been tried during the time period in question and petitioner had also "failed to put forth any convincing argument that this delay prejudiced him at his trial. Indeed, much of the pretrial delay resulted from the wide latitude the district court granted [petitioner] to prepare his de fense. Petitioner cannot challenge the delay he sought from January until May That doctrine provides that "[w]here a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position, he may not thereafter, simply because his interests have changed, assume a contrary position. In that situation, basic principles of judicial estoppel preclude petitioner from enjoying the benefit of the continuance, but then challenging the lack of a finding. That is particularly true here, where the court effectively did make an ends-of-justice determina tion when it considered the relevant factors under the STA and reduced the length of the requested continu ance. Nothing in the STA manifests an intent to override the general applicability of judicial estoppel principles. Alternatively, this Court should remand so that the district court can consider whether to enter an express ends-of-justice finding on the record. The STA does not invite a reviewing court to undertake a highly speculative in quiry into whether prompter action by the district court could have returned the defendant to competency any sooner. Such an argument would lack merit, because the record shows that petitioner was in competent, and that is all the Act requires. Unlike the ends-of-justice exclusion, the incompetency exclusion is automatic, and therefore does not require any additional findings. Even if the district court erred in not making a further record on the incompetency exclusion, the error would be harmless. Although petitioner argues Pet. Nothing in the Act manifests an intent to dis place normal harmless-error principles with respect to that type of error. Instead, the appropriate remedy for any such deficiency would be to vacate and remand for the dis trict court to make the appropriate findings on that is sue. First, petitioner argues Pet. Both periods of delay were authorized by the Act, and petitioner is not entitled to dismissal based on alleged procedural defects that he induced or that occurred when he in fact could not stand trial because he was incompetent. At most, the only remedy to which petitioner would be entitled is a remand to allow the district court to determine whether to enter the necessary findings. In seeking that continuance, petitioner re peatedly waived his speedy trial rights, and thereby induced the district court to grant the continuance with out making express findings that would justify exclud ing the continuance from the STA clock-findings the court could and almost certainly would have made but for the waiver. Under those circumstances, petitioner cannot both reap the benefit of the continuance and challenge its validity under the STA. United States, U. Speedy trial rights are not inherently different from other rights for waiver purposes. By requesting a con tinuance, a defendant can waive or forfeit the Sixth Amendment right to a speedy trial, Barker v. In order to "protect the integrity of the judicial

process," this Court has long held that "[w]here a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position, he may not thereafter, simply because his interests have changed, assume a contrary position. The terms "waiver" and "estoppel" are sometimes used interchangeably, and both doctrines are presump tively applicable because they form part of the legal backdrop against which Congress legislates. New York Stock Exch. But the two doctrines serve different purposes and demand different legal showings. Estoppel is also a more discretionary and fact-based doctrine than waiver. See New Hampshire v. Thus, even if a statute is interpreted to displace ordinary waiver principles, it may leave intact the context-specific protection of judicial integrity afforded by the doctrine of judicial estoppel. The Speedy Trial Act Does Not Eliminate The Doctrine of Judicial Estoppel The court of appeals correctly held that although the STA manifests an intent to limit the right to waive its speedy trial protections, it does not manifest an intent to preclude all waivers and estoppels. The court must also "set[] forth, in the record of the case, either orally or in writing, its reasons for [that] finding. And the Act provides an extensive, but non-exclusive list of facts for the court to consider, 18 U. Under those provisions, defendants cannot unilater ally waive the requirements of the Speedy Trial Act merely by seeking continuances. Instead, the speedy trial clock is tolled under 18 U. As the court of appeals also recognized, however, that does not mean that the Act never permits waiver or estoppel. Nothing in the STA manifests an intent to pre clude the application of ordinary estoppel principles in such circumstances. Ordinary principles of judicial estoppel preclude pe titioner from challenging the validity of the continu ance he requested This Court has declined to "establish inflexible pre requisites or an exhaustive formula for determining the applicability of judicial estoppel" because "[t]he circum stances under which judicial estoppel may appropriately be invoked are probably not reducible to any general formulation of principle. There are, how ever, three "factors" that "typically inform the decision whether to apply the doctrine in a particular case": Each of those factors is satisfied here. But now, petitioner both attacks the waiver on which he premised his request for the continuance and claims that his attorney did not need the additional preparation time. The contradiction could hardly be more pronounced. This is also a case where petitioner "succeeded in persuading a court to accept [his] earlier position" and "would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped. The court either would have denied the continuance, or-far more likely-would have granted the continu ance and expressly made the relevant findings, as it had before.

