THE SOURCES OF CASE LAW AND THE STRUCTURE OF THE AMERICAN LEGAL SYSTEM *

"Law" comes in many forms – constitutions, treaties, statutes and other legislative enactments, administrative regulations and rulings, executive orders – the "case method" focuses on the analysis and comparison of "cases" as a way of understanding how the law is or could be interpreted and applied to specific circumstances. "Cases" are written opinions issued by judges that set forth a court's resolution of a dispute between parties to a lawsuit. That resolution is referred to as the court's "holding" or "ruling". The opinion in a case will give the court's rationale for its decision and may explain the court's interpretation of applicable law or other court decisions that influenced or dictated its decision.

The U.S. legal system is grounded in the notion of the "common law". "Common law" refers to the collective body of court opinions, also known as "case law." In resolving any dispute, a court interprets the law in its many forms and determines the way in which that law applies to the facts of the dispute before it. Once a decision in a case is issued, the principles that are set forth in the opinion become a part of the general law of the area over which the issuing court has authority and may then be applied to resolve the controversy in another suit with similar facts or analogous legal issues. Thus, each decision of a court creates a precedent, which according to a legal principle known as ***stare decisis***, is binding on that court unless limited or overruled by a higher court.

Courts in the United States are part of either a state or federal judicial system. The state courts are independent judiciaries that derive their power from State constitutions or statutes. The federal courts derive their power from the U.S. Constitution. Each of these courts has a defined sphere of authority, or jurisdiction, that determines both what sorts of disputes can be brought before that court for resolution and who can bring an action in that court. In some cases, the jurisdiction of a state court system will overlap with that of the federal courts, making it possible for either court to hear the case. Other cases may be in the exclusive province of one court system. The laws that govern the allocation of judicial business between the state and federal courts are studied in law schools as courses in Civil Procedure.

In both the federal and the state courts, there are generally two types of cases – civil or criminal. Civil cases are private actions brought by one person or institution against another for money damages or some other non-punitive remedy. In criminal cases, a local, state or federal government seeks to enforce its criminal law through criminal fines, prison sentences, or other punishments. In each type of case, the courts employ procedural rules that are designed to ensure that each party to a lawsuit gets a full and fair hearing and a just decision. In criminal cases, those rules are derived either from the Constitution or the Federal Rules of Criminal Procedure. The procedural rules in use in civil cases

* Derived from "An Introduction to Fundamentals" prepared by the Board of Student Advisors, Harvard Law School.

are based on the Federal Rules of Civil Procedure.

Many of the classic civil cases read in first-year law school classes, however, were decided by courts operating under a different procedural system. These cases will probably be separated into two types of actions: "law" or "equity." The "law" versus "equity" distinction refers to a time when there were two separate types of courts: law courts and equity courts. An action at "law" referred to an action seeking money damages in compensation for some harm. An action in "equity" sought a more "equitable remedy" such as to prohibit or enjoin someone from some activity or to order someone to undertake a certain action. Although this distinction is no longer of functional relevance, it may appear in older federal and state civil cases.

Although the legal systems of the states and the federal government are similar in their basic concepts and methodology, the law of one is frequently different from that of the other. The United States may be thought of as having fifty-one distinct, but co-existent, legal systems. In some cases, a state court decision or a federal court decision may be entirely based upon the law of the state in which the court sits. In other cases, the federal court will issue an opinion that relies solely upon federal law. The rules which govern the choice of law to be applied is the subject of law school courses on Civil Procedure.

Although the federal and state courts differ in a number of ways, their organizational structures are very similar. Both systems are pyramidal in form. At the base of the pyramid are the courts of first instance or the trial courts. With a few exceptions, all suits are initiated in these courts. At the next step up are the appeals courts that hear appeals from the lower courts. At the highest level is a court of last resort, where final appeals are heard and cases are resolved. The rules of standard of review require an appellate court to accept the facts of the case as the lower court found them. The job of the appellate court is to reexamine any decisions of law and review any claim of error. As a general rule, opinions of each higher court will serve as binding precedent in the courts below it.

The Federal Courts.

The trial courts in the federal system are known as "United States District Courts." Each district court has geographical jurisdiction over a state or part of a state. The United States District Court for the District of Massachusetts, for example, has authority over the entire state of Massachusetts. In other states, there may be several federal districts. Tennessee, for example, has an Eastern, Middle, and Western District. The federal district court is located, or "has its seat", in Chattanooga is known as the United States District Court for the Eastern District of Tennessee.

