



Reading and Writing Law and Legal History: Privacy and Reproductive Rights

Lesson Plans (50 minute class periods)

Lesson 3: Legal Decision Reading and Case Brief – (2 classes)

Class 1:

20 minutes: Group Activity – Collaborative Learning and Case Brief review

With their homework assignment in-hand, students work with a partner or in a small group to collaboratively write a case brief. They each receive a blank case brief outline worksheet (i.e., citation, facts, prior history, question presented, holding, analysis of majority and concurring opinions, dissenting opinions, your opinion of case) and will work together to identify the components in the decision and fill-in this worksheet.

30 minutes: In-Class Discussion – Review Case Brief – Answer Questions

Together as a class (and with pocket Constitutions) review the case brief and each component, answering questions and clarifying portions of the decision or legal terms and information. The discussion will focus on Justice Douglas' majority opinion and locating "marital" privacy in the "penumbras" of the Bill of Rights, and the concurring opinions by Chief Justice Warren, and Justices Goldberg, Brennan, Harlan, and White, locating the right to privacy in the Ninth and Fourteenth Amendments, including substantive due process, as part of "liberty" in the Fourteenth Amendment. The discussion will highlight how justices can come to the same conclusion but based on different reasoning and sections of the law. It will also include discussion of Justice Black's and Justice Stewart's dissenting opinions, and emphasizing how justices can disagree on the same issue, based on interpretation, understanding, and application of the same facts and law.

The discussion will conclude by making linkages between the Vullo article and Sanger trial and appeals in the New York Courts to the Supreme Court's decision in *Griswold v. Connecticut*. This is to reinforce how the New York courts and Margaret Sanger played a crucial role in establishing the right to privacy and in the legal history of reproductive rights and protections.

Homework Assignment: Students will review the in-class exercise and a sample student case brief. They will prepare and hand-in a typed brief for *Griswold v. Connecticut*, and include a final section, writing about their thoughts and opinions of the case and if they agree with Douglas' opinion, the concurring opinions, or the dissenting opinions, and why.

Class 2:

15 minutes: Students will listen to selections from oral arguments in *Griswold v. Connecticut* <https://www.oyez.org/cases/1964/496> for 10 minutes and write a 5-minute response reacting to the recording and to the arguments and questions by the justices.



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15 minutes: In-class discussion or debate on the Court's opinion, whether privacy is located within the US Constitution or not, and if so, where. Explore arguments in majority and dissent.

20 minutes: Aftermath of *Griswold*, discuss the Supreme Court's holding in *Eisenstadt v. Baird*, 405 U.S. 438 (1972), extending the legal precedent set in *Griswold* to unmarried couples based on the equal protection clause of the Fourteenth Amendment. The discussion focuses on the role of legal precedent and its application, as well as the decision to challenge the Connecticut law in *Griswold* based on marital privacy rather than individual privacy. It also places the discussion in context of second wave feminism and early 1970s women's movement.
<https://supreme.justia.com/cases/federal/us/405/438/#tab-opinion-1949625>

Homework Assignment: Students should watch or read one source listed on the C-SPAN Landmark Case site for *Griswold v. Connecticut* (including interviews, panel discussions, and expert analyses), and write a 1-2 page written response paper reacting to the source and placing the source in conversation or context with the *Griswold* decision and the Vullo article.
<http://landmarkcases.c-span.org/Case/21/Griswold-v-Connecticut>