Political Science 110J

Reading Supreme Court Cases

Winter 2012

PS 110J is not a course in constitutional law. Nonetheless, we read several Supreme Court cases because they illustrate, in a well-defined institutional setting, some of the dilemmas of contemporary American politics. Law in the United States is, as Tocqueville says, an "occult science"; to reach the larger issues in the cases, it is necessary to learn certain technical terms and legal formalities.

Almost all court cases today are disputes between two parties. In the past, the principal exception to this rule was a case arising from a petition of *habeas corpus*, in which a prisoner appealed directly to a court for his freedom on the grounds that he had been wrongly imprisoned. Today, a prisoner seeking a writ of *habeas corpus* usually sues his warden or some other authority. Although the opinions we read are written by Supreme Court justices, practically every case originates in a lower court, either a federal district court or a state court. Cases originate in one of two manners: (1) the government brings charges against an individual for violating the law (criminal case), or (2) one party sues another for the redress of a grievance, seeking either compensation for an injury done or a court injunction to prevent further injury or a future injury from being done (civil suits). In civil cases, the party initiating the suit (or action) is called the plaintiff, and the party from whom compensation is sought or against whom an injunction is requested is called the defendant.

The initial decision in a case may be appealed to a higher court, and if the case originates in the federal courts or originates in the state courts and involves an issue of federal law, the case ultimately may be appealed to the United States Supreme Court. Cases usually go through an intermediate stage of appeal between the trial court and the Supreme Court. Cases originating in ordinary federal district courts come to the Supreme Court via the United States Courts of Appeals (or Circuit Courts); cases from the highest court in a state or from a special three judge federal district court come directly to the Supreme Court. Depending on the nature of the legal issues raised, cases arrive at the Supreme Court by appeal or by a petition for a writ of *certiorari*. The court must rule on all appeals, but the justices have discretion whether or not to accept petitions for *certiorari*. If four justices so choose, the Court will hear the case. The party making the appeal to the Supreme Court is called the appellant, while the party answering the appeal is called the appellee. The party bringing a case to the Court through a petition for *certiorari* is called the petitioner, while the party against whom the case is brought is called the respondent.

The names of the case reveal not only who the parties to a suit are, but also who is bringing the suit and whom it is brought against: the first name is the name of the plaintiff, petitioner, or appellant, while the second name belongs to the defendant, respondent, or appellee. However, the name of a case may change through the various stages of appeal, depending on who wins at what level. For example, the Supreme Court case *Gertz v. Welch* began in federal district court as *Gertz v. Welch*, since Gertz initiated the libel suit against Welch. Gertz won in district court, and Welch appealed; hence, the case argued in the court of appeals was *Welch v. Gertz*. Welch won his appeal, but Gertz petitioned the Supreme Court for reversal; thus, in the Supreme Court the case again became *Gertz v. Welch*.

The decision in a Supreme Court case is directed toward the court in which the case was last heard. The Supreme Court can do one of three things: (1) it can affirm the judgment of the lower court, or in other words, find for the respondent or appellee; (2) it can reverse the judgment of the lower court, thus finding for the petitioner or appellant; or (3) it can remand or return the case to the court in which it originated for a new hearing in light of the rules of law announced in the Supreme Court opinion.

Opinions delivered by justices of the Court fall into three groups. (1) Opinions of the Court are opinions to which a majority of the justices hearing a case subscribe; they are authoritative pronouncements of the law, and the rules they announce have the force of precedent. (2) Concurring opinions are written by justices who agree with the majority as to which party should win, but differ over the reasons. Occasionally justices who join in the Opinion of the Court write concurring opinions in order merely to add their views, but usually concurring opinions are written by justices who disagree with the Court's reasoning but agree with the result. (3) Dissenting opinions are written by justices who disagree with the majority's ruling. Sometimes no one line of reasoning will be acceptable to a majority of justices, in which case no Opinion of the Court is written, only a brief *per curiam* opinion announcing the ruling in the case, and a series of concurring opinions explaining the various routes by which it was reached. Also, in complex cases some justices may agree with only part of the ruling; in these instances they write opinions concurring in part, dissenting in part.

Court decisions are complex, combining law and fact, history and theory, reason and rhetoric. One of the best ways to make sense of a decision is to brief it. Legal briefs typically have five parts:

1. *Facts*: what 'facts' (laws, events, etc.) are relevant to the case under question?
2. *Questions*: what specific questions does the Court consider it necessary to answer in order to reach a conclusion?
3. *Answers*: How does the Court answer the questions it answers?
4. *Reasoning*: What line of reasoning justifies the answers given to the questions? Why are those particular questions the crucial ones?
5. *Concurring/Dissenting Opinions*: What alternative questions, answers, and reasons are possible?