Chapter 2 : Clerk's Office - Petitions, Briefs on the Merits & Referee's Reports

Briefs on the Merits: In General A brief on the merits for a petitioner or an appellant shall comply in all respects with Rules and 34 and shall contain in the order here indicated: (a) The questions presented for review under Rule (a).

Language[edit] Trial briefs are presented at trial to resolve a disputed point of evidence. Legal briefs are used as part of arguing a pre-trial motion in a case or proceeding. Merit briefs or briefs on the merits refers to briefs on the inherent rights and wrongs of a case, absent any emotional or technical biases Amicus briefs refer to briefs filed by persons not directly party to the case. These are often groups that have a direct interest in the outcome. Appellate briefs refer to briefs that occur at the appeal stage. IRAC Case Briefs Are usually a one page review done by a paralegal or attorney, ultimately used by the attorney to find previously decided cases by an Appellate court , in State or Federal Jurisdiction, which show how the courts have ruled on earlier similar cases in court. To achieve these ends, the brief must appeal to the accepted forces such as statutory law or precedent , but may also include policy arguments and social statistics when appropriate. For example, if the law is vague or broad enough to allow the appellate judge some discretion in his decision making, an exploration of the consequences of the possible decision outside of legal formalism may provide guidance. Such arguments may also support a legal argument when the purpose of the law at issue may be clear, but the particular application of that law in service of that purpose is in dispute. Procedure[edit] The party filing the appeal â€" called the petitioner or appellant , who is attempting to convince the appellate court to overturn the lower court decision â€" is responsible for submitting his brief first. The responding party â€" the respondent or appellee, who is satisfied with the lower decision â€" then files a reply brief within a specified time. Depending on local rules, the court may then decide the case purely based on the submitted briefs or may hear oral argument by the parties. England[edit] Upon a barrister devolves the duty of taking charge of a case when it comes into court, but all the preliminary work, such as the drawing up of the case, serving papers, marshalling evidence, etc. The delivery of a brief to counsel gives him authority to act for his client in all matters which the litigation involves. The brief was probably so called from its first being only a copy of the original writ. Contents[edit] A brief contains a concise summary for the information of counsel of the case which the barrister has to plead, with all material facts in chronological order, and frequently such observations thereon as the solicitor may think fit to make, the names of witnesses, with the "proofs," that is, the nature of the evidence which each witness is ready to give, if called upon. The brief may also contain suggestions for the use of counsel when cross-examining witnesses called by the other side. Accompanying the brief may be copies of the pleadings , and of all documents material to the case. The brief is always endorsed with the title of the court in which the action is to be tried, with the title of the action, and the names of the counsel and of the solicitor who delivers the brief. The result of the action is noted on the brief by counsel, or if the action is compromised, the terms of the compromise are endorsed on each brief and signed by the leading counsel on the opposite side. These bags they distributed among rising juniors of their acquaintance, whose bundles of briefs were getting inconveniently large to be carried in their hands. These perquisites were abolished in Brief-bags are now either blue or red. Blue bags are those with which barristers provide themselves when first called, and, in some jurisdictions, it is a breach of etiquette to let this bag be visible in court. The only brief-bag allowed to be placed on the desks is the red bag, which by English legal etiquette is given by a leading counsel to a junior as a reward for excellence in some important case. This is still viewed as one of the great traditions of the bar. In many jurisdictions, the receipt of a red bag from a silk is seen as a rite of passage for a junior barrister. The use of such special bags eventually led to the briefcase. Ecclesiastical[edit] In English ecclesiastical law a brief meant letters patent issued out of chancery to churchwardens or other officers for the collection of money for church purposes. Such briefs were regulated by a statute of , but are now obsolete, though they are still to be found named in one of the rubrics in the Communion service of the Book of Common Prayer. United States[edit] In the United States, the word differs in meaning from its English counterpart because attorneys in the United States exercise all the functions distributed in England between barristers and solicitors. A lawyer sometimes prepares for his own

