



INSIDE AN ORAL ARGUMENT

Arkansas Justice Building
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INSIDE AN ORAL ARGUMENT A GUIDE FOR TEACHERS

We are thrilled you have decided to bring your students to hear an Oral Argument at the Arkansas Supreme Court or Court of Appeals. This is a wonderful opportunity for your students to witness the judicial appellate process firsthand. This booklet contains information intended to help you to prepare your students for a fun and educational visit, including the following:

- * **A CHART OF ARKANSAS COURT SYSTEM**
- * **A GUIDE TO COURTROOM ETIQUETTE**
- * **COMMON LEGAL TERMS**
- * **SAMPLE LESSON PLANS**

It is our belief that exposing students to law-related education will provide enriching and rewarding learning experiences that will help them to become better citizens. To learn more about the Arkansas Court System and the Judicial Branch of government, you may visit the Judiciary website at www.arcourts.gov.

Please do not hesitate to contact the Public Education Department for additional information at:

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BEFORE YOU VISIT

UNDERSTAND THE PROCESS

Oral Arguments at the appellate level are fundamentally different from the trials your students see on television. Where Courts at the Circuit and District levels are concerned with the “facts” of the case, the Appellate and Supreme Courts are concerned with the rules of law governing the issues before them. It is important for your students to understand how a case was decided at the trial court level, the differences between trial and appellate courts, and what specific issues are before the Court.

READ THE BRIEFS

In every case, prior to oral argument, each party is required to submit a “Brief” to the Court. Briefs are typically 30 pages long in length, and serve to outline the issues in the case and present the parties’ arguments to the Court. Because each side only gets twenty minutes to argue before the Court, Briefs provide helpful background about the case that will help students to understand the entire controversy at issue. Briefs are also very important because many cases never make it to oral argument.

Therefore, the Brief contains the entire legal argument that, in most instances, the Justices rely on entirely in order to decide a case.

Briefs and case history may be obtained from the Supreme Court’s website. If you have trouble locating the Briefs, the Public Education Department can assist you.

ASK QUESTIONS

Once your students have read the Briefs, ask them to develop a set of questions they would ask the Attorneys during Oral Argument. As you will soon discover, Oral Argument is not a passive experience, but an interactive conversation between the Attorney and the Justices of the Court. The Justices typically pose several questions to the Attorneys during argument, and it will be interesting for your students to observe whether the questions they have about the case are similar to those posed by the Justices.

REVIEW THE TERMINOLOGY

As you might know, the legal system has its own special language. Some

words that students may be familiar with and use every day have an entirely different meaning when they are used in a court of law. There are also many words that are rooted in Latin, or unique to the legal system altogether, which your students may have never heard at all. Use this Legal Terms Handout to help your students review some of the terminology they might hear during oral argument.

MEET THE JUSTICES

If your group is visiting on an Oral Argument day, there is a good chance they will meet with one or more of the Justices. The Court enjoys speaking with students and helping educate our young constituents about the role of the judiciary. This is a wonderful opportunity for your students to ask questions about the Justices’ legal career, education, the judicial process, and anything else they might be interested in knowing. We encourage your students to come prepared with questions so they may make the most of this unique opportunity.

ARKANSAS COURT STRUCTURE

ARKANSAS SUPREME COURT

1 Chief Justice, 6 Associate Justices
Elected statewide to serve an 8 year term

COURT OF APPEALS

1 Chief Judge, 11 Associate Judges
Elected circuitwide to serve an 8 year term

ADMINISTRATIVE OFFICE OF THE COURTS

CIRCUIT COURTS

121 Judges, each elected circuitwide in 28 circuits to serve a 6 year term

CRIMINAL

CIVIL

DOMESTIC
RELATIONS

PROBATE

JUVENILE

STATE DISTRICT COURTS

Judges elected to a 4
year term

MINOR CIVIL & CRIMINAL

SMALL CLAIMS

\$ 25,000 CIVIL JURISDICTION

CIRCUIT COURT REFERRAL

LOCAL DISTRICT COURTS

Judges elected to a 4
year term

MINOR CIVIL & CRIMINAL

SMALL CLAIMS

AMENDMENT 80

In the November 2000 election, Arkansas voters adopted a new judicial article, known as Amendment 80. The new article called, in part, for consolidation of Arkansas' law and equity courts. The Arkansas judiciary now has four levels: the supreme court, the court of appeals, the circuit courts, and the district courts. The circuit courts are general jurisdiction trial courts, and the district courts are trial courts of limited jurisdiction.

