



**Due Process & the Sixth Amendment:**  
***The Outsiders***

**A MOOT COURT**

## **Thank You**

A Special Thank You to the **Ohio Center for Law Related Education**, which developed the 2015 middle school mock trial *State of Oklahoma v. Jordan Cade*, based on S.E. Hinton's *The Outsiders*. This moot explores what might happen if a conviction in that case were appealed based on the Sixth Amendment's right to counsel.

Please visit the Ohio Center for Law Related Education to see their *Outsiders* mock trial, along with several other middle-school level mock trials based on literature:

[OCLRE.org](http://OCLRE.org)

Thank you also to **S.E. Hinton**, who wrote a novel that still engages and challenges young people. Combining the magic of her writing with the opportunity to engage in civic participation by better understanding the judicial system is an opportunity we think will stick with middle schoolers well into their futures.

--The Classroom Law Project



**MOOT COURT**  
**Due Process & the Sixth Amendment: *The Outsiders***

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# MOOT COURT

## Due Process & the Sixth Amendment: *The Outsiders*

### Topic

The **Sixth Amendment** of the Constitution:

*In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.*

This moot appeal hearing challenges a trial court conviction based on the **ineffective assistance of counsel** (the defense attorney did not do their job correctly, which resulted in the conviction of the defendant).

### Background

There are three levels of criminal and civil court:

**Trial Court:** decisions are made by a jury or judge based on facts of the case

**Appeals Court:** decisions are made by a panel of judges based on the Law or Constitution only

**Supreme Court Appeal:** decisions are made by the full panel of 9 justices based on a Constitutional issue only

A moot court is a simulated Appeals Hearing. This is much different from a mock trial in that there are no witnesses, no evidence, and no arguments between the attorneys. Instead, each side submits briefs, or summaries of their positions, to a panel of judges and then they appear in a hearing where the judges themselves question each attorney. The appeals court panel then decides the case based on an interpretation of the constitution.

Once a defendant is convicted in a trial court, that defendant may appeal that conviction to the next judicial level. But they must appeal based on a point of law or constitutional justice (they cannot appeal based on the facts determined by the jury).

One of the most common points of appeal in a criminal case is the **ineffective assistance of counsel**. The Supreme Court's main precedent for the Sixth Amendment is the case *Strickland v. Washington*, 1984. In that case, the Court ruled that there is a two-pronged test for determining whether a defendant received a proper defense from their attorney:

1. The attorney's performance at trial must be deficient (they acted unreasonably to defend their client); and
2. The deficient performance prejudiced the jury against the defendant so that the defendant did not get a fair trial.

## Objectives

After students have participated in a moot court hearing of *Cade v. State*, students will be able to:

- Discuss the constitutional issue of due process regarding right to an attorney (Sixth Amendment)
- Take a position on whether the character/actions of a defendant outside the incident in question should be considered with regard to a conviction
- Practice collaboration, research, persuasive writing and speaking, and participating in the judicial process

## Materials for student use included in this packet:

- Presentation of Facts
- Guide for Appellant
- Guide for Appellee
- Guide for Judicial Panel
- Precedents & Research Tips
- Attorney Prep form
- Appellate Brief Outline
- Judge Prep form
- Observer form
- Reflection

## Logistics of the Moot Court (the lesson plan):

*Note to teachers:* This moot court can be done before, during, or after the class reads *The Outsiders*. The facts of the case are based on the content of the book, but also introduce fictional account of a trial that is not in the book. This appeal would obviously take place prior to Johnny Cade dying in the hospital, but after the incident at the church. Teachers will need to distinguish for students at some point that the trial and appeal are not parts of the story if the students have not yet read the story.

1. Distribute the **Presentation of Facts** to the class and have students read and study the fact pattern of the case and the trial court. A class brainstorm on what they think could have gone wrong and/or what was right with the way the defense handled the trial might be a great way to get students thinking.
2. Distribute the **Precedents & Research Tips** to students. This will help them begin to critique the constitutional aspect of the appeal and learn what precedents are and how to use them to persuade.

