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These are the *only* cases / materials you may use (Please note the following: 1) The citations below are not in proper Bluebook form; 2) Unpublished opinions are to be considered good law; and 3) You are *not* required to use all of the cases).

1. *Alabama v. White*, 469 U.S. 325 (1990).
2. *Board of Education of Independent School District Number 92 of Pottawatomie County v. Earls*, 122 S.Ct. 2559 (2002).
3. *C.B. ex rel. Breeding v. Driscoll*, 82 F.3d 383 (1996).
4. *California v. Acevedo*, 500 U.S. 565 (1991).
5. *Florida v. J.L.*, 529 U.S. 266 (2000).
6. *Horton v. California*, 496 U.S. 128 (1990).
7. *Illinois v. Gates*, 462 U.S. 213 (1983).
8. *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).
9. *People v. Overton*, 249 N.E. 2d 366 (N.Y. 1969)
10. *South Carolina v. State*, 583 So. 2d 188 (Miss. 1991)
11. *Terry v. Ohio*, 392 U.S. 1 (1968).
12. *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969).
13. *U.S. v. Arizu*, 534 U.S. 226 (2002).
14. *Vernoia School District 47J v. Action*, 515 U.S. 646 (1995).

15. *Williams ex rel. Williams v. Ellington*, 936 F.2d 881 (6th Cir. 1991).
16. *Wyoming v. Houghton*, 526 U.S. 295 (1999).
17. United States Constitution Amend. IV.
18. United States Constitution Amend. XIV.
19. *Safford Middle School District #1 v. Redding*, 129 S.Ct. 2633 (2009)*

* Please note, you **CANNOT** cite to *Safford Middle School District #1 v. Redding*. This case is provided only as a REFERENCE. Anything cited to *Redding* in your written brief or oral argument will result in point deductions.

MOOT COURT HONOR SOCIETY APPLICATION

NAME (As you would like it to be listed on all Moot Court related information including certificates, programs, and announcements)

LAST

FIRST

MIDDLE

LOCAL ADDRESS

DAYTIME PHONE NUMBER

EVENING PHONE NUMBER/CELL PHONE NUMBER

EMAIL ADDRESS

WIDENER LAW CAMPUS MAILBOX #

DIVISION

2RD
3RD

2ED
3ED

4ED

BRIEF GUIDELINES AND RULES

(General)

All students seeking to compete in the New Member Competition must submit a brief adhering to the following guidelines:

1. If the student's anonymous number begins with a "P," then the student must advocate for the Petitioner. If the anonymous number begins with an "R," then the student must advocate for the Respondent. All anonymous number assignments are final.
2. The type and font for student briefs is **Times New Roman 12 POINT**. Failure to use such type and/or font will result in a 10-point deduction from overall brief score.
3. Each student must submit **five (5) copies** of his or her brief.
4. Each student must type his or her brief on **8.5" x 11" white paper** (no hole punched); **double-spaced**, with **one-inch margins** on all sides.
5. All copies of the brief must include:
 - a. **Two cover pages** (displayed on pages 14 and 15 *infra*) – The cover pages should conform to the format provided so that the first cover page includes the student's name and anonymous # and the second cover page includes **only** the student's anonymous #;
 - b. Table of Contents
 - c. Table of Authorities in proper Bluebook form;
 - d. Question Presented on a separate page;
 - e. Standard of Review page;
 - f. Statement of Facts, complete with Procedural Posture, no longer than **two (2) pages** in length;
 - g. Argument Section no longer than **seven (7) pages**; and
 - h. Conclusion **in short form** (not to exceed one paragraph)
6. Failure to comply with the maximum page limits assigned to the "Facts" and/or "Argument" sections of the brief shall result in a 15 point deduction per violation from the overall brief score.

7. In order to participate in oral arguments, students must submit five (5) copies of their briefs to the Moot Court office in Concord Hall on September 8, 2009, between 10:00 a.m. and 7:00 p.m. The Moot Court Executive Board will not accept any brief submitted outside that time frame.
8. This is a **closed packet problem**. Additional research is prohibited. Failure to abide by this provision will result in automatic disqualification from this competition and/or any future Moot Court competition.
9. Students must follow Bluebook (8th Edition) guidelines in citing cases listed in the competition packet. Further, students may only cite additional cases listed within the cases to the extent that the additional cases are cited therein.
10. Students may not receive assistance, guidance, suggestions and/or help from other students, faculty, or outside individuals with regard to the new member problem.

