



Moot Court: *In re Gault*

Student/Youth Due Process

Moot Court Lesson Plan

Topic

Should a juvenile have the same due process rights as an adult?

Background

The juvenile justice system has evolved into a complex structure of laws and legislation from an original concept inspired by the highest motives, to protect and defend the rights of children. Yet in practice, its benevolent intent has not always led to a satisfactory result. While avoiding the harshness and rigidity of the substantive and procedural rules applied in adult criminal proceedings, juveniles have also been excluded from the scrutiny and protection of the constitutional scheme. The requirements of due process of law, which restrict the state in the adult criminal context, have long been considered unnecessary in the juvenile forum that is already protective in nature. But the theoretical basis for this assumption has proven questionable. The lengthy incarceration of youthful offenders in juvenile institutions is a deprivation of liberty much the same as a prison sentence for an adult. Why then, had the procedural safeguards available to the adult been discarded in the juvenile setting?

This issue was confronted by the Supreme Court sixty-seven years after the first juvenile court in Illinois had gone into operation. In *Kent v. United States* 383 U.S. 541 (1966), the Supreme Court attempted to give meaning to due process of law in the juvenile court proceeding. The Supreme Court announced that a standard of due process taken from the Fourteenth Amendment was applicable in juvenile court. Though technically the opinion was only concerned with the waiver hearing and did not apply to all juvenile court proceedings generally, the Supreme Court had made a clear statement that due process and fair treatment were fundamental rights of children as well as adults.

Within a year of the Kent decision, the Supreme Court had occasion to elaborate further on the rights of children. This time the decision would have sweeping impact on the juvenile justice system as a whole.

In Re Gault, 387 U.S. 1 (1967), the Court established that due process of law was also essential to fairness at the adjudicatory phase of the process. Thus, a juvenile charged with a crime, is entitled to adequate, timely and written notice of the allegations against him, the right to counsel, the privilege against self-incrimination and the right to confront and cross-examine opposing witnesses under oath. This decision forced juvenile courts throughout the country to rethink and restructure the system so that proceedings were not so informal as to deny minors basic constitutional rights.

These and other issues will be examined more fully by students in the moot court hearing presented here. The moot court proceeding is designed to help students gain insight into the appeal's court process and the Supreme Court hearing. Since fact-finding has already occurred at the trial level, no new

witnesses are called or testimony given. Students are required to present oral arguments before a panel of judges who, after careful analysis, will either affirm or reverse the decision of the lower court. This lesson therefore serves a dual purpose. Students will be able to acquire the substantive knowledge of the issues presented and also learn important concepts about how the judicial system functions to safeguard the fundamental rights of citizens.

Objectives

After students have participated in a moot court hearing of *In re Gault*, students will be able to:

- Discuss the constitutional issues involved in the *Gault* case.
- Take a position on whether a juvenile accused of a crime should have the same due process rights as an adult.

Materials

Handout 1	Presentation of Facts
Handout 2	Procedures for Moot Court Hearing <ul style="list-style-type: none">- <i>Gault</i>, the Appellant- Arizona, the Appellee- Judges Panel
Handout 3	Excerpts from Arizona Supreme Court Decision
Handout 4	Excerpts from U.S. Supreme Court Decision
Handouts 5-7	Student Forms to use in case preparation / for assessment

Time Required

2-3 class periods

Procedures

Distribute Handout 1, Presentation of Facts (p5-6). Have students read and study the fact pattern. Divide the class into two or three groups of nine students. Adjust the size of the groups according to the number of students in the class. Three students in the group will serve as lawyers for Gerald Gault, the Appellant. Another three students will serve as lawyers representing the state of Arizona, the Appellee. The remaining three students will serve as the panel of judges who will make a decision in the case.

Gault's team will read and study Handout 2, p7-8, and Handout 4, Excerpts from U.S. Supreme Court Decision (p14-16). Arizona's team will read and study Handout 2, p9-10), and Handout 3, Excerpts from Arizona Supreme Court Decision (p12-13). The panel of judges will read and study Handout 2, p11, as well as Handouts 3 and 4, excerpts from both supreme courts (p12-16).