3. Optional exercises:
  - a. Judicial Review: distribute the **Judicial Review handout** and have students review how appellate courts got their power to interpret the Constitution.
  - b. Persuasive Writing & Speaking: distribute the **Persuasive Writing & Reading handout** that gives students practice using three rhetorical tools: Logos, Pathos, and Ethos.
4. Assign or ask students to volunteer to be in small teams together (if you have a large class you may want to hold two moots and have two of each team and see how the two moots compare - there is an Observer form for teams not in the moot should you choose that method):
  - o Appellant team (attorneys)
  - o Respondent team (attorneys)
  - o Judicial panel (judges)
5. Distribute the **Precedents & Research Tips, Attorney and Judge forms** to their respective teams (Attorney teams will also get the **Brief Outline**)
6. Distribute the **Issue & Argument Guides** to their respective teams.
7. Give students time (at least two class periods is helpful for prep time) to research the precedents and examples they want to use in their case and to work together to form their arguments. The judge panel(s) should also consider the case and where they stand on the issues. The judge panel should also be well versed in the precedents and will need to prepare questions for the attorneys.
8. Once students have prepared, hold the moot (see "**What an Appeals Hearing looks like**" for setting up your classroom).
9. The judicial panel should take about 5-10 minutes to make their decision and return to the "courtroom" to deliver their opinion.
10. A discussion that reflects on the outcome and process of the moot court will help students to consider different aspects of the experience.
11. Finally, ask students to complete the **Reflection** (these are the essential questions that allow students to take the issues of the moot to extended thinking) so you can respond to them with feedback about their own observations and the role they played.

## Assessment

Evaluation of the Moot can include observations, assessment of performance, and review of written work from individual students and teams. How a teacher chooses to combine these aspects of the moot is personal choice, but we have provided in the appendix some assessment rubrics you can use and/or alter to fit your assessment needs.

## Further Enrichment

- Intrapersonal: Have students write a reflective journal entry about how they would feel to be accused of harming someone during a fight and what they might want in an attorney who would defend them.
- Musical / Artistic: Students might compose the lyrics to a song of any genre that advocates the sixth amendment or do art or poetry that does the same.
- Interpersonal: Conduct a Socratic Seminar around a theme or the issue of due process as connected to *The Outsiders* with students using the same foundational text to answer the question: “do you think that Darryl can get a fair trial in this community?”

## Oregon Social Studies & ELA Standards

The Oregon standards that apply to this Moot Court lesson include:

### Oregon 8<sup>th</sup> Grade Social Studies Standards:

- 8.1 Compare and contrast the Articles of Confederation to the U.S. Constitution.
- 8.2 Identify and understand how to apply the rights and responsibilities of individuals under the Constitution.
- 8.5 Examine and analyze important United States and Oregon documents, including (but not limited to) the Constitution, Bill of Rights, 13<sup>th</sup> -15<sup>th</sup> Amendments and Oregon Constitution.
- 8.7 Analyze the expanding eligibility of citizenship in the continuing struggle for the expansion of rights for ethnic and traditionally marginalized groups.
- 8.8 Analyze important political and ethical values such as freedom, democracy, equality, equity, and justice embodied in documents such as the Declaration of Independence, the United States Constitution, and the Bill of Rights. (Civics)
- 8.9 Analyze the effect of historical and contemporary means of changing societies, and promoting the common good.
- 8.10 Explain specific roles and responsibilities of citizens (such as voters, jurors, taxpayers, members of the armed forces, petitioners, protesters, and office-holders).
- 8.22 Evaluate continuity and change over the course of United States history by analyzing examples of conflict, compromise, cooperation, interdependence, and social justice from multiple perspectives.
- 8.23 Evaluate the continuity and change over the course of United States history by analyzing the key people and events from the 1780s through Reconstruction.
- 8.25 Evaluate the influence of the intersections of identity, including but limited to gender, age, race, ethnicity, religion, and class on the experiences of peoples, groups, and events.
- 8.29 Use and interpret relevant primary and secondary sources pertaining to U.S. History from multiple perspectives.
- 8.30 Synthesize information and data to construct an account of historical events that includes multiple sources and varied perspectives.
- 8.32 Critique and analyze information for point of view, historical context, distortion, bias propaganda and relevance including sources with conflicting information in order to question the dominant narratives in history.

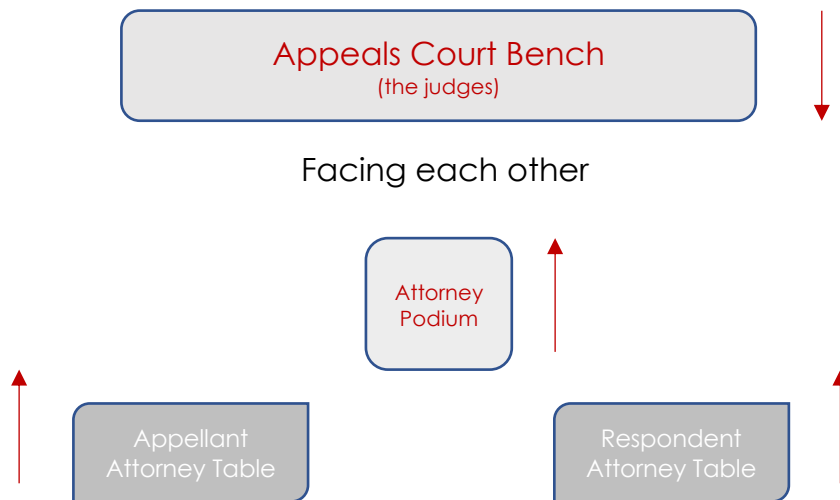
### Language Standards:

