

Unit 3: Court Opinion Assignment

Due: M 11/5 11:59pm PST

You will write a court brief on the culminating issue for this unit. Please submit via Canvas before the due date in pdf or doc format. Like last time, don't put your name on the document so that I can grade them anonymously. Happy writing!

I. Guidelines

- The purpose of this assignment is to learn to assess competing arguments and to articulate a compelling reason to accept one argument rather than the other.
- Your goal in the court opinion is to articulate the strongest arguments on both sides of an issue and then explain why one argument is better than the other.
- This is an individual assignment. Still, feel free to bounce ideas off of each other as you think through these issues—just make sure that the opinion you turn in is your own.
- The opinion should be no longer than 2000 words.

II. Elements of the court opinion

- Content
 - Facts/Issue- Introduce the key facts and what the issue is (1-2 paragraphs)
 - Position- State your position on the issue (1-3 sentences)
 - Arguments- Recap the strongest argument(s) for each position (i.e., the petitioner and the state) on the issue (around 300 words each)
 - Argument analysis- Explain which argument is more compelling. Highlight the reasons that one argument is more compelling than the other. Make sure you take into account both sides and explain how the two arguments interact with each other. For instance, do they differ on facts? On policy considerations? On underlying moral commitments? You can also use this section to discuss precedent. (around 600 words)
 - Apply your analysis of the arguments to your position (about 300 words)
- Organization
 - Make it obvious that you've covered each of the content bullet points. Use section headings.
 - Clearly explain how the arguments interact with each other and why one is more compelling than the other.
 - Cover all and only relevant material.
- Mastery of material
 - Incorporate the material from this unit.
 - Explain how the material from this unit bears on the culminating issue.

III. Pro tips!

- Come to office hours if you would like help! Don't forget that you can make an appointment if the normal hours don't work for you.
- There is a lot to be said about this issue—far more than 2000 words allows you to say. It's better to focus on a narrow point than to superficially cover a lot of points.
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IV. The Culminating Issue:

Should the state execute someone who doesn't remember committing the crime?

Issue:

- Does the 8th Amendment prohibit executing a prisoner whose mental disability leaves them with no memory of the crime?
- *More specifically*: Do evolving standards of decency make it such that the 8th Amendment prohibits executing someone whose dementia (plus other cognitive conditions) leave them with no memory of the crime or the circumstances of their situation?

Background:

- The case we're focusing on, *Madison v. Alabama*, has just been argued before the Supreme Court (on 10/2/2018). A decision has not been announced yet. This is your opportunity to play the role of a Supreme Court Justice and weigh in on the case.
- This site <<http://www.scotusblog.com/case-files/cases/madison-v-alabama/>> gives you an overview and has all of the documents pertaining to the case.

In developing support for your position on the issue, you might consider:

- *Cruel and Unusual*: What counts as cruel and unusual punishment? Does the death penalty violate the 8th Amendment? Does the death penalty in particular cases (such as this one) violate the 8th Amendment?
- *Theories of Punishment*: Think about what various theories of punishment say about the death penalty. Can any of them justify executing some groups of people?
- *Evolving standards of decency*: In the international context, the US is behind in many ways. Should we have the death penalty at all?
- *Empirical factors*: There are many empirical factors that might matter. For instance, the death penalty doesn't seem to have a deterrent effect. It also looks like it's applied disproportionately to people of color. Furthermore, it looks like about 1/20 people on death row are falsely convicted. Should these factors affect whether, as a policy, we use the death penalty?

Resources

- You can bring in the cases and issues we discuss in class. Cite everything that you bring in.
- Here's the SCOTUSblog page for the case:
 - <http://www.scotusblog.com/case-files/cases/madison-v-alabama/>