use what is called a "trial brief" for use at the trial. This corresponds in all essential particulars with the "brief" prepared by the solicitor in England for the use of counsel. But the more distinctive use of the term in America is in the case of the brief "in error or appeal," before an appellate court. This is a written or printed document, varying according to circumstances, but embodying the argument on the question affected. Most of the appellate courts require the filing of printed briefs for the use of the court and opposing counsel at a time designated for each side before hearing. In the rules of the United States Supreme Court and circuit courts of appeals the brief is required to contain a concise statement of the case, a specification of errors relied on, including the substance of evidence, the admission or rejection of which is to be reviewed, or any extract from a charge excepted to, and an argument exhibiting clearly the points of law or fact to be discussed. This form of brief, it may be added, is also adopted for use at the trial in certain states of the Union which require printed briefs to be delivered to the court. Contents[edit] In American courts , the brief typically has the following parts: The brief may also be accompanied by an appendix that includes copies of the lower court opinions and other documents or court opinions cited in the brief. The particular required format of briefs is a matter of local court procedural rules. Elsewhere[edit] In Scotland a brief is called a memorial and in Canada it is called a factum. In Australia the tradition regarding briefs is almost identical to England, except that the use of brief bags is relatively uncommon. In Dutch and German , the word brief refers to a regular letter. Law school briefs are shorter than court briefs but follow a similar structure: For more information see this guide on How to Brief a Case. Case briefing is a widely accepted pedagogical method among law professors today. When a potential client has an interview with an attorney and tells of the legal problem, the attorney, or office paralegal, will review prior case law to find out if the client does indeed have a problem that has legal remedy. The formation of each case brief follows the same pattern: Facts, Issue, Rule, Analysis, Impact. A case brief may also include a dissent or concurrence if there is either in the particular case. The facts should include the important information from the case, and should also include the procedural history before it makes it to the supreme court. The issue statement should always be in the form of a question that will be answered in the rule section. Some schools prefer students to list the Facts, Issue, Holding, and Reasoning.

Chapter 3 : Supreme Court procedure - SCOTUSblog

Briefs on the Merits: Number of Copies and Time to File The petitioner or appellant shall file 40 copies of the brief on the merits within 45 days of the order granting the writ of certiorari, noting probable jurisdiction, or postponing consideration of jurisdiction.

Lyon is suing the defendant his employer, the state-run Animal House Zoo. Lyon, who is white, scored higher than Mr. Behr, who is black, on an exam that qualifies employees for promotions. When the exam was scored, however, the zoo threw out the results because it worried that promoting a white candidate over a black candidate would leave it vulnerable to allegations that it had violated Title VII of the Civil Rights Act, which prohibits racial discrimination in employment. Animal House Zoo, focusing on proceedings in the Supreme Court. Lyon is suing his employer, the Animal House Zoo, because he believes that the zoo violated his rights under the Civil Rights Act and the U. After hearing arguments and receiving evidence from both Mr. Lyon and the zoo, the district court decides that the zoo did not violate Mr. Lyon appeals it to the U. At this point, Mr. Petition for a writ of certiorari From the day the 2nd Circuit denies his petition for rehearing en banc, Mr. Lyon had won in the lower courts, the zoo could have filed a cert petition. In most circumstances, the Supreme Court has discretion whether or not to grant review of a particular case. Of the 7, to 8, cert petitions filed each term, the court grants certiorari and hears oral argument in only about Granting a cert petition requires the votes of four justices. Lyon can request that the time for filing his cert petition be extended for up to 60 days. At least 10 days before the due date absent extraordinary circumstances , he can file a motion requesting more time. The justices vary in their willingness to grant extension requests. In his cert petition, Mr. One request will be granted as a matter of right. There is no limit on the number of extensions. After the BIO has been filed, Mr. A general rule of thumb, though, is that a reply brief should be filed approximately 10 days after filing of the BIO. Before the court decides whether to hear Mr. That clerk prepares a memorandum about the case that includes an initial recommendation as to whether the court should review the case; the memorandum is circulated to all seven chambers, where it is reviewed by the clerks and possibly the justices there. Justices Samuel Alito and Neil Gorsuch do not participate in the cert pool. Bush and Al Gore, for example, it instructed the parties to file their merits briefs over the course of a single weekend. Lyon and the zoo had agreed that no joint appendix was needed, they could have filed a motion asking the court for permission not to prepare one. Whoever loses the case will be required to pay for the printing of the joint appendix, so both Mr. Lyon and the zoo have an interest in keeping it as short as possible. The joint appendix is filed at the same time as Mr. Therefore, the group files an amicus brief urging the Supreme Court to accept Mr. Thirty-five days after Mr. Therefore, the government decides to file an amicus brief in support of the zoo. The United States is one of a limited number of parties that do not have to ask for permission to file an amicus brief. The solicitor general also files a motion for divided argument, asking the Supreme Court to allot some time for her to speak as an amicus when the case is argued. Lyon has filed his merits brief and the zoo has responded, Mr. Generally, the court allots one hour of argument time for each case, with each party speaking for 30 minutes. Because the solicitor general will be arguing for the United States in support of the respondent, she or another lawyer from her office will be using 10 minutes of the half hour allotted to the zoo. Frequently, much of the oral argument is devoted to answering these questions. Lyon is the petitioner, his attorney argues first. Decision Later that week, the justices hold a private conference during which they vote on how to decide the case. Justices may also write separate dissents. In the event of a tie vote â€” for example, if there is a vacancy on the court or if one of the justices has recused himself or herself from the case â€” the decision of the lower court remains undisturbed. The assigned justices then draft and circulate opinions outlining their reasoning in reaching their decision. Typically, all cases are decided by the time the court recesses for the summer at the end of June or the beginning of July.