The new article also provided for non-partisan election of judges. Prior to Amendment 80, judicial candidates ran in partisan primaries and were identified on the general election ballot as members of political parties. This reform was over thirty years in the making. Since 1970, advocates of judicial reform in Arkansas had urged the legislature to alter its system of selecting judges.

Many of these groups favored merit selection of appellate court judges and nonpartisan election of trial court judges. However, merit selection encountered widespread opposition—from judges and ex-judges who sincerely believed in judicial elections, from legislators, and from members of the media who felt that merit selection was a conspiracy of the legal profession against the public. Amendment 80 forged a compromise, providing that judges would be selected on nonpartisan ballots and that the legislature could refer the issue of merit selection of appellate judges to the voters at any general election.

JURISDICTION

The Supreme Court is a court of limited justidiction, which means it can only hear certain types of cases. Those cases are established by the Arkansas Constitution.

The Supreme court has jursidiction over the following types of cases:

1. All appeals involving the interpretation or construction of the Constitution of Arkansas;
2. Criminal appeals in which the death penalty or life imprisonment has been imposed;
3. Petitions for quo warranto, prohibition, injunction, or mandamus directed to the state, county, or municipal officials or to circuit courts;
4. Appeals pertaining to elections and election procedures;
5. Appeals involving the discipline of attorneys-at-law and or arising under the power of the Supreme Court to regulate the practice of law;
6. Appeals involving the discipline and disability of judges;
7. Second or subsequent appeals following an appeal which has been decided in the Supreme Court; and
8. Appeals required by law to be heard by the Supreme Court.



It is important to behave respectfully in any kind of courtroom in order that the proceedings are not unnecessarily disrupted. There are rules for members of the media in the courtroom (regulating their use of cameras and the sharing of footage), and there are rules for those who are watching the proceedings.

Talking, whispering, giggling, shuffling papers, or disturbing the composure of the proceedings with phones or pagers is not allowed.

Not only is it necessary to show respect for the justices who have earned the right to rule on certain matters, but it is also important to remember that arguing before the Court is a big deal to the lawyers who are arguing. They have put days and sometimes weeks of preparation into the oral argument, and it is imperative that visitors do nothing to dis-

tract them from the task at hand.

- **Come into and leave the courtroom quietly**
- **Don't bring food, gum or anything to drink**
- **Don't talk to your neighbors while court is in session**
- **Remove your hat once inside**
- **Do not leave the courtroom while court is in session, unless it is an emergency**
- **Try to make as little noise or movement as possible so you don't distract the parties who are arguing the case**
- **Remember that our court sessions are live-streamed over the internet, so don't do anything you wouldn't want caught on camera!**
- **No texting or taking photos while court is in session.**
- **SILENCE YOUR CELL PHONE (or better yet, leave it at home!)**



COURTROOM

Ettiquette

COMMON LEGAL TERMS

Court proceedings can be very confusing if the audience is not familiar with the terminology used in the legal system. The following are a few legal terms which are most likely to come up during an oral argument before the Supreme Court or Court of Appeals. It is a good idea to review these terms with your students before they attend the argument so that they will be able to follow along.

Affirm: A ruling of an appellate court confirming a decision or order of a lower court.

Appeal: To seek a higher court review of a decision of a lower court.

Appellant: A party appealing a lower court decision, usually seeking reversal of the decision.

Appellee: A party against whom an appeal is filed.

Appellate Court: A court having authority to hear an appeal.

Brief: A written document that sets out the legal contentions of a party, including a recitation of important facts, a statement of the issues presented for review, and legal authority supporting a party's legal contentions. In Arkansas the length of the brief cannot exceed 30 double spaced pages.

Concurrence: A vote of an appellate judge that indicates the judge's agreement with the result or judgment of the majority opinion, but for different reasons. A judge who concurs may write a separate opinion known as a concurring opinion.

Dissent: A term denoting the disagreement of one or more judges of a court with the decision of the majority. A judge who dissents may write a separate opinion known as a dissenting opinion.

Jurisdiction: The extent of the authority and power of a court to preside over a case and interpret and apply the law.

Motion: An application to the court requesting a specific ruling in a pending case. Usually, a motion concerns an issue with the court's discretion.

Opinion: A formal written statement or decision by a judge or justice of the law bearing on a case, usually as a resolution of an appeal.

Probable Cause: In criminal law, probable cause is a constitutionally prescribed standard of proof—a requirement of a reasonable ground to suspect that a person is committing or has committed a crime, or there is a fair probability that evidence of a crime would be found in a certain location that is the subject of a search warrant.