- 8.6 Cite the textual evidence that most strongly supports an analysis of what the text says explicitly as well as inferences drawn from the text.
  - 8.7 Determine a theme or central idea of a text and analyze its development over the course of the text, including its relationship to the characters, setting, and plot; provide an objective summary of the text.
  - 8.9 Determine the meaning of words and phrases as they are used in a text, including figurative and connotative meanings; analyze the impact of specific word choices on meaning and tone, including analogies or allusions to other texts.
  - 8.11 Compare and contrast the structure of two or more texts and analyze how the differing structure of each text contributes to its meaning and style.
- 
- 1. Integrate and evaluate content presented in diverse formats and media, including visually and quantitatively, as well as in words.\*
  - 2. Delineate and evaluate the argument and specific claims in a text, including the validity of the reasoning as well as the relevance and sufficiency of the evidence.
  - 3. Analyze how two or more texts address similar themes or topics in order to build knowledge or to compare the approaches the authors take.



## How Appellate Hearings Work

How the courtroom looks:



In an Appellate or Supreme Court hearing (also called "oral argument"), there are:

- no juries
- no witnesses
- no exhibits

The Judges or Justices have already read briefs of the case prior to the hearing. Each side (and even third parties) submit briefs - stories of the case - before the hearing. The hearing is simply a final chance to make their most important points & arguments to the court.

Appellant's (or petitioner's) attorney and the Respondent's attorney each have a set amount of time to make their case before the bench of Judges, including answering questions. The attorneys must use all of their public speaking skills to make their case concisely and persuasively.

Then, they must be able to think quickly and flexibly because the Justices can ask any and all questions they choose of either attorney. The attorneys must be ready to respond to any question put to them by the Court.

When questioning concludes, the judges decide amongst themselves what they believe the outcome should be and opinions are written and released. The majority opinion - the explanation of their ruling - is written by a judge and signed onto by the others in the majority. Judges in the minority who do not agree write a dissenting opinion explaining their disagreement with the ruling.

## The Hearing Steps:

1. All rise for the judges to enter the court and once they are seated everyone may sit.
2. Chief Judge/Justice calls the court to order and asks the attorneys to introduce themselves.
3. Head attorney for Appellant stands and introduces themselves and the team:  
*May it please the Court, I am \_\_\_\_\_ and this are my colleagues and we represent Appellant Johnny Cade.*
4. Head attorney for Respondent stands and introduces themselves and the team:  
*May it please the Court, I am \_\_\_\_\_ and this are my colleagues and we represent Respondent State of Oklahoma.*
5. Chief Judge calls for Appellant Attorney(s) to make their case (10-minute maximum)  
*Attorney begins by saying "May it please the Court..."*
6. Chief Judge calls Respondent Attorney(s) to make their case (10-minute maximum)  
*Attorney begins by saying "May it please the Court..."*
7. The Chief Judge calls Appellant to make a 5-minute rebuttal to the Respondent's case
8. The Appellant attorney speaks for up to 5 minutes rebutting the case made by respondents
9. The Chief Judge calls Respondent to make a 5-minute rebuttal to the Respondent's case
10. The Respondent attorney speaks for up to 5 minutes rebutting the case made by appellant.
11. Judges then have 15 minutes to ask questions of the Appellant and Respondent Attorneys
12. Chief judge gavels out the hearing and Judges exit room to decide their ruling
13. Judges take a vote and discuss their reasons for being in the majority or minority. After discussion, another final vote is taken.
14. (while judges are out of the room, teacher may lead a discussion with attorney teams and observers about how the arguments went)
15. Judges return and Chief Judge delivers the opinion of the court. If there is a dissenting opinion, that judge can state their dissent briefly.
16. Hearing is adjourned.

## Presentation of Facts

*Johnny Cade v. State of Oklahoma*  
(based on *The Outsiders*)

Young people in town are generally divided between the east side of town, which is mostly low-income families, and the west side, which are wealthier families. The kids from the east side are called "Greasers," based on how they slick their hair back. The term used for the west side, suburban kids is "Soc" (pronounced "sosh" from the word "social.") The Socs often pick on the Greasers and the Greasers feel they don't have the same opportunities and are not given the benefit of the doubt by society.

