

## Contested Hearings for Clerks

### **Pre-Course Work: Draft a Case Brief**

Prior to attending the course, you are asked draft a case brief. A case brief is a condensed, concise outline-form summary of a court opinion. Hence, the term “brief.”

#### ***Instructions***

1. Read the attached article “**How to Read a Legal Opinion**” by Orin S. Kerr. This will help orient you to the things you should be aware of once you begin reading the case provided.
2. Read the attached case In re Vogler Realty, Inc., 365 NC 389 (2012).
3. If you have any questions regarding legal language or terms, a good source to look up definitions is Black’s Law Dictionary. A link to the online dictionary is found at <http://thelawdictionary.org/>.
4. Once you have read the article and the case, write a **short summary** of the key components of the case, including the following:
  - a. **Case Caption:** This is the name of the parties to the case and the case citation.
  - b. **Procedural History:** A summary of how the case got to the particular court that published the opinion; three key questions to think about when summarizes procedural history are:
    - i. Which party appealed the ruling?
    - ii. What happened in the lower court or courts? What did the lower courts decide?
    - iii. Which court issued the opinion you are reading?
  - c. **Issue:** What is the question before the court? (This should be no more than a single sentence.)
  - d. **Facts:** What happened that led the parties to court; this is the who, what, and how – who did something, what did they do, and how did it end up in court.
  - e. **Holding:** What did the court decide? What is the answer to the Issue presented by the case?

- f. **Analysis:** How did the court arrive at its decision? What were the key facts it considered and what law did the court apply to those facts?
  - g. **Judgment:** What was the court's ultimate decision (ie reversed, remanded, vacated, etc.)?
  - h. **Dissenting/Concurring Opinions:** Were there any dissenting or concurring opinions? What was the essential point reflected in the dissent or concurrence?
- The key to a case summary is to narrow down the information from the opinion to what is important to the court's ultimate decision.

**For your reference, below is an example of a brief from a fictional case.**

### **SAMPLE BRIEF**

#### **Case Caption:**

**Gray** (cop) v. **Martino** (crime victim), 34 N.C. App. 34 (2009)

#### **Procedural History**

- Cop sues for reward money.
- District court awards money to the cop.
- Defendant appeals.

#### **Issue**

At the time the contract was formed, was the plaintiff acting as a police officer charged with a legal duty to catch criminals without further reward?

#### **Facts**

- Plaintiff makes a verbal contract with defendant. In return for \$500, plaintiff will find defendant's stolen jewels.
- Plaintiff had knowledge of whereabouts of jewels at contract formation.
- Plaintiff is a special police officer and has dealings with prosecutor's office.
- Defendant published advertisement for reward.
- Plaintiff finds stolen goods and arranges return.

## **Holding**

1. A public officer cannot demand or receive a reward for carrying out the duty of his job as a matter of public policy and morality
2. However, it is not against public policy for a police officer to receive a reward in performance of his legal duty if the legislature passes a statute giving the reward to the public at large in furtherance of some public policy - such as preventing treason against the US.

## **Analysis**

- Court finds sufficient evidence to characterize this fellow as a public official.
- His interaction with the prosecutor's office weighed in as a factor in suggesting he had a legal duty.
- Since he is characterized within the rule as a public official, he cannot, as a matter of law, receive a reward for the performance of his duties.

## **Judgment**

Court reverses decision of lower court in favor of the plaintiff since he was characterized as a public official.

## **Dissent/Concurrence**

There is "Nothing in the language or history of the Constitution to support the Court's judgment," so the majority's decision must be a "raw exercise of judicial power" that is "improvident and extravagant."