Before beginning the moot court all students assigned as judges will meet and discuss the case. The same will occur for all students who are assigned to *Gault's* and Arizona's teams and supporting litigant teams. After completion of these meetings, the students will reconvene in their assigned groups, complete their research and prepare their arguments or questions. Students must consult with the other members of the team during preparation. The oral arguments are a joint effort. Once the preliminary

sessions have been completed, the moot court will begin. The moot court may take several class sessions and could involve outside research and preparation.

Instructions for the moot court: The appellant (Gault) and appellee (Arizona) teams will each have five minutes to present their arguments and answer questions posed by the judges. The Appellant (Gault) will present their arguments first, followed by the students representing the Appellee (Arizona). The rebuttal portion will be eliminated to simplify the exercise. One or all of the team members may present oral arguments.

The judges may interrupt and ask questions at any point during the arguments. The five minute time limit may be extended at the discretion of the judges. After completion of the oral arguments, the judges will retire to their chambers (the corners of the room) for five minutes to discuss the issues and reach a decision. The decision will be determined by a majority vote of the judges.

After students have completed the moot court, have them explain their answers to the following questions:

- How realistic do you think the moot court was? Explain.
- Which students played their roles well? Explain.
- How did you feel in your role?
- Is there anything you would change to make the moot court more effective? Explain.
- What is the most important thing you learned from the moot court experience?
- Were any amendments to the Constitution violated by the Juvenile Court in the Gault case? Explain.
- What do you think the Court meant in *Kent v. United States* when they stated that the juvenile hearing "must measure up to the essentials of due process and fair treatment? Explain.
- How can we best define the term due process? Which due process rights possessed by adults should be given to juveniles?
- Which due process rights should not be given to juveniles? Why?
- Should a delinquency hearing in Juvenile Court be conducted the same way as a criminal trial? Why? Why not?
- Does the decision in the Gault case mean that Gerald Gault is not a delinquent? Explain.
- Does the decision in the Gault case affect only the state of Arizona? Does the decision effect other states?
- How do you think the decision in Gault affected juvenile courts throughout the United States? Explain.
- Why are there no witnesses and testimony when a case is being appealed?
- Can the Supreme Court of the United States' decision in *In re Gault* be appealed? Why? Why not?
- Are there any arguments you would use in favor of Gault which were not mentioned? Are there any arguments you would use in favor of the Arizona Juvenile Court which were not mentioned?
- Do you agree with the Court's decision? Why? Why not?
- How would you change the decision in Gault?

Performance Assessment

Students should prepare a short written brief that summarizes the issues and oral arguments presented during the moot court.

Further Enrichment

Based on multiple intelligence theory:

- Intrapersonal: Have students make a reflective journal entry about how they would feel if a juvenile who had committed a serious crime were treated like an adult.
 - Interpersonal: Divide the class into equal size groups. One student will serve as an observer/reflector. The observer/reflector would observe formal and informal roles in the group and discuss his/her reactions to the group. Each group would develop a plan for the treatment of juvenile offenders that would help reduce crime.
 - Musical: Students should compose the lyrics to a rap song that advocates a reduction in juvenile crime.
 - Logical/Mathematical: Students could predict future trends in juvenile crime based on available statistics.
 - Linguistic: Students should debate the issue, "to what extent should juveniles accused of a crime have the same rights as an adult."
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HANDOUT 1

Presentation of Facts

Gerald Francis Gault, age 15, was taken into custody by the Sheriff of Gila County, Arizona on the morning of June 8. A friend, Ronald Lewis, was taken into custody at the same time. Both boys were detained as a result of a verbal complaint by a neighbor, Mrs. Cook, who said that Gerald and Ronald made obscene remarks to her during a phone call. This was the second time that Gerald and Ronald made phone call. Gerald had been in trouble with the law. Some months earlier, Gerald was with another friend who had stolen a wallet from a lady's purse. A six months probation order was entered on February 25 and remained in effect on June 8 when the present incident occurred.