Chapter 4 : Brief (law) - Wikipedia

Amicus Briefs on the Merits. et al. Services and Advocacy for GLBT Elders, et al. et al. Outserve-Servicemembers Legal Defense Network, et al.

The order of the district court J. A prior opinion of the court of appeals J. A petition for rehearing was denied on August 25, The petition for a writ of certiorari was filed on October 16, , and was granted on February 26, The jurisdiction of this Court rests on 28 U. Title 19, United States Code, Section a , provided in relevant part at the time of this dispute: Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article. Following the forfeiture, petitioner brought suit seeking return of the cash on the ground that he did not receive actual notice of the forfeiture proceeding. Section of Title 21, United States Code, authorizes the United States to seek civil forfeiture of funds that are the proceeds of, or are used to facilitate, unlawful transactions in controlled substances. Section d further provides that the government may proceed through the forfeiture procedures set out in the customs laws. Those laws, which are found in 19 U. The administrative forfeiture process allows the government to determine whether property in its custody is unclaimed and, if it is, to take ownership without unnecessary judicial forfeiture proceedings. United States, F. At the time of the forfeiture at issue in this case, claimants had a period of 20 days from the date of first publication of the notice in which to file a claim. If a claim was filed within the prescribed period, the government was entitled to seek forfeiture of the property only through judicial proceedings. If no claim was filed within the prescribed period, the government could declare the property forfeited. That general statutory framework remains in place. In April , petitioner was arrested on drug and possession of firearms charges at his residence near Cleveland, Ohio. The FBI provided notice of the proposed forfeiture in accordance with 19 U. On November 7, , the FBI additionally sent written notice of the forfeiture action by certified mail, return receipt requested, to petitioner. That notice set out the basis for the forfeiture, explained the procedure for contesting the forfeiture of the funds, and specified that any claim to the property must be filed by December 19, , six weeks from the date of the letter. The FCI sent mail room employees to the City of Milan post office to pick up mail for the prison, including mail addressed to prisoners. While at the post office, the employees signed return receipts for certified mail, including certified mail addressed to inmates, and they then brought the mail to the Milan FCI mail room. At the prison mail room, the prison employees recorded all certified mail in a mail room log book. Before removing certified mail from the mail room, the employee signed the log book to acknowledge receipt of the individual piece of certified mail. Lawson attested, however, that, "pursuant to the business practices of FCI Milan [the forfeiture notice for the currency] should have been received by the inmate. Petitioner did not respond to the forfeiture notice. On January 27, , in accordance with 21 U. On November 12, more than six years after the FBI seized the currency and almost five years after the declaration of forfeiture-petitioner sought return of the cash and other property seized at the time of his arrest. Petitioner sought relief under Rule 41 e of Federal Rules of Criminal Procedure, which provides in relevant part: The court determined through briefing by the parties that the FBI had initiated forfeiture proceedings, that the defendant had failed to respond to the notice of forfeiture, and that the cash at issue in this case had been administratively forfeited. The court ruled that Rule 41 e does not confer authority to resolve whether a claimant received adequate notice of a civil forfeiture. The district court specifically credited the affidavit and deposition of James Lawson, the Milan FCI mail room employee who had signed the return receipt for the forfeiture notice and who had described the procedure at the Milan FCI for delivery of certified mail to inmates. The court agreed with the district court that there was no genuine issue that the government had mailed the forfeiture notice respecting the cash to petitioner at the Milan FCI, that a prison employee had signed the return receipt, and that the prison had a process for forwarding such mail to the inmate. Rather, the government must provide notice "reasonably calculated, under all the circumstances, to apprise [him] of the pendency of the action and afford [him] an opportunity to present [his] objections. That mode of providing notice satisfied due process because it provided notice "reasonably calculated" to apprise an interested party of the proceedings. This Court has repeatedly stated, in a series of