BRIEF GUIDELINES AND RULES

(Specific)

IMPORTANT POINTS TO REMEMBER

If this were a “real life” argument, it is likely there would be many objections to the evidence. You are to assume that both parties have stipulated to or the court has ruled that all the evidence is admissible (including hearsay conversations and documents). These would have been taken care of during *in limine* proceedings and during trial, and you are NOT to argue lack of admissibility.

For this competition, you must ONLY address:

Whether there was reasonable suspicion to search the property of a student suspected of marijuana use and distribution, and if so, whether the search of his person was reasonably related in scope to the circumstances.

CASES: Every case is in this packet for one of three general reasons. First, the case may be *supportive*: it may provide support for your argument and thus may be distinguished by your opposition. Second, the case may be *distinguishable*: it may be there for you to distinguish from the facts you were given and thus may provide support for your opposition. Finally, a case may be *informative*: it may be in this packet because, although it does not directly relate to the facts at hand, reference to that case must be included in your brief for “procedural” reasons or to provide context for certain concepts or arguments. Only exception is *Safford Middle Sch. Dist. #1 v. Redding*. This case is used as reference ONLY. Any citation to this case will result in point deductions.

CITATION: You are required to use proper Bluebook (8th Edition) citation. This means you must cite to the case by using the proper reporter.

ORAL ARGUMENT GUIDELINES & RULES

Only students who submit all required documents between **10:00 a.m. and 7:00 p.m. on September 8, 2009** may participate in oral arguments.

1. Oral Arguments are scheduled for the following days:
 - a. Thursday, September 10, 2009
 - b. Friday, September 11, 2009
 - c. Saturday, September 12, 2009
 - d. Sunday, September 13, 2009 (If Needed)
2. This packet includes a list of times for oral arguments. Students should rank their availability by placing numbers 1 through 3 next to the listed time periods. Please return this sheet with your brief. [Please note: You are ranking *days*, not specific argument times!]
3. The Executive Board will post the final argument schedule by **8:00 a.m. on Wednesday, September 9, 2009** on the Moot Court bulletin boards (in Concord Hall and in the main Law Building) specifying the date, time, and courtroom of the student's oral argument.
4. If a student absolutely cannot argue on a particular date, he or she must indicate this on the "Oral Argument Times" sheet contained herein. In the event an emergency occurs and a competitor is unable to make his or her assigned time, he or she must notify Jenny Hou by telephone at (267) 251-4184 **and** give a detailed explanation by e-mailing her at jjhou@mail.widener.edu. In this correspondence, the student must present a valid reason for needing the schedule change. Every effort will be made to accommodate the student. **However, if no time change can be arranged, the student must argue at the scheduled time or withdraw from the competition.**
5. A student's failure to attend his or her scheduled oral argument will result in permanent disqualification from membership in the Society and from entering future Moot Court competitions unless the student follows the emergency procedures articulated above and is granted an exemption.
6. Each student will receive ten (10) minutes for oral argument. Petitioner may reserve up to three (3) minutes for rebuttal. In order to reserve such time, Petitioner must request it at the commencement of his or her argument.
7. Students may not attend other arguments. Failure to abide by this provision will result in automatic disqualification from this competition and all future Moot Court competitions.

ORAL ARGUMENT

EXPLANATION OF GRADING CRITERIA

1. SALUTATION AND INTRODUCTION OF COUNSEL

Each advocate is required to give a formal opening statement consisting of four (4) elements:

- a. The advocate's name;
- b. Part the advocate represents (Petitioner or Respondent);
- c. Name of advocate's client; and
- d. Issue the advocate will address

[Reminder: Petitioner must reserve rebuttal time at the commencement of his or her argument and ask whether the court wishes to hear a brief recitation of the pertinent facts involved in the case].

2. STATEMENT OF ISSUES AND FACTS

Students should phrase issues in a positive and persuasive manner, based on facts.

3. APPEARANCE

Advocates should dress appropriately as though arguing before the United States Supreme Court.

4. AUDIBILITY

Advocates should speak clearly and with sufficient amplification so that no member of the court need ask the advocate to speak louder.

5. ABILITY TO COMMUNICATE

Students should articulate their arguments comprehensively, with proper vocabulary and diction, maintaining eye contact with the bench throughout.