On the evening in question, defendant Johnny Cade had walked to the park with his friend, Pony Boy Curtis after Pony Boy had a fight with his older brother. While the two boys were at the park, a group Soc boys approached them and attacked them. The Soc boys were led by Robert (Bob) Sheldon, who had previously that evening encountered Pony Boy and Johnny at the drive in movie theater and threatened them.

During the fight, defendant claims the Soc leader, Bob, told his friend to "give the Greaser a bath" and one of the boys held Pony Boy's head under the water of a fountain in the park. Defendant claims he knew that Pony Boy would drown and so he instinctively stabbed Bob to save Pony Boy. Pony Boy had passed out and did not witness the stabbing. Bob died of his injuries.

During the trial, Johnny's attorney, who was appointed by the court, did not bring other members of Johnny's friend group to the stand as witnesses. His argument to the defendant was that being in a gang would prejudice the jury against him. However, the other boys had significant details to add to give context to the relationship between Johnny and the Socs, as well as the actions that Johnny and Pony Boy took to save a group of children after the stabbing. Prosecution argued that Johnny clearly committed murder because carrying the knife with him indicated intent to harm.

Johnny was convicted of murder by the jury and may face the death penalty.

In this appeal, Johnny is arguing that he had ineffective counsel and that his attorney did not do his job to defend Johnny and thus the jury was prejudiced enough by the lack of defense testimony to convict Johnny of murder (killing with intent). Johnny believes that the prosecution would not have been able to prove intent if the defense counsel had done their complete job at the trial.

Prosecution (Respondent) argues that simply not bringing certain witnesses to the stand does not qualify as "ineffective counsel" because attorneys make decisions about witnesses all the time. The jury was not prejudiced by the lack of witnesses, and they saw that Johnny had committed a heinous crime with the defense attorney doing his job.

The Appeals Court panel must decide if Johnny's Sixth Amendment right was denied during his trial and whether the case should be remitted (sent back) for a do-over in the trial court, or if his conviction for murder stands.

# Precedent & Research Tips

*Johnny Cade v. State of Oklahoma*  
(based on *The Outsiders*)

**Precedent:** a previous court case that is an example to be considered in similar circumstances as a guide in decision making.

Attorneys use precedent to argue their cases on appeal because the strongest arguments rely on previously decided cases. Judges don't really want to make radical decisions or change the law significantly so they look to precedent to see how cases have been decided by the Supreme Court or other similar courts.

The primary precedent case for Sixth Amendment rights is:

**Strickland v. Washington**  
466 US 668 (1984)

This was a death penalty case in which the defendant argued that his attorney did not seek out any character witnesses or get a psychiatric evaluation of the defendant. The question the Supreme Court needed to answer was:

**What standard should be applied to determine whether a person's Sixth Amendment right to counsel has been violated in order to set aside a death sentence?**

The Supreme Court decided 8-1 that in order to determine whether a person did not receive a fair trial based on ineffective counsel, there must be two elements:

1. Counsel's performance was deficient (not reasonable)
2. The deficient performance prejudiced the defense so deprived the defendant of a fair trial

This means that there is a "reasonable probability" that if the defense had not committed the errors, the outcome of the trial would have been very different.

You may note that this is a very broad ruling and so there is quite a lot of room for attorneys to argue either way based on this precedent.

## Research Tips:

In researching your arguments, you may want to search for:

- other court cases that address "ineffective counsel"
- commentary and analysis of the Sixth Amendment and what it means for defendants
- how character witnesses could help a defense
- why a murder conviction may or may not be appropriate to this case

# Appendix

## Handouts for Students:

- What is Judicial Review?
- How does the Court System work - a Graphic Organizer (Key included)
- Persuasive Writing & Speaking using Rhetoric
- Appellant Guide
- Respondent Guide
- Judges' Guide
- Attorney Preparation form (to be completed by each attorney on both sides as they work with their teams)
- Outline for preparing an appellate brief (argument for the Court)
- Judge's Preparation form (to be completed by each judge as they work with their team)
- Observer Form (to be used if moot has observers in the room)
- Concluding Reflection (note to teachers: you may want to alter this depending on whether students have read *The Outsiders* first)
- Rubric for individual evaluation

## Judicial Review

The United States Constitution does not specifically mention **Judicial Review**, but in explaining Article 3 powers of the judiciary, Alexander Hamilton wrote in *Federalist 78*:

*“The interpretation of the laws is the proper and peculiar province of the courts. A constitution is in fact, and must be, regarded by the judges as a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body.”*



Alexander Hamilton

In short, the judiciary’s ability to check and balance the powers of the Executive and Legislative branches lie in its authority to interpret laws based on the constitution. **That is what Judicial Review is.**