decisions spanning half a century and a wide variety of proceedings, that ordinary mail is a constitutionally adequate means of delivering notice to parties whose addresses are known. City of New York, U. City of Hutchinson, U. Petitioner does not contend that providing notice of a forfeiture proceeding by mail is generally impermissible. The Mullane standard provides concrete and workable guidance in this case. There is no need or precedent for applying a balancing test under Mathews v. In any event, application of the Mathews balancing test would not support a new due process rule, uniquely applicable to prisoners, requiring proof of actual receipt. Petitioner is also mistaken in arguing that the supposedly inadequate notice here rendered the forfeiture "void" and entitled him to return of the forfeited property. His argument respecting the proper remedy if the Court finds the notice insufficient was not ad-dressed by the courts below, was not included in the question on which this Court granted the petition for writ of certiorari, and is not properly before the Court. Petitioner is incorrect on the merits as well-if a claimant did not receive proper notice, his remedy is restoration of the right to contest the forfeiture. The court of appeals correctly rejected that contention. The notice requirements of the Due Process Clause are satisfied if the government provides notice "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. James Daniel Good Real Prop. This Court established the controlling principle in Mullane, supra: An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. But if with due regard for the practicalities and peculiarities of the case these conditions are reasonably met, the constitutional requirements are satisfied. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it is itself reasonably certain to inform those affected. The Court has ruled, however, that more specific notice is required when the identity and address of a potentially interested party can be determined through reasonable means. In a long series of decisions spanning half a century and a wide variety of proceedings, the Court has consistently endorsed ordinary mail as a constitutionally adequate means of delivering notice to parties whose addresses are known. Although the Court is well aware that mailing does not guarantee receipt, the Court has never required proof of actual receipt of a notice that is properly mailed. In Mullane, the Court held that publication alone was insufficient under the Constitution to provide notice to beneficiaries of a common trust whose identities and addresses were known to the trustee, but it rejected the argument that personal service was required. Applying a standard of reasonableness, the Court concluded that "ordinary mail to the record addresses" would be sufficient as it constituted "a serious effort" to inform the beneficiaries of the proceeding. The Court stated that the mails "are recognized as an efficient and inexpensive means of communication. As in Mullane, the Court found the procedure implemented inadequate because notice had not been mailed to the city. The Court considered a similar condemnation proceeding in Schroeder v. It held that published notices, even when supplemented by posting notices near the affected property, constituted a constitutionally insufficient manner for notifying property owners. But the Court adverted to the constitutional sufficiency of mailed notice, stating that "[w]here the names and post-office addresses of those affected by a proceeding are at hand, the reasons disappear for resort to means less likely than the mails to apprise them of its pendency. The Court stated that the city had failed in its constitutional obligation to "make at least a good faith effort to give [the information] personally to the appellant-an obligation which the mailing of a single letter would have discharged. In Greene, supra, the Court found that posting a copy of a notice of forcible entry and detainer proceedings on the subject premises did not satisfy the minimum standards for constitutionally adequate notice described in Mullane. While the Court did not prescribe the form of notice that should be adopted, id. The Court also endorsed mailing as a constitutionally adequate manner of providing notice in Mennonite Board of Missions, supra. The Court concluded that publication, posting, and mailing solely to the property owner were insufficient means to provide a mortgagee with notice of a pending tax sale. The Court concluded that ordinary mailing of a notice to creditors would be constitutionally sufficient to meet the requirements of due process, stating that "[w]e have repeatedly recognized that mail service is an inexpensive and efficient mechanism that is reasonably calculated to provide actual notice. Mailing is a means of communication "upon

