

was linked to the victim, unlike Jones whose rope was not linked to the victim by any evidence. There was no evidence that the rope had recently been used by Jones or was ever in direct control by Jones, unlike the possession and control of the weapons in Abel and Baker.

Students can relate to the simple issues in this example and gain a better understanding of the importance of case synthesis. Students should be reminded of the need for citations in the sentences above.

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#### TEACHING ANALYSIS

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Teaching legal analysis, and how to effectively communicate it, is the heart of LRW. Indeed, I hesitate to acknowledge that there is an effective LRW class that does not teach analysis. But certainly some classes focus more specifically on types of legal analysis—for example, case synthesis. In the Temple LRW program, the students do three projects in the first semester. The first teaches them to crawl, the second to walk, and the third, we hope, to fly—or at least run. We give them the first memo assignment the second day of class and get them into the library immediately. That memo is, of necessity, extremely simple analytically and requires little or no synthesis beyond a simple application of one or two cases to a fact pattern. The second memo is meant to be more challenging—to be the memo that allows them to focus on how to find and use authority to apply a clear rule. The final problem of the semester requires them to first develop a rule, that is, to predict what rule will be used or developed by the court in a first impression case. To be able to fly on that final problem, the students need a firm grasp of more basic analysis—working with the application of a clear test to a set of facts not identical to those in any available case. Thus, my goals for the second problem are to teach rule application, case synthesis, and use of authority.

I have seven classes to work through this problem. I spend the first two on issue identification and research strategy. The students must first find and recognize the Third Circuit case that provides the rule for their federal statutory problem: whether a bankruptcy debtor qualifies for a hardship discharge of her student loan. That lead case adopts a fact-intensive test that requires the plaintiff to satisfy three somewhat overlapping prongs. Their research nets them four other circuit court cases that have adopted a variation of the test and numerous lower court cases that have applied the test in similar, but not identical, fact contexts. Because this is a bankruptcy problem, the students must also grapple with the relationship between the district courts sitting as intermediate appellate courts, the circuit courts and the bankruptcy court. To further complicate things, the Third Circuit adopted the test from another circuit, giving me another opportunity to cover what makes authority binding rather than persuasive.

Once the students have found the test, we turn to rule application. My immediate goal is to help them use the Neumann<sup>1</sup> paradigm to organize their analysis. Charting the relevant authority on the blackboard helps them learn to synthesize the cases and visually reinforces the classroom discussion about the importance of the facts and reasoning of the available cases. The chart has three sections for each of the three prongs of the test. The first section sets out the history and purpose of the first prong of the test as stated by each charted authority. The second covers the general background facts relied on by each case—including the debtor's age, family situation, and level of education. The third lists the specific facts relevant to application of the first prong of the test, which focuses on the debtor's current financial situation, so her income, efforts to find work and current expenses are all important. I include columns for

the binding precedent, other crucial circuit level cases, several of the lower court cases from our district and for our case. I complete the chart for the other authorities, listing the facts each decision emphasized in its application of the test, the result, and the explanation the decision provided. In class we first review the chart and identify the differences and similarities in the facts of our case. We also discuss the comparative weight of the listed authorities. In small groups, the students complete the chart for our case by generating a list of key facts relevant to the history and purpose of the first prong of the test, facts relevant generally, and facts relevant specifically to application of the first prong. They predict how our court will apply the first prong to these facts, using the comparative cases on the chart. I walk the room at this point to check on each group's progress and to answer questions. Each group reports its conclusion, justifying it based on the precedent relevant to the first prong of the test. I distribute blank charts for the second and third prongs for the students to complete on their own. I emphasize that we have not covered every important case on the chart. They must consider what other cases matter here.

This technique offers several advantages in teaching case synthesis. It visually drives home the need to compare both the facts and reasoning of relevant authority in analyzing an issue. It helps reduce the students' tendency to use a laundry list approach, discussing each case independently instead of attempting to integrate the available authority. It highlights the critical interplay of facts and reasoning and the need to convey that information to the reader. The exercise always leads to discussions about why two decisions treated a fact differently and which authority our court is more likely to follow. For many students, the exercise and the model chart enables them to use this technique to develop their analysis for future problems, including the more challenging final memo which requires them to synthesize authority to develop a rule, instead of simply applying a known rule to new facts.

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<sup>1</sup>Richard K. Neumann, Jr., *LEGAL REASONING AND LEGAL WRITING*, §10.1 at 90 (3d ed. 1998).