Each federal district is assigned a number of judges that roughly corresponds to the volume of judicial business in the district. Judges sit individually, with or without juries, to decide a particular case. District judges, like all federal judges, are appointed by the President with the advice and consent of the Senate. They serve during good behavior, which often is for life, or until they resign or retire. There are about 575 active district judges in the United States.

The federal court of appeals, or "circuit courts," hear appeals from decisions of the federal district courts. At the conclusion of a case in district court, any party who is unsatisfied by the decision has an absolute right to an appeal. Even a party who wins a lawsuit may sometimes appeal if they, for example, believe they were entitled to additional relief or a greater award. A party who wins has the same right to appeal as the party receiving an adverse judgement. Despite the availability of this right of appeal, however, only about ten percent of the final decisions of the United States District Courts are brought up for appellate review.

Each circuit court has jurisdiction over appeals coming out of several federal districts. The United States Court of Appeals for the Second Circuit, for example, hears appeals from the decisions of federal district judges in New York, Connecticut, and Vermont. There are currently thirteen circuit courts: one for each of eleven geographic regions, one for the District of Columbia, and one court that has special jurisdiction and is called the Federal Circuit.

Each circuit court has several judges, ranging from a low of six to a high of twenty-eight. The court ordinary sits in panels of three. The panel issues only one decision, which represents the view of at least two judges. While most decisions are unanimous, occasionally a judge may concur or dissent from the majority opinion and write a separate opinion. A judge who writes a concurring opinion agrees with the result of the majority, but may disagree with its reasoning or believe that the majority has failed to discuss important issues. A dissenting judge disagrees entirely with the majority. Only the majority opinion, however, becomes a part of the common law and thus binding on lower courts. In a very small number of important cases, the entire court may decide to hear the case. In such cases, the court is said to sit ***en banc.*** Altogether, there are 168 judges on federal courts of appeals.

At the top of the federal system is the United States Supreme Court. The number of "justices" on the court is fixed by statute and has remained at nine since 1837. The Supreme Court is primarily an appellate court that reviews decisions of federal circuit courts and decisions of state courts that involve a question of federal law.[1] Unlike the circuit courts, the appellate jurisdiction of the Supreme Court is discretionary; the litigant has no right to be heard. The Court itself decides whether or not to grant ***certiorari***, i.e., whether or not it will hear the case. Although some 4,000 petitions for ***certiorari*** are filed annually, the Court accepts only about 150 of them for full briefing and argument. The full bench of nine justices sits on each case, and, as with panels of the courts of appeals, there is only one opinion of the Court that has binding precedential value. Quite often, however, individual justices will write opinions either dissenting from or concurring with the Court's majority opinion. These separate opinions can often have persuasive value and may serve as an indication of the direction in which the Court will go upon a change in its composition.

The State Courts.

While each of the state court systems has its own unique aspects, they

[1] The Supreme Court does have some constitutionally-prescribed bases of original jurisdiction, where it may serve as the court of first instance.

all share the same basic pyramidal form of the federal system. In every state there is a set of courts of first instance authorized to hear the basic judicial business that arises in the area of the state where that court sits. More than two-thirds of the states have a set of intermediate courts of appeals that hear appeals from the lower courts. All have a court of last resort, akin to the U.S. Supreme Court, at the top of the system. Be aware that the nomenclature differs among the various state systems and the variances can be confusing. In New York, for example, the Supreme Court is a trial court; the intermediate court of appeals is called the Appellate Division of the Supreme Court; and the highest court is called the New York Court of Appeals.

Almost all state systems have special courts that hear common types of controversies. Often, these courts have more informal and more expeditious procedures than the regular courts. State specialty courts of limited jurisdiction include, for example, traffic courts, small claims courts that hear controversies involving small amounts of money; probate courts that adjudge wills; domestic courts that hear family or matrimonial cases; courts that hear only juvenile delinquency cases; and housing courts that hear landlord-tenant matters. The jurisdiction, powers, and procedures of these courts are prescribed in detail by state statutes.