On the day in question, Gerald's mother returned home from work at 6 P.M. Mrs. Gault was concerned that Gerald was not at home but was not aware that anything had happened and had not been notified by the Sheriff's office that Gerald had been taken into custody. Upon discovering the fate of her son, Mrs. Gault and Gerald's older brother went to the Detention Home. There they were met by Officer Flagg who informed Mrs. Gault why Gerald was there and that a hearing would be held in Juvenile Court the following day June 9.

The hearing was held in Juvenile Court as scheduled on June 9. Mrs. Gault, Gerald's older brother, Officer Flagg and another Officer Henderson were all present. The complainant, Mrs. Cook was not present. No record was made of the proceeding. The only evidence of what actually occurred at this hearing are the recollections of those who attended. Each offers a different version of what was said on June 9. The presiding judge, Judge McGhee, questioned Gerald about the phone call. Mrs. Gault and Gerald claim that Gerald only admitted to dialing the number, but did not admit to making any of the remarks Mrs. Cook complained of. Officer Flagg and Judge McGhee state that Gerald admitted to making at least some of the comments. Gerald was sent back to the Juvenile Detention Home where he remained until June 11 or 12 when he was released into his mother's care. No explanation was given for Gerald's detention or release. Mrs. Gault was only given a note indicating that the next hearing would be held on June 15.

The June 15 hearing was conducted much the same way as the June 9 hearing. This time, Mrs. Gault requested the presence of the complainant, Mrs. Cook, but the Judge explained that Mrs. Cook did not have to be present at a Juvenile Court hearing. Again, no record was made of the proceeding and the court relied on the recollections of those who were present. At no point in either the June 9 or June 15 proceedings, was Gerald represented by counsel or told that he was entitled to have counsel present. At the conclusion of the hearing, Judge McGhee issued an Order of Referral stating that Gerald was a juvenile delinquent and would be placed in a State Industrial Home where he would remain until the age of 21, a period of six years. Under the Juvenile Code of Arizona, there is no appeal from this ruling. Had this offense been committed by an adult, it would be punishable by a fine of \$5-50 and a jail sentence of not more than two months.

Procedural History

With no appeal available, a petition for a writ of Habeas Corpus was filed on Gerald's behalf. This writ presents another route to obtain the release of Gerald from the State Industrial Home. It requires a judge or court to investigate the restraint of a person's liberty to determine if the restraint is lawful. In this instance, the petition for the writ was dismissed. The dismissal was upheld by the Supreme Court of Arizona. The case was appealed to the Supreme Court of the United States to determine the constitutionality of the Arizona Juvenile Code under which Gerald was punished.

HANDOUT 2

Procedures for Moot Court Hearing

Gault, the Appellant

For the purpose of this exercise students are to assume that the facts are as set forth in the Presentation of Facts and cannot be disputed. Students will serve in the role of attorney and present oral arguments before a panel of student judges. Much like a debate, students will confine their arguments to only one side of the issue. The student judges will determine which of the arguments is most persuasive and decide the case accordingly.

A moot court is patterned after an appeal's court or Supreme Court hearing. Unlike a trial, no witnesses are called and no testimony is given. As a member of the appealing litigant team representing Gerald Gault, students will prepare arguments to convince the judges to reverse the decision of the lower court. The judges may interrupt at any time to ask questions regarding the argument that is being made.

Students should look at the Amendments to the Constitution and consider how the law was applied in this case. Arguments may also be based on legal precedents and other theories that are pertinent to the facts and issues. Additional research may be needed.

Students representing the Appellant Gault should argue that the Arizona Juvenile Court violated Gerald Gault's rights under the Fifth, Sixth and Fourteenth Amendments of the United States Constitution by denying him his due process rights. Students should read the decision of *In re Gault* 387 U.S. 1 (1967), before preparing their arguments. (See Handout 4, Excerpts from the U.S. Supreme Court Decision, p14-16).