6. ABILITY TO ANSWER QUESTIONS

Advocates must answer all questions asked. If the Court is satisfied with the advocate's response, he or she should return to the point in the argument where the Court interrupted and continue with the argument.

7. ARGUMENT OF THE LAW

The advocate's proper use of case law should be evident during both formal presentation and questioning. The advocate is expected to be familiar with the facts, issues, and holding of any case cited during oral argument. Citations must be available upon request.

8. PERSUASIVENESS

Advocates are judged on their ability to convince the Court of the efficacy of their argument. Decisions are not rendered in the case and the advocate's score will in no way depend on potential victory for his or her side.

9. RESPECT FOR THE COURT

Advocates must show respect and deference to the Court at all times. Additionally, advocates should refer to Justices by name and title whenever possible. Interrupting a member of the bench is not appropriate.

10. ADHERENCE TO TIME LIMIT

When the court indicates that the advocate's time has expired, the advocate should Cease speaking immediately. If the advocate wishes to briefly conclude, he or she may request appropriate time from the Court to do so. However, the Court is under no obligation to grant extra time. If time is granted the advocate should conclude as quickly as possible. Summations should not be used to rehash the advocate's previous argument but rather to finish the thought or response to the question posed.

11. REBUTTAL

If rebuttal time is requested and granted, the advocate for the Petitioner should use such time to rebut the Respondent's argument, not to repeat or present new arguments.

ORAL ARGUMENT TIMES

The Executive Board will conduct oral arguments on campus at a location to be announced. Please rank (#1 for the best day and #3 for the worst day) the following oral argument time frames in the order that best fits your schedule. **If you absolutely cannot attend one or more days, please note that at the bottom of this page.** All arguments are scheduled for 30 minutes. *Please note: Saturday and Sunday are only options if all other days are filled.*

Oral argument times will be posted by 8:00 a.m. on Wednesday, September 9, 2009. If it is impossible to make your posted time, you must notify Jenny Hou immediately at (267) 251-4184.

Please detach and return with your brief

Oral Argument Days and Times **Rank (Circle the Appropriate Number)**

Thursday, September 10:
6:00 – 10:00 p.m. 1 2 3

Friday, September 11:
6:00 – 10:00 p.m. 1 2 3

Saturday, September 12:
10:00 a.m. – 4:00 p.m. 1 2 3

Sunday, September 13:
10:00 a.m. – 4:00 p.m. Please do not sign up for this day.
We will only schedule arguments if needed.

NAME:

ANONYMOUS #:

PHONE #:

EMAIL ADDRESS:

Please indicate below if you have a class or other conflict during any of the scheduled times:

CHECKLIST

The following checklist is for your use only and included to ensure that you hand in all required items. *Note: This is not an inclusive list. Before submitting your brief, please re-read all instructions to insure that you did not forget anything!*

- _____ Moot Court Honor Society Application
- _____ Oral Argument Time Sheet, ranked by day
- _____ Five (5) copies of brief
- _____ Two (2) cover pages on each copy
(The first with both your name and anonymous #; the second with your anonymous # only).

PLEASE DO NOT SIGN YOUR NAME ON THE CONCLUSION LINE.

BRIEF GRADING SHEET

Brief Number: _____

Grader's Initials: _____

Section I Total: _____
Section II Total: _____
Section III Total: _____
Grand Total: _____

I. Mechanics/Formal Requirements *(Possible 30 Points)*

a. Punctuation (2) _____

b. Citations in Bluebook Form (5) _____

c. Spelling (3) _____

d. Proper Brief Form

i. *Cover of Brief* (1) _____
Is it properly formatted?

ii. *Question(s) Presented* (2) _____
Are issues phrased favorably to the party?

iii. *Table of Authorities* (2) _____
Proper division of cases between jurisdictions?

iv. *Standard of Review* (3) _____

v. *Statement of the Case/Facts* (6) _____
Are the facts presented favorably without
excluding material facts? Limited to two pages in length?

vi. *Argument or Discussion* (1) _____
Is the argument section identified and separated
properly?

vii. *Conclusion* (2) _____

viii. *Overall Appearance of the Brief* (3) _____

SUB TOTAL: _____

II. **Style** (Possible 20 Points)

- a. Clarity (10) _____
Is the brief clear and unambiguous, or is re-reading to comprehend an argument necessary? Is the brief concise and well edited? Is there excessive use of quotations?
- b. Tone of Argument (10) _____
Is the brief argumentative without embracing disrespect, sarcasm, or arrogance? Watch for use of words like “clearly” or “obviously.”