Statute of Limitations: A law that sets a time limit for bringing a lawsuit in a case.

Testimony: Spoken evidence given by a witness, under oath, as distinguished by evidence derived by writings and other sources.



CLASSROOM ACTIVITY: INTERPRETING THE LAW

“No Texting While Driving”

The Legislature works hard to pass laws that serve the best interest of the people of Arkansas. The wording of proposed laws is heavily scrutinized to ensure that the language of the law (also called a “statute”) is clear and that the Legislature’s intention as to who and what the law regulates is plainly expressed.

Because it is impossible to foresee every possible scenario that a single law might apply to, occasionally circumstances arise which leave questions as to how, or whether, a given law applies. It is the Court’s job to step in to interpret the law and determine how it applies to the set of facts in the case at hand.

The following activity is an effective way to teach junior high and high school students about the roles and responsibilities of a judge. Students will assume the roles of judges and will be presented with the basic, broadly worded law: “No Texting While Driving.” They will then be asked to break into groups and discuss whether a series of factual scenarios violates that law. When considering each scenario, encourage them to think critically about the following:

1. What is the law intended to accomplish?
2. Does the behavior depicted in the scenerio relate to the purpose of the law?
3. If they were legislators rather than judges, would they want to clarify the law to address some answer to the questions these scenarios raise? If so, how?

I. Background Information

A basic value in American society is individual safety. Many rules and regulations arise because Americans feel that people in their everyday lives should be reasonably safe from injury. The following exercise is concerned with a statute that evolved because of people’s concern for safety when operating motor vehicles. This statute regulates behavior.

II. Purpose

The purpose of this activity is to allow students to participate in the determination of several cases alleged to be involation of the statute. This process will introduce students to the type of legal argument they will hear when they visit the Supreme Court. When attorneys argue before the Supreme Court, they are simply trying to convince the Court to interpret a law in the way that benefits their clients. Analyzing a set of facts to a given law is the very esssence of what attorneys and judges do on a daily basis.

III. Procedure

Announce to the class that each student will be playing the role of a Judge. Explain that a neighboring town has just passed a law banning texting while driving. You will present a series of cases that may be a violation of that statute. The class will then break up into groups of four, and they will decided as a group whether that scenario is a violation of the statute. be sure to identify each student as “Judge Smith” or “Judge Jones” in order to emphasize their roles as adjudicant.

Cases

Case 1

Chelsea is supposed to be home by 10:00pm. She is running ten minutes late, and while she is driving home, she texts her mom to let her know that she is okay. She knows she is not supposed to be texting while driving, but she doesn't want to call and wake her parents if they are already in bed.

Case 2

AnnaBeth has an application on her phone which allows her to speak into her cell phone to send a text message without using her hands. She speaks into her phone to send a text message to a friend that she is running ten minutes late. A police officer sees her holding her phone up to her mouth while she is driving and pulls her over.

Case 3

Jake is in the passenger seat, and he is texting several different people while AnnaBeth drives.

Case 4

Lee's phone is sitting in his lap while he drives to the grocery store. His phone vibrates and he picks it up to read a text from his mother, asking him to pick up a gallon of milk, but does not reply.

Case 5

Alice keeps her phone in a glove compartment while she drives. While stopped at a stoplight, she removes her phone from the glove compartment and quickly sends a text message to her boyfriend that she is on her way to pick him up. Before the light turns green, she returns the phone to the glove compartment and does not remove it again until she reaches her destination.

Case 6

Mackenzie is driving to school when her phone alerts her that she has a facebook message. It is her best friend, Alice, asking for a ride. While she's driving, Mackenzie sends a facebook message back to Alice that she'll be over in five minutes.

Teacher Notes

For the purpose of this exercise, the generic "no texting while driving" statute is fictional. However, Arkansas has enacted a law that regulates text messaging while operating a vehicle.

After students have a chance to discuss each scenario as a class using the generic law, pass around copies of **Section 27-23-130**, Arkansas' actual law regarding texting and driving. Then, ask the students to discuss whether the scenarios in question violate the actual law. (*Note: The statute contains the phrase "nolo contendere," which is a plea of no contest. It means that a Defendant is neither admitting or denying the charges against him or her, but agreeing to accept the legal consequences of being found guilty.*)

Variation for High School Students

1. Read or ask students to read the Cases.
2. Tell students to individually decide which exceptions they would grant, and why.
3. Divide the class into groups of four or give and ask them to decide on rulings as a class.
4. Vote on each case; for those that the majority agree upon, have the class rewrite the law, so that all of the exceptions they desire are included.
5. Debrief the lesson.