which prudent men will ordinarily rely in the conduct of important affairs. It is unquestionably a means of providing notice "such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. Indeed, the record in this case bears out that mail remains a generally reliable means of transmitting information: See note 6, supra. In any event, a prisoner is not entitled to more due process than other citizens, who must also face a minimal prospect that the mail might be lost or delivered to the wrong address. That conjecture is without foundation. As we have explained, the question is whether the government has adopted a means of notice "reasonably calculated" to apprise petitioner of pending proceedings. As the courts below correctly recognized, the government is not required to show that an individual piece of mail "actually reached an inmate in order to satisfy requirements of due process. Rather, the government is entitled to defend its notification procedure "on the ground that it is in itself reasonably certain to inform those affected. The government demonstrated in the proceedings below that it was justified in relying on prison procedures for delivering mail to inmates. He explained how prison employees picked up prison mail at the post office, recorded receipt of certified mail, and delivered the mail to the prisoner. See Bureau of Justice Statistics, Bulletin: Moreover, the decisions that petitioner cites involve only claims that notice was not received-claims often made long after the fact and not subject to verification. It is well to be realistic about the situation: See United States v. One Toshiba Color Television, F. Petitioner has provided no persuasive evidence that prison mail systems are unreliable. To the contrary, the Bureau of Prisons BOP has established standard procedures governing delivery of inmate mail, including certified mail, to ensure reliable delivery. The current procedures specifically address the distribution of certified mail. They require prison employees handling certified mail to sign a written acknowledgment of possession of the mail before delivering it to the inmate. Prison employees must not only record the receipt of the certified mail and its distribution, but the prisoner himself must sign a log book acknowledging delivery. BOP Program Statement Petitioner has provided no basis for doubting that BOP mail room employees, like postal employees, follow the prescribed procedures governing delivery of certified mail. As an initial matter, petitioner can point to no decision of this Court holding that the Due Process Clause not only requires the government to provide notice through means "reasonably calculated" to reach the recipient, Mullane, U. See pp , supra. This Court, however, does not apply the Mathews formula to all due process challenges. When determining whether a means of notice complies with due process, the Court has consistently applied the Mullane standard, which specifically focuses the due process inquiry on whether the method of notification is "reasonably calculated" to reach interested parties. This Court should not replace the workable and well focused Mullane standard, which concentrates attention on whether the means of notice is likely to be effective, with the more general-and accordingly less certain-Mathews balancing test. But even if the Court were to do so here, the result would be the same. The Mathews analysis generally requires consideration and weighing of three factors:

DOWNLOAD PDF BRIEFS ON THE MERITS

Chapter 5 : Briefs on the Merits - Supreme Court of the United States

Merit briefs (or briefs on the merits) refers to briefs on the inherent rights and wrongs of a case, absent any emotional or technical biases Amicus briefs refer to briefs filed by persons not directly party to the case.

Are boxer briefs better then briefs? I think briefs are better looking because boxer briefs can be uncomfortable. Your question is best answered by how preferences are shaped once you wear each style for a peâ€¦riod of time. The key here is that every manufacturer makes their products just a little different from one another. For instance, Hanes wears differently than Fruit-of-the-Loom and they both wear differently from, say, Calvin Klein. Generally though, briefs usually are designed to support whereas boxer briefs are supposed to be a little looser. However, some manufacturers create their boxer briefs basically as a brief with a longer-length leg, while others give a more generous boxer fit that looks like a brief with a longer-length leg. For a closer-fit, Hanes and Life Wal-Mart are better choices. No need to pay for the designers because their wear longevity for the price you pay is really out-of-balance i. Buy a cheap pair of each style and see which they prefer. You want me to write an essay for you? What do you do yourself? Look through the list of answered nuclear energy questions and you will find plenty of answers. Media is not a common Word according to us Media shows the vast path to peoples. Merits are needed to be able to VP on ToonTown. I am Hollywood level 39, I will need 5, merits from factories in Sellbot Hq, from sellbot buildings anywhere, I would â€¦prefor the factory more often with an invasion, you get more merits. Merits are also awards you win in Scribblenauts. Answered What are the merits and de-merits of advertisememnt? Merits of advertisments are- If you advertise your business or products it helps you gain more cosumers or clients. It as a result of this your business keeps on moving. Hopâ€¦e i have been abld to give an answer. This is all i know about the merit of advertisment.

