

Political Science 113  
Spring 2005

## Paper Assignment for Judicial Politics

NOTE: The links noted below are directly accessible from the online version of this description found at <http://home.gwu.edu/~youngg>. Go to Courses.

### Basic Description

Your paper assignment this semester is a combination field research and decision-making analysis. The field research side of the paper involves your attending an oral argument at the Supreme Court or a judicial confirmation hearing at the Senate Judiciary Committee. (Other options are also available as noted below.) The decision-making analysis involves applying political science decision-making theory to your specific case, i.e., the case you heard argued at the Supreme Court or the person considered at the Senate.

### Length and Due Date

Papers should not exceed 3000 words. That is about twelve pages with conventional fonts and margins. All papers are due in class on **April 21**. Late papers will be assessed an automatic penalty of fifteen points for each late day, beginning after class on the 21st. You have all semester to complete the projects. Last second computer glitches, etc will not excuse you from the late penalty. *Important note: I do not accept e-mail attached papers.*

### Sources and Citations

You must fully cite any sources you use. Direct quotations must be enclosed in quotations marks and accompanied by a citation. Paraphrasing should not be in quotations but must nonetheless have a citation. If the information or thought comes from somewhere else then cite the source. (When in doubt, cite.) You are welcome to use any of the major citation styles as long as it is consistent and complete -- including lectures and all internet sources. These citations must be specific enough for me to readily recognize and find the source. For example, simple citing *FindLaw* is far from sufficient. Minimally you should include the article title, author, and URL (if it is a website source). Most social scientists use some modification of the APA style. Use any of the following journals as examples: *American Political Science Review*, *Journal of Politics*, or *American Journal of Political Science*. These are available in the current periodicals section of the library. Plagiarism or otherwise turning in a product that is not your work will result in a zero on the paper and possible severe penalties from the university.

### Paternalistic Caution

You should visit the Court or Senate early in the semester. Putting this off until the end of the semester is dangerous because there is always some uncertainty surrounding committee hearings and Supreme Court arguments. Sometimes they are full and sometimes they get cancelled.

## **Paper Options**

Choose one of the following two options. If neither proves possible given your schedule then more options are noted below, but you should discuss these with me before doing one of them. Your best bet is to do one of the following two.

### **Option 1: The Supreme Court**

#### **Field Work**

The Supreme Court holds oral arguments on most of the cases it agrees to consider. Normally these arguments last for one hour, with thirty minutes reserved for each side. Typically, the Court holds two sessions per day, Monday – Wednesday, two weeks per month. (Much more detail on attending the Supreme Court is provided below.)

The field portion of your assignment is to attend an argument session. Take notes on your impressions. What did you expect? How were your expectations met or not met? How did the justices behave? Did all actively participate in discussion? Did some participate more than others?

The justices sit in this order (from left to right):

Ginsburg, Souter, Scalia, Stevens, Rehnquist, O'Connor, Kennedy, Thomas, Breyer. Note that Chief Justice Rehnquist has not been attending oral sessions lately due to illness.

What were your impressions of the tone and quality of discussion? What about the participating lawyers? Were they particularly competent or seemingly incompetent? What about the physical space? How did you find it? Ornate? Spartan? Big? Small?

The above are just some ideas. The point is you should attend with an eye towards “soaking up” and describing as much of what goes on as possible.

#### **Decision-Making Component**

The second part of your paper involves taking the case you heard and analyzing it thoroughly using the Legal and Attitudinal decision-making models we will discuss in class. You should first summarize the basics of the case. You should then carefully evaluate what outcome each model predicts and why. Also, as a complement to this decision-making analysis, consider the behavior of the judges during the orals. Did their behavior give you any insight into how they plan to decide on this case? Why or why not? Be specific. How did this behavior seem to compare with the two models?

#### **Attending the Court**

The Supreme Court is open to the public. However, the chamber has room for a relatively small number of visitors. You should plan to arrive at the Court early and stand in line. Bring a book to read or a friend to talk to (but note what I say about books below.)

*How to get there:* The closest Metro stop is Capitol South, which is on both the Orange and Blue lines. From Capitol South just head north on First Street. The building is on the

right just past the Jefferson Library of Congress building. Here is a map to the Supreme Court:

<http://www.supremecourtus.gov/visiting/map.pdf>.