III. **Substantive Argument** (Possible 50 Points)

- a. Argument Structure (clear and concise) (7) _____
Is the structure logical and indicative of the issue? Are arguments presented in a clear and persuasive manner?
- b. Point Headings (3) _____
Do headings relate to the discussion and provide a succinct summary of the argument?
- c. Knowledge of Relevant Law (9) _____
Do the authorities cited support a sound legal analysis?
Did the writer develop public policy arguments where appropriate?
Did the writer identify the proper standard of review?
- d. Relation of Facts to Law (9) _____
Has the writer applied the facts to the relevant law?
Did the writer analogize his or her facts with those contained in the cases?
- e. Persuasiveness (9) _____
- f. Argument Supported by Law (9) _____
Are the writer’s arguments supported by the cases and/or law cited?
- g. Opposing Arguments Addressed (4) _____
Did the writer recognize, yet distinguish, cases that are unfavorable to his/her position?

SUB TOTAL: _____

ORAL SCORE SHEET

Points Awarded:

Total: _____
(Possible 100 Points)

- _____ (3) **Salutation and Introduction**
Did the advocate identify himself/herself and the issues he or she will argue?

- _____ (10) **Statement of Issues and Facts**
Are issues grounded in the facts? Did Petitioner ask whether the Court wanted a recitation of the facts? Did Respondent effectively use facts to rebut Petitioner?

- _____ (2) **Appearance**
Did the advocate dress appropriately?

- _____ (7) **Eye Contact/Posture**
Did the advocate maintain eye contact with the Justices as often as possible? Did the advocate engage in distracting posture?

- _____ (5) **Audibility**
Did the advocate speak in a comfortable tone of voice? Did the Justices have to ask him/her to speak up?

- _____ (20) **Ability to Communicate**
Did the advocate articulate his or her argument in a comprehensive manner?

- _____ (20) **Ability to Answer Question**
Did the advocate respond promptly to questions asked and return to the point of interruption thereafter?

- _____ (20) **Persuasiveness**

- _____ (5) **Respect for the Bench**
Was the advocate deferential to the Court?

- _____ (5) **Adherence to Time Limits**
Did the advocate stop or request permission to briefly summarize his or her argument when the bailiff indicated time had expired? Did Petitioner request rebuttal time at the beginning of his or her argument?

- _____ (3) **Overall/Miscellaneous**
Did advocate distinguish himself/herself in any way deserving of additional points?

Anonymous #

IN THE UNITED STATES SUPREME COURT

FALL TERM 2009

CONCORD SCHOOL DISTRICT #12,

Petitioner,

v.

DONNA K. SWARTZ,

Respondent

ON APPEAL FROM THE

UNITED STATES COURT OF APPEALS FOR THE THIRTEENTH CIRCUIT

BRIEF FOR THE (PETITIONER/RESPONDENT)

NAME
ANONYMOUS #

DATE

Anonymous #

IN THE UNITED STATES SUPREME COURT

FALL TERM 2009

CONCORD SCHOOL DISTRICT #12,

Petitioner,

v.

DONNA K. SWARTZ,

Respondent

ON APPEAL FROM THE

UNITED STATES COURT OF APPEALS FOR THE THIRTEENTH CIRCUIT

BRIEF FOR THE (PETITIONER/RESPONDENT)

ANONYMOUS #

DATE

MANDATORY BRIEF COMPONENTS

PAGE NUMBER	COMPONENT
Not Numbered	Cover Page with Name and Anonymous Number
Not Numbered	Cover Page with Anonymous Number <u>Only</u>
Page i	Table of Contents
Page ii	Table of Authorities
Page iii	Question Presented
Page iv	Standard of Review
Page 1-2	Statement of Facts <i>Procedural History and Factual Background</i>
Page 3-9	Argument
Page 10	Conclusion in short form (Please see below for an example of a short form conclusion).

CONCLUSION

For the foregoing reasons, Petitioner requests that the Judgment of the United States Court of Appeals for the Thirteenth Circuit be reversed.

Respectfully Submitted,

Attorney for Petitioner

Dated: September 8, 2009

PLEASE DO NOT SIGN YOUR NAME ON THE CONCLUSION LINE!