John Marshall

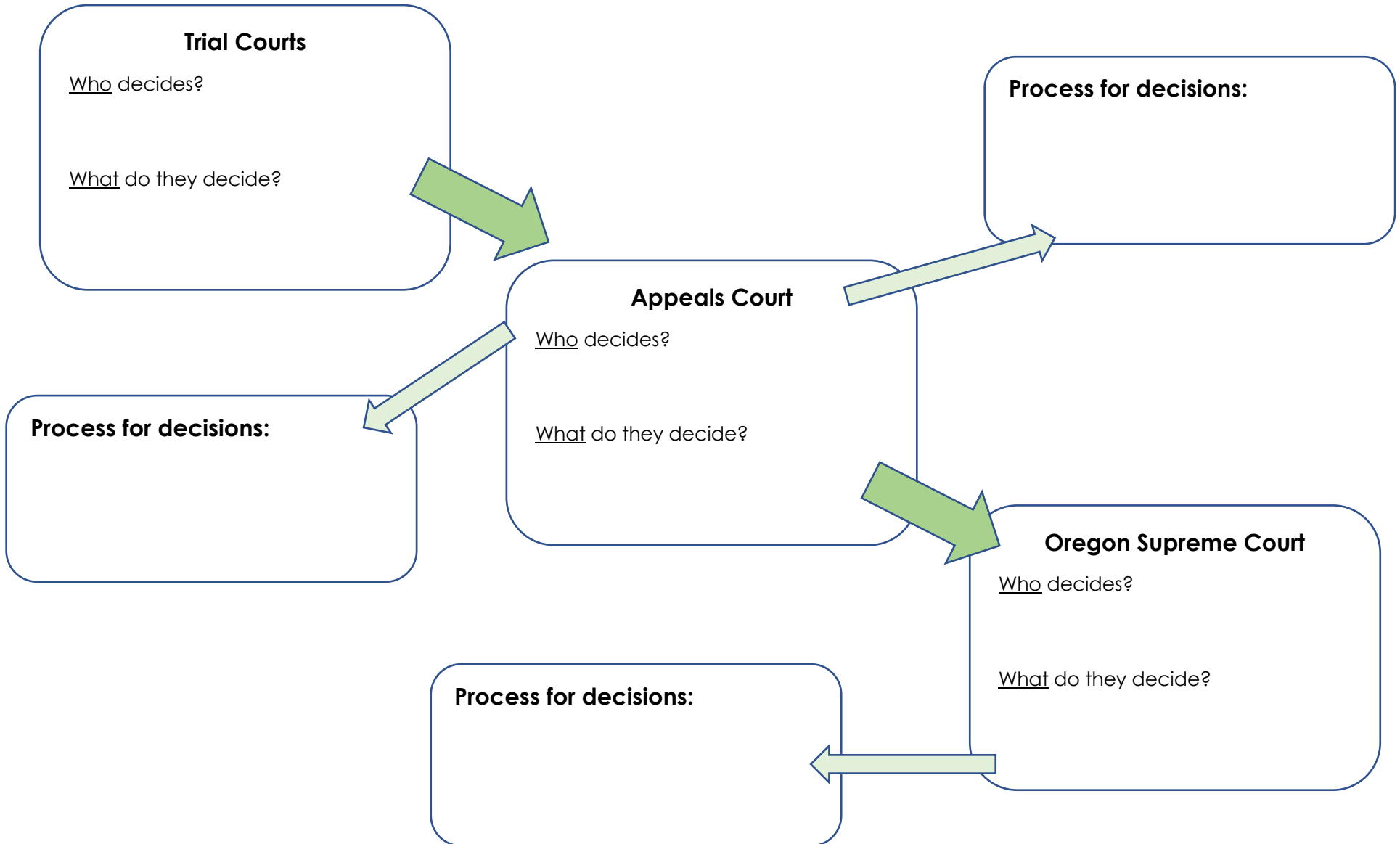
Chief Justice John Marshall put it another way when he led the Supreme Court to use judicial review for the first time to judge the constitutionality of a law in the case *Marbury v. Madison*:

*“It is emphatically the province and duty of the judicial department to say what the law is.”*

