

Introduction to Oral Argument

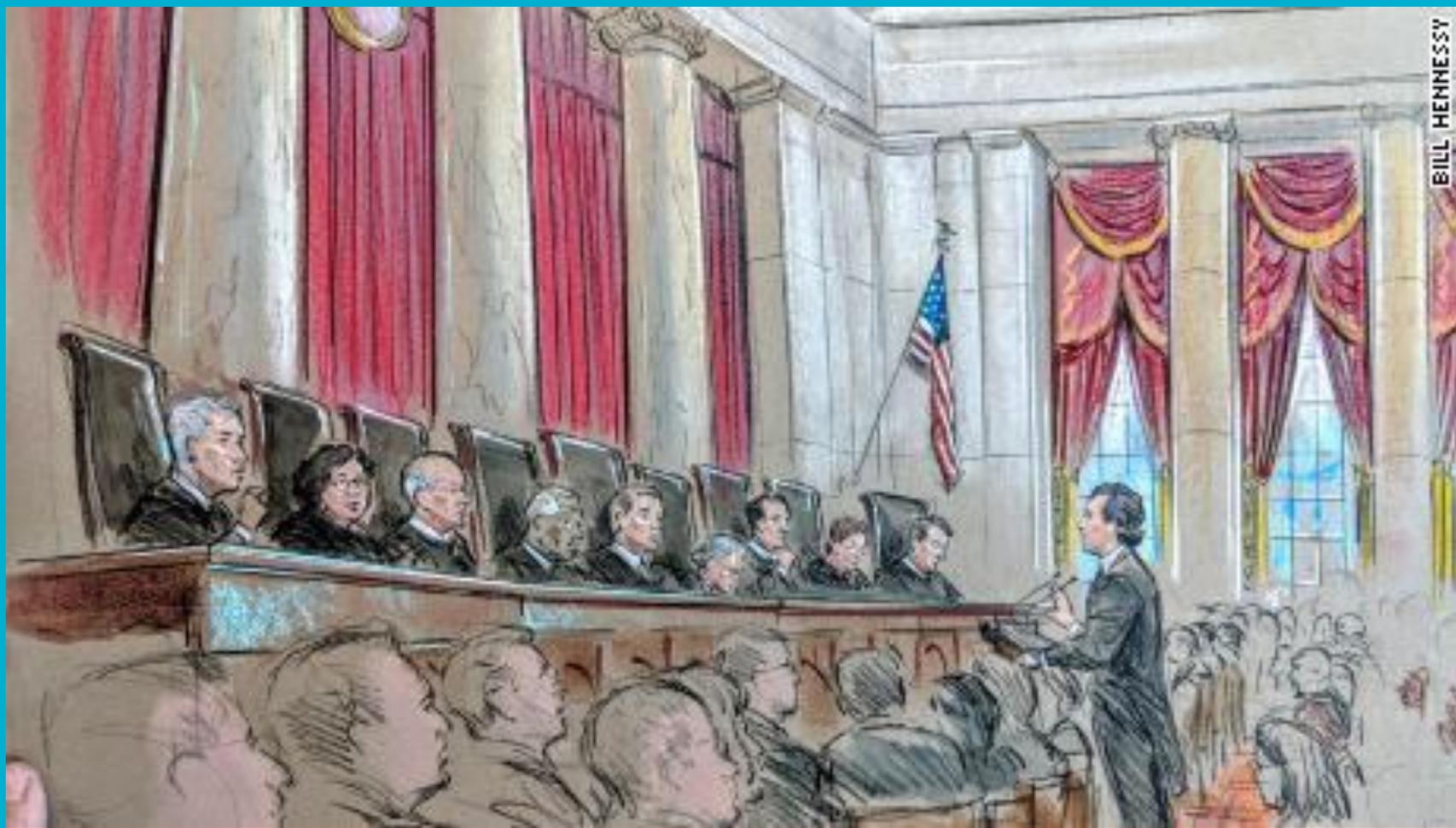
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Outline

1. What is the role of oral argument at the Supreme Court?
2. What does an oral argument actually look like?
3. How do I write an argument?

Oral Argument at the Supreme Court



Details of Oral Argument

- ~30 minutes for each side
- Justices interrupt to ask questions
 - Clarify each side's position
 - Seek guidance for rule writing/standards to articulate/how to decide a case
 - Communicate with other justices
- Small part of the decision-making process (Justice Breyer says <5%)

Demonstration

Writing An Argument

Components Of An Argument

1. Introduction
2. Outline
3. Argument
4. Conclusion

Introduction

- Engage the bench with a short, attention-grabbing opening hook
- Introduce and frame the relevant issues: the key facts, the relevant part of the law (e.g., the First Amendment), key doctrines (e.g., Miranda warnings are required when there is custody and interrogation)

“This is a case about X...”

“This case involves a massive government bait-and-switch and the fundamental question of whether the government has to keep its word after its money-mandating promises have induced reliance.”

- Paul Clement, *Maine Community Health Options v. United States*



Short Thesis Statement

“When a employer fires a male employee for dating men but does not fire female employees who date men, he violates Title VII.”

- Pamela Karlan, *Bostock v. Clayton County*



Procedural Statement

“The courts below made a simple error. They failed to understand where Employment Division versus Smith controls and where it doesn't.”

- Lori Windham, *Fulton v. City of Philadelphia*

“The People request that you deny the Defense’s motion and admit Exhibit C”

- Ethan Yan, citing his own statement in 2019 because he was too lazy to research more actual Supreme Court oral arguments

Outline

- State the points that you're going to address - keep it to two or three
- Keep the summary of points short!
- Clearly number your points

Argument

1. Thesis statement
2. Comparison of this case and past cases
 - a. Case X established this legal principle/definition. Applying it to today's case, we see that the facts here meet/don't meet this definition.
 - b. In Case Y, these are the facts. The facts in today's case are similar - in both cases, X and Z are present. Therefore, the ruling in Case Y should apply.
3. Conclusion

More Notes On Case Comparisons

- When you're reading through cases make a note of good facts that you want to bring up
- When reading the past precedents, note whether there are:
 - Facts that are very similar or very different
 - Broad, legal standards/definitions of key principles
 - “Neutral and related to the defendant’s interests and life” = casual conversation

Conclusion

- A short summation re-stating your arguments and requesting the desired relief
- Tell your audience you're concluding!
 - "To conclude..."
 - "In sum..."



Random Writing Tips

- Write your argument like it's meant to be spoken aloud, as opposed to be read as an essay
 - Script out colloquialisms
 - Clearly signpost what you're talking about/transitions
- Treat oral arguments like a conversation
- Make an outline before you start drafting - focus on your main points

Random Presentation Tips

- Note which words you want to emphasize, where you want to pause, when you want to get louder
- Practice so that it doesn't seem like you're reading - don't worry if you don't say exactly what you have written

Questions?

Activity!

- 7 Minutes: Argument Preparation
 - Pick a topic and side on literally anything (chocolate is better than vanilla, a hot dog is a sandwich, female soccer players don't get paid enough, global warming is bad)
 - Write out or bullet point an argument supporting this position
- ~3 Minutes Each: Deliver Your Argument!