*Where to go:* Go to the front of the building (facing the Capitol). See the guard at the front. He or she will give you a number. This is your number in the queue for entering the building. The guards can also give you a decent idea of your chances of getting in for the first or second session, given your number. Sometimes there are two lines. The line you want is the one for the full argument. Avoid the tourist three-minutes-in-and-out line, it will not meet your needs for this assignment. As a general rule, if you have any questions about what to do, ask a guard. They are usually very helpful.

*What to bring:* You cannot bring books, phones, or even coats into the chamber itself. Coats must be checked in the coat-check room. Phones, books, walkmans, etc must be put in the little lockers inside the coat-check room. (The lockers cost a quarter.) You can bring a small notebook and pen into the chamber. This will be an important item to bring since you will want to take notes.

*When to go:* With occasional exceptions, the Court holds oral arguments MTW, two weeks a month. There is a session at 10 a.m. and one at 11 a.m. (You can stay for both or leave after the first one or try to time it for just the second.) The Court schedule can be found at:

[http://www.supremecourtus.gov/oral\\_arguments/argument\\_calendars.html](http://www.supremecourtus.gov/oral_arguments/argument_calendars.html).

(This site is modified as cases are scheduled, so check it often.) For example, on Tuesday, February 22<sup>nd</sup> the Court will hear *Kelo v. City of New London* at 10 a.m. and *Lingle v. Chevron USA* at 11 a.m.

### **Useful Sources**

The following websites might prove useful in finding information about the Court and particular cases (aside from Google, of course):

<http://www.supremecourtus.gov>

<http://www.law.nyu.edu/lawcourts/resources/>

<http://www.findlaw.com/>

<http://web.lexis-nexis.com/universe> (go to Legal Research; must be through GW account)

<http://appellateblog.blogspot.com/>

<http://www.goldsteinhowe.com/blog/index.cfm>.

## **Option 2: The Senate Judiciary Committee**

### **Field Work**

In order to take a permanent seat as a federal judge, the U.S. Senate must confirm a nominee. Typically, nominees receive a public hearing before the Senate Judiciary Committee. These hearings are open to the public and are held at various times during the week.

The field portion of your assignment is to attend a confirmation hearing for one judge. Take notes on your impressions. What did you expect? How were your expectations met or not met? How did the senators behave? Did all actively participate in discussion? Did some participate more than others? Were some absent during all or part of the hearing?

What were your impressions of the tone and quality of discussion? Banal? Partisan? Angry? Collegial? What about the witnesses? What about the physical space? How did you find it? Ornate? Spartan? Democratic? Imperial? Big? Small?

The above are just some ideas. The point is you should attend with an eye towards “soaking up” and describing as much of what goes on as possible.

### **Decision-Making Component**

In lecture we will discuss judicial confirmation in detail. This will include discussions of such pertinent factors as “blue-slips,” the criteria for presidential choice of nominees, and different theoretical and strategic considerations at play in the confirmation process. During these lectures I will provide some guidance as to how it all applies to your assignment.

Your job is to first summarize the basic facts surrounding the particular nominee whose hearing you attended. Then analyze this candidate’s confirmation circumstances by doing research into the candidate’s case and by using what you learned in the hearing. For example, from the tone of the hearing can you predict which senators would support/oppose the candidate?

### **Attending a hearing**

*How to get there:* Judiciary hearings are held in the Dirksen Senate Office Building. Dirksen is closer to the Union Station Metro stop than is Capitol South. However, Capitol South is on the same lines (Blue and Orange) as GW. Union Station is on the Red line. Here is a map:

[http://www.senate.gov/pagelayout/visiting/e\\_one\\_section\\_no\\_teasers/capitol\\_hill.htm](http://www.senate.gov/pagelayout/visiting/e_one_section_no_teasers/capitol_hill.htm).

You can learn about the Dirksen building and it’s layout here:

[http://www.senate.gov/pagelayout/visiting/d\\_three\\_sections\\_with\\_teasers/dirksen\\_senate\\_office\\_map\\_page.htm](http://www.senate.gov/pagelayout/visiting/d_three_sections_with_teasers/dirksen_senate_office_map_page.htm).

*What to bring:* Senate hearings are not as restrictive as Supreme Court arguments. You can bring coats, books, etc in the room. However, if your cell phone goes off during a hearing you will get ejected from the room. Bring a pad and pen to take notes.

*When to go:* The committee holds many confirmation hearings. Often they start in the morning, but extend through much of the day as a series of candidates are processed. On the given day, both the *Washington Post* and the *Washington Times* publishes that day's schedule. Plus the committee website usually includes the schedule several days in advance:

<http://judiciary.senate.gov/schedule.cfm>.