### Questions to Consider:

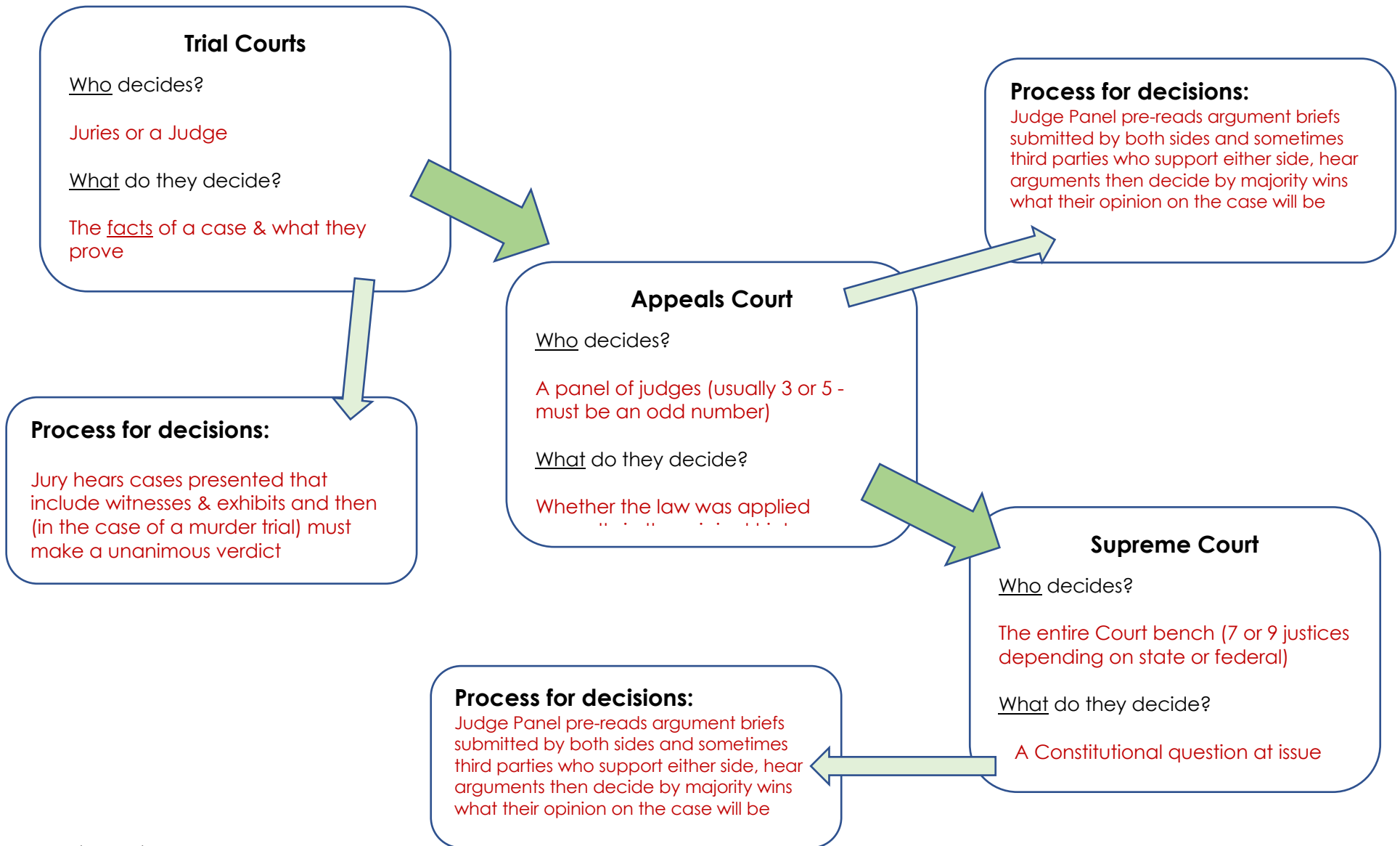
1. Why do you think the Courts should have the power of judicial review (rather than the other two branches)?
2. What dangers might there be in the power to declare a law constitutional or not?
3. How might Judicial Review protect citizens' rights?
4. Do you think Oregon's state supreme court justices remain independent with their power of Judicial Review if they are up for election every 6 years? Why or why not?

## The Court System: A Graphic Organizer



# Key

## The Court System: A Graphic Organizer





## Persuasive Writing & Speaking / Rhetoric

Because there are no witnesses or exhibits in an appellate hearing, attorneys must use their best persuasive skills to present their case and answer questions from the Court. Below are the 3 main parts of rhetoric you might use to persuade someone to your way of thinking on a topic. Consider each one, and then try them out in brief persuasive sentences.

*Scenario:* You must convince your principal that attending a live hearing of the Oregon Supreme Court or Oregon Court of Appeals would be a good idea for your class. How might you convince the principal?

**Logos:** appealing to the *logic* of your listener. You might cite facts or statistics, or authorities (in a hearing, this would include former cases or the law) to appeal to the *reason* of your listener to convince them of your view.

1. Write a **Logos** argument for the above scenario:

**Ethos:** making an *ethical* appeal to your listener based on your *good character* or reliability. You must convince the listener that you are fair, reliable, and understand what you are talking about.

