**Finding and Citing Cases – a Brief Synopsis**

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Judicial Decisions in Canada, often referred to as “cases” are reported in law reports – there are many different sets of law reports in Canada. The most common ones are the Supreme Court Reports (S.C.R.), Dominion Law Reports (D.L.R.), Ontario Reports (O.R.) British Columbia Reports, (BCR) Western Weekly Reporter (WWR) and Canadian Criminal Cases (CCC).

Important cases will be reported in a number of different reporters. For example, criminal cases from the Supreme Court of Canada would often be reported in the SCR, DLR, CCC and others.

Cases are cited as follows:

**Understanding a citation**

R. v. Sparrow [1990] 1 S.C.R. 1075

Explanation:

R refers to Regina meaning the Queen. Every criminal case is brought in the name of the Queen against the accused.

v. stands for versus. However, when we refer to a case, we say “and” in lieu of saying “versus”.

The case was reported in the year 1990. The place to find the case is in the Supreme Court Reports.

Each year, there are a number of volumes of the Supreme Court reports; this case can be found in volume 1 of the reports published for 1990. The number 1075 refers to the page number in volume 1 of 1990 where you can find that case.

R. v. Oakes (1986), 24 C.C.C. (3rd) 321, [1986] 1 S.C.R. 103

This case is a criminal case; the accused name is Oakes. It can be found in at least 2 sets of law reports. The first citation for this case is (1986), 24 C.C.C. 3rd – this means that it is to be found in the reporter called Canadian Criminal Cases, in the 3rd series of that reporter. The year 1986 is in round brackets, which signifies that the year is not required in order to find the volume. If you go to the 3rd series of the Canadian Criminal Cases reporters and find volume 24 of that series, you will find the case by turning to page 321 in that volume.

The second citation is in the 1986 SCR reports, at volume 1. Note that the brackets around the year are square [ ], not round ( ). This means that the year is crucial to finding the case, as you must go to the 1986 Supreme Court of Canada reports and find volume 1 for that year. Each year, there will be a volume 1 of the SCR’s so if you do not have the exact year, you cannot find the case; contrast this with the CCC reports, where you need to know which series the report is in, and which volume of the series in order to find the report. The year is not important to finding the case, which is the reason it is in round brackets.

**Neutral Citations**

Largely because of the development of the Internet and the ability to find cases through the Internet, a system of “neutral citations” was developed by the courts. The neutral citation is a reference to a case, by the court, year of the decision, and the ordinal number of the case. For example, Lovelace v Ontario has the neutral citation 2000 SCC 37. This means that it was decided in the year 2000 by the Supreme Court of Canada and was the 37th case of the year. This neutral citation does not point you to a law reporter series that contains that case – it merely assists you in finding the case as you now know the salient details.

**Terminology that is relevant to case citations:**

Suppose that John Smith is suing Roberta Jones.

Generally, Smith is called the plaintiff, as he is suing and Jones is the defendant. Therefore, in a report of a trial, the case will usually be called *Smith v. Jones*. This name of the case is often referred to as the “style of cause”.

Now, suppose that at trial, Jones lost and she wants to appeal the case to the Court of Appeal. Jones is called the appellant (the person who is bringing the appeal) and Smith is called the respondent, as Jones is responding to Jones’ appeal. The report of the appeal decision will usually be called *Jones v Smith*, because the appellant is usually named first in the report of the appeal.

If Smith loses at the Court of Appeal, he may want to appeal to the Supreme Court of Canada. At that point, Smith would be the appellant, and Jones will be the respondent – their roles have reversed now, as in the Court of Appeal case, Jones was the appellant, but now Smith is the appellant to the Supreme Court of Canada. So that case may again be referred to as *Smith v. Jones*. However, in some circumstances, the case will continue to be referred to as *Jones v Smith* even though the parties have reversed and it is Smith who is appealing to the Supreme Court of Canada. Therefore, in reading a case from the Supreme Court of Canada, you must be very careful to read the case to see which party is appealing the case, as it may not be apparent from the case name.

The name of the case is usually italicized *Smith v. Jones* or is underlined Smith v. Jones. So when referring to a case in your assignments and writings, please ensure that you follow either of these 2 formats so that your legal writing is stylistically proper.

When you look for the case, you may see that there are 3 cases reported, one being the trial decision, the second being the Court of Appeal decision and the last one being the decision of the Supreme Court of Canada.

Now that you have read this synopsis of how cases are cited, you should review the following website for a very detailed discussion of the citation system:

<http://library.queensu.ca/law/lederman/legalcitation>

**Finding Reported Cases**

The reports listed above can all be found in law libraries, in hard copy form. They can usually be found online through sites like canlii.ca. or Lexis Nexis.

**Reading Cases**

*These notes should be read in conjunction with pages 38-42 of the Boyd textbook[[1]](#footnote-1).*

Generally speaking, the case begins with the information about the case, such as the parties, the court, the judges, lawyers for the parties, dates etc. Then, there is often a headnote for the case. The headnote is a brief summary of the case which contains the major facts that are relevant to the case, the decision (who won or lost) and the reasons for the decision. The first part of the headnote is called the “key words” summary, which lists the important words that relate to the case. This key word summary sets out the area of law, from the most general to the most specific related to the case. (the example in the textbook does not have these key words as part of the headnote)

In the decision, it will list the cases that were used by the court in making the decision, as well as all statute, regulations, and also any textbooks and scholarly articles. This part of the decision has not been included in the excerpt in the textbook.

If the decision is of the court of appeal or the Supreme Court of Canada, then there will be at least 3 and up to 9 judges. The decisions are made on the basis of the majority. In many cases, the majority will decide the case, and the minority will disagree with that decision, in whole or in part. The minority decisions are referred to as *dissenting judgments*.

Also, the majority of judges may agree on the results but not on the reasons why they arrived at that result. In that case, there may be *concurring* judgments, which are judgments given by judges explaining why they agree with the result, but not with the reasons why.

When reading an appeal judgement, it is important to look through the decision to see if there are dissenting or concurring judgments.

**Legal Journals and Scholarly Articles - Citation Systems**

At page 43 of the Boyd textbook (5th edition) he refers to “books of authority” as a source of law. This term refers to both legal textbooks, as well as scholarly articles contained in legal journals. As Boyd states, these journal articles and textbooks are often referred to by the judges in making their decisions. Journals have a similar citation method as law reports, using the square and round bracket methods.

Eg. D. Black, “The Boundaries of Legal Sociology*” Yale Law Journal* 81 (1972) 1097. The article can be found in volume 81 of the Yale Law Journal at page 1097. The year 1972 is not crucial to finding the article. Note here that the article name is in quotations, and the journal name is either italicized or underlined.

For a full list of abbreviations of law reporters and scholarly journals, you should have reference to:

<http://www.legalabbrevs.cardiff.ac.uk/>

Obviously, you are not expected to memorize these, but in the event that you encounter an abbreviation for a law report or law journal that you are not familiar with, this should be your first point of reference.

1. Boyd, N. (2010). *Canadian law: An introduction (5th ed.)*. Toronto, Canada: Nelson Education. [↑](#footnote-ref-1)