The following questions are provided as a guide to help students identify the important issues and prepare their arguments:

- Did the Arizona Juvenile Court violate Gerald's rights by not giving him adequate notice of the charges against him?
- Did the Arizona Juvenile Court violate Gerald's rights by not informing him that he had a right to be represented by counsel?
- Did the Arizona Juvenile Court violate Gerald's rights by not allowing him to confront the complaining witness, Mrs. Cook and to cross examine her about the allegations against him?
- Did the Arizona Juvenile Court violate Gerald's rights by not informing him that he was not required to answer questions that would admit to his involvement in the alleged delinquent conduct?
- Did the Arizona Juvenile Court violate Gerald's rights by denying him the right to appeal the decision placing him in a State Industrial Home?
- Did the Arizona Juvenile Court violate Gerald's rights by failing to make a record of the delinquency proceedings and the findings against him?

Arizona, the Appellee

For the purpose of this exercise students are to assume that the facts are as set forth in the "presentation of facts" and cannot be disputed. Students will serve in the role of attorney and present oral arguments before a panel of student judges. Much like a debate, students will confine their arguments to only one side of the issue. The student judges will determine which of the arguments is most persuasive and decide the case accordingly.

A moot court is patterned after an appeals court or Supreme Court hearing. Unlike a trial, no witnesses are called and no testimony is given. As members of the supporting litigant team representing the state of Arizona, students will prepare arguments to convince the judges to affirm the decision of the lower court. The judges may interrupt at any time to ask questions regarding the argument that is being made.

Students should look at the Amendments to the Constitution and consider how the law was applied in this case. Arguments may also be based on legal precedents and other theories that are pertinent to the facts and issues. Additional research may be needed.

As a member of the team representing the Appellee, Arizona, students will want to argue that the Arizona Juvenile Court did not violate Gerald Gault's due process rights under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution. The supporting litigant team should read the opinion of *Application of Gault* 99 Ariz. 181, 407 P. 2d 760 (1965), when preparing their arguments. (See Handout 3, Excerpts from the Arizona Supreme Court Decision, p12-13).

Each team will have five minutes to present their arguments including questioning from the judges.

The following questions are provided as a guide to help identify the important issues and prepare arguments:

- Did the Arizona Juvenile Court violate Gerald's rights by not giving him adequate notice of the charges against him?
- Did the Arizona Juvenile Court violate Gerald's rights by not informing him that he had a right to be represented by counsel?
- Did the Arizona Juvenile Court violate Gerald's rights by not allowing him to confront the complaining witness, Mrs. Cook, and to cross-examine her about the allegations against him?
- Did the Arizona Juvenile Court violate Gerald's rights by not informing him that he was not required to answer questions that would admit to his involvement in the alleged delinquent conduct.
- Did the Arizona Juvenile Court violate Gerald's rights by denying him the right to appeal the decision placing him in a State Industrial Home?
- Did the Arizona Juvenile Court violate Gerald's rights by failing to make a record of the delinquency proceedings and the findings against him?

Judges Panel

For the purpose of this exercise students are to assume that the facts are as set forth in the "presentation of facts" and cannot be disputed. Students will serve in the role of attorney and present oral arguments before a panel of student judges. Much like a debate, students will confine their arguments to only one side of the issue. The student judges will determine which of the arguments is most persuasive and decide the case accordingly.

A moot court is patterned after an appeals court or Supreme Court hearing. Unlike a trial, no witnesses are called and no testimony is given. As members of the panel of judges, students will assess the legal arguments and decide whether to affirm or reverse the lower court decision based on the strength of the arguments. The judges should read the excerpts from the two supreme courts, Handouts 3 and 4 (p12-16). The excerpts will help when preparing questions for the appellant and appellee. The judges may interrupt at any time during oral argument and ask questions about the argument.