Chapter 6 : What is a merit brief

Briefs on the Merits: Number of Copies and Time to File 1. The petitioner or appellant shall file 40 copies of the brief on the merits within 45 days of the order granting the writ of certiorari, noting probable jurisdiction, or postponing consideration of jurisdiction.

Judicial Activism Brief In the legal system, a brief is a written document advising the court of the legal reasons for the lawsuit or other legal action. In essence, a legal brief makes an argument as to why the party submitting the brief should prevail in the action. To explore this concept, consider the following definition of brief. In the brief, the party, or attorney representing that party, submitting the document, attempts to convince the court to rule in its favor. Types of Legal Brief Legal briefs are used in a variety of legal situations, and while many of them are written documents actually submitted to the court, some briefs are written to organize the information for an attorney or other legal professional working on the case. Commonly used legal briefs include: A trial brief may also provide needed information to the judge, such as specialized terminology used, or procedures specific to the issue in a technical case. Legal brief â€" statements presented to the court as part of a pre-trial motion, such as a motion questioning the admissibility of evidence or testimony. A merit brief may also be submitted to the Supreme Court when appealing a decision of an appellate court. Such a brief explains why the decision of the prior court of appeals is flawed. An amicus curiae brief, commonly referred to simply as an amicus brief, advises the court of additional information or arguments that are very relevant to the case, and which the court might want to consider in making its decision. A party not involved in the case directly must request permission from the court to file an amicus brief. These fines come in the form of decreased funding for the following school year. ABC school district is responsible for educating a large number of children of financially troubled families, many of which tend to have difficulty learning at the same pace as other children. The case has been appealed to the U. Other school districts throughout the state of California, and many in other states, have monitored this situation as the lawsuit moved through the court system, as the policy has a broad effect considered to be harmful by many districts. Once the matter has been accepted by the Supreme Court, XYZ school district asks for, and is granted, permission to submit an amicus brief. While XYZ school district is not directly involved in the lawsuit, it has gathered information and statistics from other schools near and far, which may be helpful for the court in reaching its decision on the matter. Appellate brief â€" a brief submitted to the court at the appeals level. What is an IRAC Brief An IRAC Issue, Rule, Application, and Conclusion brief is usually an internal document prepared by a paralegal or junior attorney, and ultimately used by the primary attorney on a case to guide him in preparing and arguing the case. The acronym IRAC provides an organized method of researching and organizing information on a case. An IRAC brief is commonly a short, one-page review of the case, clearly outlining the answers to the questions: What is the issue or legal question at hand in the case? What rule of law applies to the issue? How are the rules stated in number two above applied to the specific facts of the issue? What is the conclusion to the legal issue when the rules are applied to the facts of the case? The conclusion of an IRAC may not introduce any new rules or applications. When preparing an IRAC brief, the preparer must have access to all of the facts of the case, as these facts are fundamental to each step of the IRAC process. The issues of the case can only be divined from the facts of the case. Likewise, the facts bring to light the most pertinent rules of law that apply to the issues, and analyzing the case requires a competent interpretation of the facts and the rules of law. Formatting of a Legal Brief Although the term brief was likely intended to refer to a brief summary or statement of the case, one which would be shorter than an oral argument, modern times see briefs that are quite lengthy. The correct formatting of a legal brief depends entirely on the rules of the court in which the brief is to be filed. Because the courts receive mountains of legal documents and legal briefs, requiring them to be organized and formatted in a specific manner helps the judge quickly identify pertinent information at any point in the process. Most briefs organize the voluminous information under various headings, such as: Facts of the case â€" an outline of the facts, and reference to where those facts are more specifically detailed. Procedural history â€" a statement of the events that have already occurred within the court system, which

