HOW TO BRIEF (SUMMARIZE) A CASE FOR A DOCTRINAL COURSE - Step by Step

Why do this anyway?

First: It’s a forced dissection of a judicial opinion – the parsing will force you to consider what happened and why – and thereby create understanding. It is a very interactive form of reading by which you create knowledge (not just absorb it) by engaging with the language and questioning it.
Second: It is an efficient way to condense what may be a great deal of information in a form that you can use to engage in class discussion, and to refresh your recollection for midterms and finals.

Think of a case as a story: something happened to someone that raised a legal issue requiring resolution by a court. The case is the story of that happening, the legal issue it raised, how the issue was resolved, and why it was resolved the way it was. Think: “Once upon a time…..”

1. Get Oriented in Space and Time
Before even reading the case, note the name, cite, court and date – this will immediately orient you in terms of space (where is the case from -- both geographically and from what court) and time (when was the opinion issued). Also determine where the case falls in the "context" of the course you are reading it for. Where does it topically fall in the text's table of contents and in your syllabus? Actively consider why you have been assigned to read the case.

2. Read the case all the way through to get a sense of what the opinion is about before you start writing anything – what “story” does it tell? Example: “This case is about a woman who observed an accident and who sought money damages even though she wasn’t involved in the accident.” Think about how you would explain the case to someone who has not read it.

3. Look up any words that you do not know and note their meaning (in the margin or elsewhere) so that you don't have to look them up again and will be able to respond to questions about those terms if necessary.
4. Write the Summary

**ELEMENTS OF THE SUMMARY**

**CASE CAPTION**

- Accurately note the case name, cite, court and date (and the page number in the case book where it can be found).

**FACTS**

- Get your arms around the legally *relevant* facts. Relevant facts are those facts necessary to the court's ruling. This means figuring out what happened IN the case (the substantive facts) and what happened WITH the case (the procedural facts). You can think of the substantive facts as those setting out what happened before the parties came to court and the procedural facts as those setting out what happened after it got to court. Note that you will not be able to tell what facts are legally relevant (vs. interesting) until you have read through the entire case.

  **Substantive Facts**
  - who are the players and what is the relationship between them?
  - what happened to bring the parties to court?

  **Procedural Facts**
  - Who is being sued? By whom? For what (what's the claim?)
  - What court is hearing the case (trial or appellate)?
  - If on appeal, what happened below?
  - What was the issue before the trial court?
  - Why did the trial court rule the way it did?
  - If relevant, what damages were awarded?
  - Who appealed and why? (What did the lower court allegedly do wrong?)

**ISSUE**

- What is the legal question that the court must decide to reach its conclusion?
  - May be explicitly stated by the court, but not always.
May be phrased narrowly or broadly (question is how closely to tailor the question to the facts of the specific case).

- What rule of law/legal principal drives the legal question before the court? Note: the rule of law could derive from a statute, case rule, regulation, or may be a synthesis of prior holdings in similar cases (common law). The rule or legal principle may be expressly stated in the opinion or it may be implied.

**HOLDING**

- What is the court's answer to the question(s) presented by the parties? Note that the holding is tied to the particular facts of the case and is different from a statement of the governing rule of law/legal principle.

- Be careful to note the distinction between a holding and dictum. Dicta are discussions of the law that are not necessary to the court's decision in the case before it.

- Note also the distinction between the court's holding and its *judgment*. The court's judgment is its final decision as to the rights of the parties -- it is the court's response to a party’s request for relief. Generally, the appellate court will either affirm, reverse, or reverse with instructions. The judgment is usually found at the end of the opinion.

**LEGAL RULE & REASONING**

- How did the court reach its decision?
- How did it apply the rules/legal principles to the specific facts of the case to reach its decision?
- What policies (if any) does the decision further?
- Is there a dissent or concurrence? What are the reasons for the dissenting/concurring judges' refusal to join the majority opinion? Does the court address them?

**EVALUATION**

- Did the court get it right? (Why/why not?)
- How might the decision impact future decisions?
- Is it consistent with other cases you have read?
- Does it advance or retard social/political/economic policy?
- Is the reasoning sound?