Advanced Appellate Advocacy  
Judge Neil M. Gorsuch  
Fall 2008  

Assigned Reading  


Students will be given a slightly modified record from a Tenth Circuit case, *United States v. Kaufman*, that will serve as the primary basis of our briefing and oral advocacy projects, as well as other handouts along the way.  

Grades  

Grades will be based on the following, weighted approximately as shown: final written brief (40%), interim draft brief (20%), oral argument (20%), and class participation (20%)  

Office Hours  
Teaching Assistant  

If you wish to meet with me, please speak with me or contact my assistant, Holly Cody, at (303) 335-2800 to schedule a mutually convenient time. Mondays before class will work particularly well.  

Jennifer Rosenthal is the teaching assistant for this course. She is a good resource for questions you may have, and for comments on drafts and mock arguments.
Tentative Syllabus  
(subject to modification)

1. Introduction

The appellate function in the U.S. tradition; a judge’s perspective on the appellate process; students will pair into teams for briefing and oral advocacy projects; initial brainstorming about *United States v. Kaufman*

Reading:    Aldisert chs. 1, 2  
            Coffin chs. 1, 2  
            Record in *United States v. Kaufman*

2. Perfecting an Appeal and Standards of Review

Appellate jurisdiction; identifying issues for appeal; standards of review; waiver traps; Further brainstorming on briefing issues for *United States v. Kaufman*

Reading:    Aldisert chs. 4-5  
            Coffin chs. 5.I(A) & (B); 5.III(B) & (C)

3. Developing Your Theory of the Appeal

Selecting and narrowing your arguments; drafting a table of contents

Bring to class a draft outline of your brief (all sections in detail) and a draft table of contents

Reading:    Aldisert chs. 6, 7, 8  
            Handout: sample tables of contents

4. Attend session of Tenth Circuit in Denver and meeting afterwards in chambers to discuss.

Reading:    Briefs from argument session
5. The Heart of a Brief: The Argument Section

Organizing the argument section of an appellate brief; persuasive and non-persuasive arguments and writing on appeal; the summary of argument section

Exchange in advance your draft argument section; bring your draft to class

Reading: Aldisert chs. 12, 13 (except 13.05)
Handout: sample argument sections

6. Just the Facts

Writing an effective statement of the case

Exchange in advance your draft fact section; bring your draft to class

Reading: Aldisert chs. 9, 10

7. Replies and What Your Do When You Lose

The reply brief; rehearing; certiorari; amicus filings; using and misusing legal authority

Reading: Aldisert ch. 13.05
Handout: sample filings

FIRST DRAFT OF BRIEFS ARE DUE NO LATER THAN THIS CLASS MEETING

8. Effective Oral Argument

Reading: Frederick chs. 1-5

9. No class: individual team meetings for feedback on your initial drafts.

10. Revising and Editing a Good Brief

Reading: Aldisert chs. 11, 17.01
Coffin ch. 6.1
11. Common Oral Argument Mistakes - And How to Avoid Them; Ethics on Appeal: candor with the court and your client

Reading: Frederick chs. 6-8
Handouts

12-14 Oral arguments

Students to argue Kaufman; non-arguing students will be expected to offer comments and critiques

Reading for week 12: Coffin chs. 12-14

FINAL BRIEFS DUE WEEK 13. BE SURE TO HAND IN FINAL AND INITIAL DRAFT OF YOUR BRIEF.