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A Guide to Reading Supreme Court Cases

In this course, we read a number of Supreme Court opinions because good opinions offer intelligent discussions of constitutional principles in the context of concrete circumstances. These cases do not represent the current doctrine, nor are you reading the full case -- this is *not* a course in constitutional law. In reading an opinion, just as with other readings in this course, you should concentrate on ideas and their implications.

To reach the larger issues in cases, you often have to wade through certain technical terms and legal formalities. Do not be stymied by legalese. Context usually allows you to figure out what is going on. This guide explains most of the legal terms you are likely to stumble over, but for those interested, you can always consult Black's Law Dictionary in the library.

Cases are usually 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 or her freedom on the ground that s/he had been wrongly imprisoned. Today, a prisoner seeking a writ of *habeas corpus* usually sues the warden or some other government official. Although most of the opinions we will read were written by Supreme Court justices, practically every case originated in a lower court -- either a Federal District Court or a state court. Cases originate in two ways: (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 a future injury from being done (**CIVIL SUIT**). 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**.

Courts examine both "law" and "facts." Generally speaking, trial courts are triers of facts; *i.e.*, was Smith actually the person who was passing out the *Communist Manifesto*. Appellate courts look at "the law"; *i.e.*, was the law applied fairly in this case (the **procedure**), or is a law that forbids the distribution of the *Manifesto* constitutional? The law/fact distinction can become blurred; for example, to determine if "the law" was fairly applied sometimes requires a close examination of "the facts." Nevertheless, trial courts and appellate courts play different roles. For the most part, we are reading appellate decisions that are concerned with "the law."

Whether a case originates in a federal court or a state court it must involve an issue of federal law to 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 federal district courts usually come to the Supreme Court via the United States Courts of Appeals (or **CIRCUIT COURTS**). Cases from the highest court in a state come directly to the Supreme Court. Depending on the nature of the legal issues being decided, 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 "grant cert." and hear the case. For this course, you don't need to worry about whether a case is on appeal or cert. except that the terminology differs. The party making an *appeal* is called the

APPELLANT, while the party answering the *appeal* is called the **APPELLEE**. When a case comes to the Court on a *writ of certiorari*, the party bring the case to the court through that writ is called the **PETITIONER**, while the party against whom the case is brought is called the **RESPONDENT**.

The names of the cases reveal not only who the parties to a suit are, but 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 upon who wins at what level. For example, the Supreme Court case of *Smith v. Jones* began in federal district court as *Smith v. Jones*, since Smith initiated the libel suit against Jones. SMITH won in District Court, so JONES appealed; therefore, the case argued in the Court of Appeals was *Jones v. Smith*. BUT Jones won his appeal, so SMITH then petitioned the Supreme Court for a reversal of the decision -- and therefore, the Supreme Court case again became *Smith v. Jones*.

The typical Supreme Court decision must do two things. First, it must decide the "result;" for example, the law prohibiting distribution of the *Manifesto* is unconstitutional. Second, the Supreme Court decision must give reasons to justify the result, that is, it must explain *why* the law is unconstitutional. The decision in a Supreme Court case is directed to the court in which the case was last heard. The result is announced in one of three ways: (1) the decision **AFFIRMS** the judgment of the lower court, meaning the respondent/appellee wins; (2) it **REVERSES** the judgement the judgment of the lower court, thus "finding" for the petitioner/appellant; or (3) the decision **REMANDS**, or returns, 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.

In justifying the result, if a majority of the Justices agree with the position articulated by one of the Justices, that opinion becomes the **OPINION OF THE COURT**. This opinion becomes the authoritative pronouncement of the law. Any rules it announces attain the force of precedent which lower courts must accept and apply. **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 also write concurring opinions in order to add their views, but usually concurring opinions are written by justices who agree with the result reached by the majority, but *disagree* with the reasoning used to reach that decision. **DISSENTING OPINIONS** are written by justices who disagree with the majority's ruling. ALSO -- in really complex cases some justices may agree with only part of the ruling; in these instances they write opinions **CONCURRING IN PART, DISSENTING IN PART**. Sometimes no one line or reasoning will be acceptable to a majority of the justices -- in those cases there won't be an Opinion of the Court. Instead there will be a brief **PER CURIAM** opinion announcing the ruling (result) in the case. A *per curiam* opinion usually is accompanied by a series of concurring opinions explaining the various rationales of the different justices who agree with the result and a series of dissents from those who disagree.