2. Write an **Ethos** argument for the above scenario:

**Pathos:** appealing *emotionally* to your listener. You persuade by appealing to the emotions of your audience, calling on personal experiences, sympathetic stories, drawing compassion and empathy from your listener.

3. Write a **Pathos** argument for the above scenario:

## Appellant Guide

For the purpose of this moot court, students must assume that the facts as set forth in **The Presentation of Facts** cannot be disputed. You must make your persuasive arguments fit the facts already in existence.

You represent Johnny Cade, the original defendant in a murder trial. To prove murder, the prosecution had to prove that Johnny intended to kill Bob in the park that night. Your argument is that had the Johnny's court-appointed defense attorney acted reasonably, the prosecution would not have been able to prove the charge of murder because they would not be able to prove intent.

The reasonable actions you argue that the defense attorney should have taken would have been to call Johnny's friends Pony Boy, Soda Pop, and Darry to testify about their lives on the east side and Johnny's character.

You should look at the Sixth Amendment and precedent cases to provide a foundation for your argument that defendant Johnny Cade was denied appropriate counsel and that his conviction of murder should be thrown out. You will be arguing that your client was denied his basic Sixth Amendment right to due process through being properly represented in court, and that if the original attorney had done his job correctly, there is no way that a verdict of guilty would have been found.

The following questions will help you as you identify the important issues and prepare your brief and arguments for the hearing:

- Were Johnny Cade's Sixth Amendment rights violated by a court-appointed defense attorney due to the attorney's actions during the trial?
- Did the defense attorney do everything reasonable to defend their client?
- Were there behaviors or actions taken by the defense attorney that severely prejudiced the case against the defendant?
- What should the defense attorney have done to efficiently defend their client?
- Could the prosecution have proven a murder case (requires intent) if the defense attorney had behaved more reasonably?
- Would the outcome of the trial have been significantly different if the defense attorney had taken other, more reasonable actions? How do you know?

## Respondent Guide

For the purpose of this moot court, students must assume that the facts as set forth in **The Presentation of Facts** cannot be disputed. You must make your persuasive arguments fit the facts already in existence.

You represent the State of Oklahoma, the original prosecutor in the murder trial. To prove murder, the prosecution had to prove that Johnny intended to kill Bob in the park that night. You believe your client sufficiently proved their case and the jury's verdict was based on a reasonable trial. Your argument is that the Appellant's Sixth Amendment rights were not violated and that even if the defense counsel had acted differently, the outcome would have been the same (conviction).

Just because the defense attorney did not conduct the defense the way the Appellant wished they had doesn't mean the defense attorney's actions were unreasonable or ineffective. There are risks to calling character witnesses and even if some had been called, they could not dispute the facts of the case and so the prosecution's argument for a murder conviction would not have been affected.

You should look at the Sixth Amendment and precedent cases to provide a foundation for your argument that defendant Johnny Cade had effective counsel and that his conviction of murder would have occurred no matter what tactics defense counsel used.

The following questions will help you as you identify the important issues and prepare your brief and arguments for the hearing:

- Were Johnny Cade's Sixth Amendment rights violated by a court-appointed defense attorney due to the attorney's actions during the trial?
- Did the defense attorney do everything reasonable to defend their client?
- Were there behaviors or actions taken by the defense attorney that severely prejudiced the case against the defendant?
- What should the defense attorney have done to efficiently defend their client?
- Could the prosecution have proven a murder case (requires intent) if the defense attorney had behaved more reasonably?
- Would the outcome of the trial have been significantly different if the defense attorney had taken other, more reasonable actions? How do you know?

## Judges Guide

For the purpose of this moot court, students must assume that the facts as set forth in **The Presentation of Facts** cannot be disputed. Persuasive arguments by the attorneys must fit the facts already in existence.

You must hear from both sides as to whether Appellant's (originally the defendant) Sixth Amendment right to counsel was violated during his murder trial.

You should look at the Sixth Amendment and precedent cases to provide a foundation for your understanding of these issues. You must decide whether:

- 1) The original defense attorney acted unreasonably and ineffectively
- 2) The actions of the defense attorney resulted in an outcome that would have been significantly different but for the defense attorney's action or inaction

The following questions will help you as you identify the important issues and prepare your brief and arguments for the hearing:

- Were Johnny Cade's Sixth Amendment rights violated by a court-appointed defense attorney due to the attorney's actions during the trial?
- Did the defense attorney do everything reasonable to defend their client?
- Were there behaviors or actions taken by the defense attorney that severely prejudiced the case against the defendant?
- What should the defense attorney have done to efficiently defend their client?
- Could the prosecution have proven a murder case (requires intent) if the defense attorney had behaved more reasonably?
- Would the outcome of the trial have been significantly different if the defense attorney had taken other, more reasonable actions? How do you know?