have ultimately brought the case before the present court. Judgment â€" a statement of how the previous court, usually the trial court, decided the case. Analysis â€" a review of the rationale given by the court for its decision, or by the parties for their positions on appeal. Dicta â€" the opinions or reasoning given by the previous court, which are to be considered authoritative, but not binding. A brief filed with the appellate or Supreme Court should be well-organized and include a table of contents, as well as an index if necessary to aid those reading it to find pertinent information easily. It is commonplace for legal briefs, especially lengthy briefs, to include footnotes and other annotations. The rules of the court in which the brief is to be filed spell out the actual formatting of all briefs to be submitted. These rules include such formatting issues as font face and size, line spacing, page size, and margins. Correct formatting must also observe the rules about the type and color of section dividers, the inclusion of tables of contents and indices, how many holes should be punched in each brief, and where they should be located, as well as whether the brief should be stapled or bound by a spiral device. Briefs having to do with different areas of law or legal issues are often required to have a cover of a specific color, for the purpose of aiding the court staff to keep the high volume of briefs organized. The number of copies depends on how many judges sit on the panel that will review the case. Each judge or justice must receive a copy of every brief, and the court will not make additional copies. In most courts, if a brief is submitted without the proper formatting, proper cover color and binding, or without enough copies, it will be rejected. The party will then need to correct the errors and make another attempt to file. There are strict time limitations on filing such documents, and this can become a problem if the proper format is not discovered until filing time. Tips for Writing a Successful Legal Brief While any case can be eloquently outlined with every conceivable point of law and precedent, providing the court with all of the information that could possibly aid in its decision, there is a lot to be said for submitting a brief brief. In law, as in many areas of life, less may be more in these situations. Professional educators in the legal field have offered tips to writing a successful legal brief, or one which is more likely to be read from cover to cover. Choose a Format â€" this refers to the format in which the information inside the brief is organized. While there are a number of ways the information can be presented, it is important to choose a format that best illustrates the merits of, or problems with, the specific case. Choose an Appropriate Caption â€" every brief should begin with the case name, the court in which it was tried, the year it was decided, and the page on which it is listed in the casebook. The court may have other requirements for brief captions. Identify the Facts of the Case â€" identify each fact of the case in an outline format for easier reading. In an appeals brief, discuss only the facts that are relevant legally to the appeal. Relevant facts are those that directly impacted the outcome of the case. Outline the Procedural History â€" this section should identify all of the legal events that have taken place so far in the case. These include all court actions, including motions, hearings, and trial, that have occurred leading up to the case being brought to the court in which the brief is being filed. Specify the Issues in Question â€" describe in detail the issues and legal questions for which the case is being brought before the current court. In this section, it is a good idea to break down these issues into their most basic parts, discussing how the law or rules apply to each. Answer each Issue Concisely â€" provide a brief answer to each issue brought to the current court. This is best done with a yes or no answer, followed by a couple of sentences stating the legal principle relied on by the court to reach its decision on that issue. Describe the Final Disposition of the Case â€" Specify what the court decided, and any orders that came of the decision. These include both concurring and dissenting opinions of members of the panel of judges that reviewed the case. Related Legal Terms and Issues Appellate Court â€" A court having jurisdiction to review decisions of a trial-level or other lower court. Civil Lawsuit â€" A lawsuit brought about in court when one person claims to have suffered a loss due to the actions of another person. Concurring Opinion â€" A written opinion by a judge which agrees with the overall decision made by a panel of judges, but which has different, or additional reasons for his decision. Dissenting Opinion â€" A written opinion by a judge who disagrees with the majority opinion of the panel of judges, giving his reasoning for dissent. Welcome all discussions Please indicate if you are a lawyer.

Chapter 7 : Rule Briefs on the Merits: In General | LII / Legal Information Institute

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Chapter 8 : Merits Briefs | Federal Trade Commission

When your case reaches the merits stage, the Court asks the parties to file a new round of briefs and a joint appendix. This stage of Supreme Court practice comes with its own set of rules.

Chapter 9 : Brief on the Merits

Hola estoy buscando el tÃ©rmino correspondiente en MÃ©xico para "brief on the merits". Forma parte del tÃ-tulo de un documento: "Notice of waiver of filing brief on the merits" y entiendo que es una notificaciÃ³n donde se renuncia al derecho de presentar el "brief on the merits".