The following questions are provided as a guide to help the judges identify the important issues and prepare questions for the attorneys:

- Did the Arizona Juvenile Court violate Gerald's rights by not giving him adequate notice of the charges against him?
- Did the Arizona Juvenile Court violate Gerald's rights by not informing him that he had a right to be represented by counsel?
- Did the Arizona Juvenile Court violate Gerald's rights by not allowing him to confront the complaining witness, Mrs. Cook, and to cross-examine her about the allegations against him?
- Did the Arizona Juvenile Court violate Gerald's rights by not informing him that he was not required to answer questions that would admit his involvement in the alleged delinquent conduct?
- Did the Arizona Juvenile Court violate Gerald's rights by denying him the right to appeal the decision placing him in a State Industrial Home?
- Did the Arizona Juvenile Court violate Gerald's rights by failing to make a record of the delinquency proceedings and the findings against him?

HANDOUT 3

Excerpts from Arizona Supreme Court Decision

Application of *Gault* (adapted and excerpted), 99 Ariz. 181, 407 P. 2d (1965)

[1] We first consider petitioners' complaint that the juvenile code does not provide for an appeal. We hold that there is no right of appeal from a juvenile court order.

A finding by the juvenile court shall not impose any civil disability, nor shall the child be deemed a criminal. Moreover the finding is not a conviction and evidence given in the juvenile court is inadmissible in any other court.

Unless the child is convicted of an offense in the interim, the court must destroy its records 2 years after the end of probation or discharge from an institution

All states have juvenile codes and all provide for less than the full set due process guarantees available in a criminal proceeding. Yet, the overwhelming majority of courts have recognized the statutes to be constitutional

Juvenile courts do not exist to punish children for their acts against society. The juvenile court stands in the position of a protecting parent rather than a prosecutor. It is an effort to substitute protection and guidance for punishment ...

The aim of the court is to provide individualized justice for children. The purpose is to provide authoritative treatment for those who are no longer responding to parents. The delinquent is the child of, rather than the enemy of society.

This is the basis for the general rejection of the criminal law proceeding. Many cases have generally held that the full array of criminal procedural safeguards are not required in juvenile proceedings ...

The policy of the juvenile law is to hide youthful errors from the full gaze of the public and bury them in the graveyard of the forgotten past.

We think the proper balance between the infant's right to know the facts of the charge against him and the state's interest in avoiding or erasing the stigma of delinquency is best struck by the following rule: the infant and his parent or guardian will receive a petition only reciting a conclusion of delinquency ...

We also do not think due process requires that an infant have a right to counsel. The parent and probation officer may be relied upon to protect the infant's interests. If, however, the court sees any conflict between the parent and child, it can select an attorney to represent the infant ...

In addition, the need to treat the child as an individual is helped by a rule which does not require the judge to advise the infant of a privilege against self-incrimination ...

The juvenile court determines whether the child has committed a crime, not for the purpose of finding the child guilty or not guilty, but for the purpose of determining that the child has committed an act of delinquency ...
Petitioners complain that no transcript of either juvenile hearing was prepared ...

The purpose of a transcript, in some instances, is to support an appeal. But there is no right to an appeal. Furthermore, the evidence used at a juvenile hearing is of a confidential nature because it is admissible in other courts, and the record must be destroyed after a certain period of time.

We think the juvenile court can order or deny the taking of transcripts ...

We emphasize the fact that the child's welfare is the primary consideration before the juvenile court and the judge will make such order as the child's welfare and the interests of the state require.

The juvenile court may commit such juvenile to the industrial school when the best interests of the juvenile or the protection of society demand such commitment...

HANDOUT 4

Excerpts from U.S. Supreme Court Decision

In Re Gault, (adapted and excerpted) 387 US 1 (1967)

Neither the Fourteenth Amendment nor the Bill of Rights is for adults alone. Due process of law is the primary and indispensable foundation of individual freedom. It is the basic and essential term which defines the rights of the individual and sets limits on the powers which the state may exercise.

From the inception of the juvenile court system, wide differences have been tolerated--indeed insisted upon--between the procedural rights given to adults and those of juveniles. The right of the state, as *parens patriae*, to deny to the child procedural rights available to adults was based on the claim that a child, unlike an adult, has right not to liberty but to custody. He has the right to have someone take care of him, and if his parents do not, the law must do so.

The early conception of the Juvenile Court proceeding was one in which a fatherly judge touched the heart and conscience of the erring youth by talking over his problems, by parental advice and warning, and in which, in extreme situations, helpful and wise institutions of the State provided guidance and help to save him from a downward career. The traditional ideas of Juvenile Court procedure contemplated that time would be available and care would be used to establish exactly what the juvenile did and why he did it--was it a prank of adolescence or a brutal act threatening serious consequences to himself and society unless corrected? But departures from established principles of due process have frequently resulted not in enlightened procedures, but in arbitrariness.

The essential difference between Gerald Gault's case and a normal criminal case is that safeguards available to adults were discarded in Gerald's case. The summary procedure as well as the long commitment was possible because Gerald was 15 years of age instead of over 18. If Gerald had been over 18, he would not have been subject to Juvenile Court proceedings. For the particular offense in this case, the maximum punishment would have been a fine of \$5 to \$50, or imprisonment in jail for not more than two months. Instead, he was committed to custody for a maximum of six years.

In *Kent v. United States* 383 US 541 (1966), we held that "We do not mean ... to indicate that the (juvenile) hearing to be held must conform with all of the requirements of a criminal trial ... but we do hold that the hearing must measure up to the essentials of due process and fair treatment."

In this case, the following basic rights in question: (1) right to a notice of the charges; (2) right to counsel; (3) right to face and cross-examine witnesses; (4) privilege against self-incrimination; (5) right to a transcript of the proceedings; and (6) right to appellate review.

1. We cannot agree with the lower court's conclusion that adequate notice was given in this case. Notice must be given to the child and his parents or guardian sufficiently in advance of the scheduled court hearing so that reasonable opportunity to prepare will be given.
2. The juvenile needs the assistance of counsel to cope with the problems of law, to make skilled inquiry into the facts, to insist upon proper procedure, and to learn whether he has a defense and to prepare and submit it. We conclude that the Due Process Clause of the Fourteenth Amendment requires that in proceedings to determine delinquency which may result in commitment to an institution in which the juvenile's freedom is limited, the child and his parents must be notified of the child's right to be represented by counsel hired by them, or, if they are unable to afford counsel, that counsel will be appointed to represent the child.

3. Mrs. Cook, the complainant, and the recipient of the alleged telephone call, was not called as a witness. So far as appears, Mrs. Cook was spoken to only once, by Officer Flagg, and this was by telephone. The judge did not speak with her on any occasion. There was no sworn testimony by Mrs. Cook. The confrontation and sworn testimony by witnesses available for cross-examination are essential aspects of due process. We hold that without a valid confession, a determination of delinquency and an order of commitment to a state institution cannot be approved in the absence of sworn testimony subjected to the opportunity for cross-examination in accordance with our law and constitutional requirements.

4. It has long been recognized that the obtaining and use of confessions or admissions require careful examination. If counsel was not present when an admission was obtained, the greatest care must be taken to assure that the admission was voluntary, in the sense not only that it was not coerced or suggested, but also that it was not the product of ignorance of rights or of adolescent fantasy, fright or despair. The "confession" of Gerald Gault without counsel and without advising him of his right to silence. There was no written admission. We conclude that the constitutional privilege against self-incrimination is applicable in the case of juveniles as it is with respect to adults.

5. & 6. As the present case illustrates, the consequences of failure to provide an appeal, to record the proceedings, or to make findings or state the grounds for the juvenile court's conclusion may be to throw a burden upon the machinery of *habeus corpus*, to saddle the reviewing process with the burden of attempting to reconstruct a record, and to impose upon the Juvenile Judge the unpleasant duty of testifying under cross-examination as to the events that took place in the hearings before him.

Attorney Form

Case Title: _____ v. _____

A. Preparation prior to the hearing.

FACTS: What are the FACTS of the case (what’s the story behind the lawsuit)?

- | | |
|----|-----|
| 1. | 6. |
| 2. | 7. |
| 3. | 8. |
| 4. | 9. |
| 5. | 10. |

QUESTION:

What are the key legal and Constitutional issues – what issue does the court have to decide?

- 1.
- 2.

ARGUMENTS:

What examples / precedents can you apply? Current events, historical facts, etc?

- 1.
- 2.
- 3.

Arguments for your side:

- | | |
|----|----|
| 1. | 6. |
| 2. | 7. |
| 3. | 8. |

Anticipated arguments for the other side:

- | | |
|----|----|
| 1. | 3. |
| 2. | 4. |

*****If you are giving the Argument, you must begin your presentation with:**

"Your Honors, if it please the Court, my name is _____, and my colleagues are _____. We represent _____ in this matter."

B. Notes during the hearing (other side's arguments, use for rebuttal).

C. After the hearing.

What was the majority opinion? What was the rationale (reasoning) behind this opinion?

What was the dissenting opinion? What was the rationale behind this opinion?

D. How did the actual Court that heard this case decide? What was their rationale?

Do you agree/disagree? Why?

Your Legal Brief

As we have learned, a Brief is the written argument presented to the Court in an appellate case. Your oral arguments stem from your written brief. It is a “brief” accounting of your case, your arguments, precedent you depend on, and how you feel the Court should rule in the case (for your client, of course!). It should be a formal address to the Court about your case to convince the Justices to rule in your favor.

Your brief has no required length, but it should include the following in narrative form (remember you want your story to convince the Justices of your side!):

1. Short statement of the facts from your client’s point of view
2. The question you believe the Court must address
(What Constitutional issue is at stake?)
3. Describe your legal and Constitutional arguments
4. Include examples that support your case
5. Clearly state your main arguments for the Court
6. Anticipate the other side’s arguments and address them
(this will be used for your rebuttal)
7. Conclude with requesting the Court to rule in your favor (detail)

******Your Attorney Form is your outline for your Brief******

Your entire attorney team should construct your client’s Brief together. It will need to be typed or neatly written and turned in at the conclusion of your Supreme Court Hearing arguments.

- One person on the team should be lead attorney and **present the main arguments** to the Court at your hearing.
- One person should be prepared to present **rebuttal arguments**.
- The entire team is responsible for crafting the brief, constructing oral arguments, preparing rebuttal arguments, and answering questions from the Court.

Justice Form

Case Title: _____ v. _____

A. Preparation prior to the hearing.

FACTS: What are the basic facts of the case? Who is involved?

- | | |
|----|-----|
| 1. | 6. |
| 2. | 7. |
| 3. | 8. |
| 4. | 9. |
| 5. | 10. |

ARGUMENTS: What parts of the US Constitution apply?

- 1.
- 2.

What questions do you have about the case, or what facts do you want clarified?

Which of their clients' actions would you like the attorneys to justify or explain?

B. Notes during the hearing.

What are the key legal and Constitutional issues?

- 1.
- 2.
- 3.

ARGUMENTS FOR:

Appellant

Respondent

1.

1.

2.

2.

3.

3.

4.

4.

5.

5.

C. After the hearing.

What is your personal decision? Why?

What was your Court's decision? What was the vote count?

D. How did the actual Court that heard this case decide? What was their rationale?

Do you agree/disagree? Why?

SPECIAL NOTE TO JUSTICES – In your deliberations:

1. Chief Justice should poll each Justice. Ask them what their thoughts are concerning the case.
2. Pose the key question the Court must address. Discuss.
3. Vote. Each justice should list his or her reasons.
4. Prepare the decision: **“We hold for the _____ (appellant or respondent) because:**

5. Return to class and deliver decision with vote count – be prepared to explain any dissenting opinions.

Moot Court

Name: _____

Observer Form

Case Title: _____ v. _____

A. Notes during the hearing

What are the key legal and Constitutional issues?

1.

2.

ARGUMENTS FOR:

Appellant

Respondent

1.

1.

2.

2.

3.

3.

4.

4.

B. After the hearing.

What was the Court's majority opinion? What was the rationale behind this opinion?

What was the Court's minority opinion? What was the rationale behind this opinion?

What is your reaction to the majority opinion? WHY?