# Attorney Preparation Form

*Johnny Cade, Appellant v. State of Oklahoma, Respondent*

## A. Preparation prior to the hearing - use this Section A to prepare your brief for the court

**FACTS:** What are the FACTS of the case (what's the story behind the appeal)?

- |    |     |
|----|-----|
| 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. |

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

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**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?

Did you agree or disagree with the ruling? Why?

## Outline / Preparation for Legal Brief to present arguments to the Court

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 judges 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.

## Judge Preparation Form

*Johnny Cade, Appellant v. State of Oklahoma, Respondent*

### 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?

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### B. Notes during the hearing.

What are the key legal and Constitutional issues?

- 1.
- 2.
- 3.



## Arguments Made:

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?

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### **SPECIAL NOTE TO JUSTICES – In your deliberations:**

1. Chief Judge 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.

## Observer Form

*Johnny Cade, Appellant v. State of Oklahoma, Respondent*

### A. Notes during the hearing

What are the key legal and Constitutional issues?

- 1.
- 2.

#### Arguments for:

Appellant

Respondent

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

- 1.
- 2.
- 3.
- 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?

## Reflection

*Johnny Cade, Appellant v. State of Oklahoma, Respondent*

1. What did you find most interesting about the moot court you just participated in? Why?
2. Do you think the appellate court process is a good way to defend people's Constitutional rights? Why or why not?
3. How might a trial like this have affected the plot of *The Outsiders* if it were included in the book?
4. Do you believe that justice can be achieved in *The Outsiders* for Johnny without a trial like this? Why or why not?
5. How do you think participating in this moot court affected how you thought about the book's plot and characters?

# Moot Court Individual Evaluation

Please determine an honest score for yourself, based on your preparation for and performance in the moot court. Because this is a **team** effort, the weight falls on preparation, not on performance.

	5 - Exemplary	4 – Proficient	3 –Developing	2 – Beginning (let team down)	Student Self Score	Teacher Score
<b>Teamwork, cooperation &amp; attitude: all for the team</b>	Offers leadership, constructive assistance, adaptability, and a helpful vibe. 100% effort throughout. <ul style="list-style-type: none"> <li>• <b>Teamwork:</b> Collaborates well; constructively shares understanding as needed; encourages focus; a leader</li> <li>• <b>Attitude:</b> Consistently positive, helpful and flexible - adapts well</li> </ul>	Offers constructive assistance, flexibility, open attitude; shares understanding as needed. 80-90% effort throughout. <ul style="list-style-type: none"> <li>• <b>Teamwork:</b> Collaborates well; offers constructive assistance; shares understanding as needed</li> <li>• <b>Attitude:</b> Generally positive; flexible</li> </ul>	Limited assistance, poor attitude, little flexibility. 60-70% effort throughout. <ul style="list-style-type: none"> <li>• <b>Teamwork:</b> Limited assistance</li> <li>• <b>Attitude:</b> attitude negative over 30% of the time. Little flexibility.</li> </ul>	Provides no assistance, exhibits detrimental attitude, and inflexibility. Doesn't care. Less than 50% effort <ul style="list-style-type: none"> <li>• <b>Teamwork:</b> Provides no assistance to team; unhelpful</li> <li>• <b>Attitude:</b> attitude detrimental to team; inflexible.</li> </ul>		
<b>Preparation &amp; focus</b>	Over prepared and always on task; can compensate for others. <ul style="list-style-type: none"> <li>• Always has all moot court and novel materials and other team-agreed materials.</li> <li>• Consistently arrives with revised and improved work</li> <li>• Always on task</li> </ul>	Prepared and knows what's going on; mostly focused (90%). <ul style="list-style-type: none"> <li>• Has all moot court and novel materials, and other team-agreed materials.</li> <li>• Often arrives with revised and improved work.</li> <li>• Almost always on task</li> </ul>	Often unprepared; focus often wavers <ul style="list-style-type: none"> <li>• Moot court or novel materials often missing</li> <li>• Occasionally arrives with revised work.</li> <li>• More on task than not</li> <li>• Occasionally pulls others off task</li> </ul>	Unprepared; others do your work for you; rarely focused <ul style="list-style-type: none"> <li>• Rarely brings materials</li> <li>• Relies on others to revise your work or rally you to action</li> <li>• Mostly off task</li> <li>• You pull others off task</li> </ul>		
<b>Mock Trial Performance</b>	My performance in the moot court helped my team succeed.	My performance in the moot court helped my team.	My performance didn't help my team, but it also didn't harm my team.	My performance harmed my team		
<b>Total out of 15</b>						

What was the best part of your Moot Court Experience and why: