

NYU'S LAWYERING PROGRAM AND THE UPPER CLASS CURRICULUM

From: Peggy Davis

NYU's program on Lawyering methods has influenced teaching in the upper years. I try in my second and third year courses to get all students to write and/or prepare presentations regularly. I've developed a model, aimed in a broad sense at integration for making learners more active and more intellectually versatile. When we are studying cases, I assign four groups of students to present and/or write about the case in four different ways. The four categories vary with the course, but roughly they are 1. Doctrinal Development, 2. Social and Political Context, 3. Narrative and Rhetorical Effects, and 4. Cultural Resonance. Below is a course description that spells out the categories as applied in a course on The Family and the State.

THE FAMILY AND THE STATE PROFESSOR DAVIS FALL, 1999

Requirements for Successful Completion of the Course

The Family and the State is an in-depth analysis of the United States Supreme Court's constitutional cases concerning liberty and autonomy in matters of family.

As we work through cases during the first twenty-three sessions of the course, we will concentrate on four distinct but interrelated categories of analysis: doctrinal progression; social and historical context; narrative structure; and cultural validity. In this period, each of you will be required to prepare eight very short papers (approximately 750 words each). These papers will consist of case analyses, two applying each of the four categories of analysis.

You are required to hand in the first four papers, but your grade will not be affected by their quality; their function is to give you guidance and practice in conducting the four kinds of analysis that will be required of you in the course. They will be due in sessions two - five.

The remaining four papers will be assigned in accordance with a schedule that you will receive during the second week of classes. These papers will be included in the materials on which your grades will be based (see below). You will also be required to facilitate group discussion of the issues raised by these papers.

During the last five sessions of the course, you will utilize the four categories of analysis as you participate in litigation exercises. In this period, each of you will be required to serve as

litigant or judge in a simulation. In connection with the simulations, you will be required to prepare a memorandum of law or a bench memorandum and to conduct or judge an oral argument.

There will be no final examination. You will be graded on the drafting and class presentation of your fifth - ninth papers (40%), your memoranda (25%), your participation in the arguments (25%), and your participation in class discussions (10%). Participation in **on-line discussion groups** can augment the credit given for class discussions.

The schedule of activities is provided in the course syllabus. There follow descriptions of the four categories of analysis and guidelines for preparing the short papers. Guidelines for drafting the memoranda and preparing for the oral arguments will be provided with the litigation assignment packages; those packages will be distributed on or before September 30.

papers about doctrinal sequence

When you are assigned to prepare a paper on the doctrinal sequence of a case, you should describe the holding of the case as it relates to holdings in prior, related cases. The purpose of the paper is to show how the case fits -- or fails to fit -- in an orderly sequence of doctrinal development. Preparation of the paper will require a close reading of the case and of prior, related cases.

papers about historical and social context

When you are assigned to prepare a paper on the historical and social context of a case, you should describe any aspects of the historical moment and social setting in which the Court found itself that might have influenced the outcome of the case. The purpose of the paper is to explore whether the justices followed, or resisted, pressures to conform their reasoning to contemporary needs and sensibilities. Preparation of the paper will require a close reading of the case and a couple of hours of research concerning its context.

papers about narrative structure

When you are assigned to prepare a paper on the narrative structure of a case, you should analyze one of the "stories" told by the opinion of the Court, consider alternative stories that might have been told, and discuss the ways in which the story you have chosen to analyze justifies (or fails to justify) the result. The purpose of the paper is to explore whether the opinion's persuasiveness or legitimacy depends on how it was conceived and crafted as narrative. Preparation of the paper will require a close reading of the opinion and careful thought about characters, plights, and actions the opinion describes. You should consider at least the following issues: 1) which possible characters were chosen and which were omitted; 2) what problem or "trouble" the characters caused or faced; 3) what "steady state" was interrupted by the problem or trouble; and 4) how the problem or trouble was resolved.

papers about cultural legitimacy

When you are assigned to prepare a paper on the cultural legitimacy of a case, you are not expected to address the question of cultural legitimacy directly. Rather, you should write a "reflection piece" describing the ways in which the opinion and its holding(s) strike you in terms of their justice or fairness. The paper should refer to your personal reaction and may refer to personal experiences that shape your reaction. The purpose of the paper is to provide evidence of the cultural legitimacy of the case in the form of the reactions of a particular member of the culture. Preparation of the paper will require a close reading of the case and a candid and frankly self-centered analysis of its result.

presentation of analyses

When you are assigned to prepare a paper about a case, it will be due on the Monday preceding the class during which the case is to be discussed. You should give copies of the paper to Stephen Rechner in VH, room 302, and to any students who have prepared the same assignment. (By "same assignment," I mean a discussion of the same case, using the same analytic category.) Between that Monday and the class meeting on Tuesday or Thursday, you should plan how you will present your analyses to the class and how you will structure discussion of those analyses. When more than one student does the same assignment, those students should collaborate in preparing and making their presentation.