### **Useful Sources**

The following websites might prove useful in finding information about candidates and the committee:

<http://www.senate.gov>

<http://judiciary.senate.gov/>

<http://www.findlaw.com/>

<http://web.lexis-nexis.com/universe> (go to Legal Research; must be thru GW account)

<http://appellateblog.blogspot.com/>

<http://oncongress.cq.com/> (must be thru GW account)

<http://www.thehill.com/>.

## **Option 3: U.S. Court of Appeals for the DC Circuit**

### **Field Work**

The DC Circuit holds oral arguments on most of the cases it agrees to consider. In contrast to the Supreme Court, these arguments usually last for much less than one hour, e.g., thirty or even fifteen minutes. This Court holds sessions Monday through Friday. Unlike the Supreme Court, the circuit courts usually do not consider cases as a full court. Rather cases are delegated to panels of three.

The field portion of your assignment is to attend an argument session. Take notes on your impressions. What did you expect? How were your expectations met or not met? How did the judges behave? Did all actively participate in discussion? Did some participate more than others?

What were your impressions of the tone and quality of discussion? What about the participating lawyers? Were they particularly competent or seemingly incompetent? What about the physical space? How did you find it? Ornate? Spartan? Big? Small?

The above are just some ideas. The point is you should attend with an eye towards “soaking up” and describing as much of what goes on as possible.

## **Decision-Making Component**

The second part of your paper involves taking the case you heard and analyzing it thoroughly using the Legal and Attitudinal decision-making models we will discuss in class. (You will probably want to talk to me about the individual judges who heard your case to get some guidance about the Attitudinal model.) In addition, you should spend some time considering the way this court differs from the Supreme Court. Decisions made by the three-judge panel can be overturned by the greater DC Circuit. Plus, decisions made by the DC Circuit can be overturned by the Supreme Court. How much does this context affect decision making in your particular case?

You should first summarize the basics of the case. You should then carefully evaluate what outcome each model predicts and why. Also, as a complement to this decision-making analysis, consider the behavior of the judges during the orals. Did their behavior give you any insight into how they plan to decide on this case? Why or why not? Be specific. How did this behavior seem to compare with the models?

## **Attending the Court**

*How to get there:* The DC Circuit is located at Third and Constitution, NW. The closest Metro stop is Judiciary Square, which is on the Red line. The closest Blue/Orange line stop is Federal Center. From Federal Center you will have to walk ~.5 miles north on 3<sup>rd</sup> Street. Here is a map to the DC Circuit:

[http://www.cadc.uscourts.gov/court\\_offices/courthouse/Courthouse\\_Location/courthouse\\_location.asp](http://www.cadc.uscourts.gov/court_offices/courthouse/Courthouse_Location/courthouse_location.asp).

*When to go:* The DC Circuit schedule can be found at:

<http://www.cadc.uscourts.gov/calendar/calendar.asp>.

## **Useful Sources**

The following websites might prove useful in finding information about the DC Circuit and particular cases:

<http://www.cadc.uscourts.gov>

<https://pacer.cadc.uscourts.gov/main.htm> [this is a fee-based service]

<http://www.law.nyu.edu/lawcourts/resources/>

<http://www.findlaw.com/>

<http://web.lexis-nexis.com/universe> (go to Legal Research; must be through GW account)

<http://appellateblog.blogspot.com/>

<http://www.goldsteinhowe.com/blog/index.cfm>.

## **Other Options**

I will work with you on some other options if Options 1-3 will not fit your schedule.

This probably will involve hearings or trials at one of three courts: Federal District Court, DC Superior Court, or Virginia General District Court (Arlington). The Federal District Court does some Friday hearings but no Friday trials. I suspect that both the DC Superior

Court and Virginia's General District Courts do a wide variety of trials at different times, perhaps even at night. If you are interested in this option then you should research the respective courts, their schedules, and the types of cases and then come see me. Here are the relevant websites:

Virginia: <http://www.courts.state.va.us/courts/gd/Arlington/home.html>.

DC Superior: [http://www.dcbarr.org/for\\_lawyers/courts/superior\\_court/index.cfm](http://www.dcbarr.org/for_lawyers/courts/superior_court/index.cfm).

DC Federal District Court: <http://www.dcd.uscourts.gov/>.