**2018 Journal Competition Template**

**Read the “2018 Competition Instructions” provided on TWEN *carefully* before beginning. Failure to comply with *any* portion of these instructions will result in either a point penalty or disqualification from the Competition.** A few reminders are included below. (Do not delete these instructions.)

**Protect anonymity.**

* Insert your GWID Number in *this document’s* Header. There is an indicated space for the number in this file, flush on the right side.
* Remove Personal Information. Instructions on how to remove personal identifying information are located on the Competition TWEN Page under Competition Instructions/Materials.

**Complete the Competition.** You **must** complete all sections of the competition.

* **Complete the Registration Form (on TWEN). The Registration Form, as well as this Competition file, is due on Tuesday, March 6 at 5:00 PM EST.**
* Name your Competition file your GWID Number.
* You must complete the edits in Part II.A. with the Track Changes feature enabled.
  + Parts I, II.B., and III of the Competition should not be written with Track Changes enabled.

**Complete the Pledge of Honesty.**

* After completing the Competition, sign the pledge of honesty below using your GWID Number.
* Academic integrity concerns (including suspicion that students have used outside sources) will be reported to the Dean of Students office for review.
  + As a reminder, students can only reference the “Competition Packet” (this document and the Competition Sources) and a hardcopy of the Bluebook.
    - You mayprint the Competition Packet if you so choose.
  + Use of all other resources are prohibited.

**The Pledge of Honesty**

On my honor, I submit this work in good faith and pledge that I have neither given nor received improper aid in its completion.

G40673027

(Insert GWID Number above)

**Part I – Table of Sources**

|  |  |
| --- | --- |
| **Source Identifier** | **Citation** |
| Source 1 | *Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017). |
| Source 2 | Betty White (@BettyMWhite), Twitter (Feb. 7, 2016, 3:44 PM), https://twitter.com/BettyMWhite/status/696479605759213570. |
| Source 3 | Margaret Shapiro, *Elizabeth II Visits Russia On Wave of Royal Gossip*, Wash. Post, Oct. 18, 1994, at A24. |
| Source 4 | *Hall v. Hebert*, [1993] S.C.R. 159 (Can.). |
| Source 5 | Richard Dawkins, *The God Delusion* (2006). |
| Source 6 | Michael Frank, *Drone Privacy: Is Anyone in Charge?*, Consumer Rep. (Feb. 10, 2016), https://www.consumerreports.org/electronics/drone-privacy-is-anyone-in-charge/. |
| Source 7 | *Ramirez v. Sturdevant*, 26 Cal. Rptr. 2d 554 (Cal. Ct. App. 1994). |
| Source 8 | Letter from Neil L. Bradley, Senior Vice President & Chief Policy Officer, Chamber of Commerce of the U.S., to Michael Crapo, Chairman, Sherrod Brown, Ranking Member, Committee on Banking, Housing and Urban Affairs (Nov. 29, 2017). |
| Source 9 | 26 U.S.C. § 104 (2012). |
| Source 10 | Davis Doherty, *Downloading Infringement: Patent Law as a Roadblock to the 3D Printing Revolution*, 26 Harv. J.L. & Tech. 353 (2012). |
| Source 11 | Mary Louise Fellows, *In Search of Donative Intent*, 73 Iowa L. Rev. 611 (1988). |
| Source 12 | Exec. Order No. 13148, 65 Fed. Reg. 24,595 (Apr. 26, 2000). |
| Source 13 | *Thomas v. Schroer*, 127 F. Supp. 3d 864 (W.D. Tenn. 2015). |
| Source 14 | Gaining Responsibility on Water Act of 2017, H.R. 23, 115th Cong. (2017). |
| Source 15 | Promoting Women in Entrepreneurship Act, H.R. 255, 115th Cong. (2017). |
| Source 16 | Treaty of Friendship, Commerce and Navigation, U.S.-Italy, Feb. 2, 1948, 12 U.S.T. 131. |
| Source 17 | U.S. Patent No. 4,753,647 (filed Feb. 20, 1987). |
| Source 18 | *White v. Nichols*, No. 02-01712-CV-P-Ne, 2006 WL 1594213 (N.D. Ala. June 12, 2006). |
| Source 19 | Restatement (Third) of Torts § 3 (Am. Law Inst. 2005). |
| Source 20 | S. Rep. No. 107-104 (2001). |
| Source 21 | Edward V. Murphy, Cong. Research Serv., R43087, Who Regulates Whom and How? An Overview of U.S. Financial Regulatory Policy for Banking and Securities Markets (2015). |
| Source 22 | Brett M. Kavanaugh, *Fixing Statutory Interpretation*, 129 Harv. L. Rev. 2118 (2016) (reviewing Robert A. Katzmann, Judging Statutes). |
| Source 23 | *United States v. Rodriguez*, No. 2:04-cr-55, 2006 WL 487117 (D.N.D. Feb. 28, 2006). |
| Source 24 | 8 C.F.R. § 217 (2017). |
| Source 25 | Ky. Rev. Stat. Ann. § 532 (West 2016). |

**Part II – Markup Edit & Multiple Choice Questions**

**Part A – Markup Edit**

As part of your summer internship, you have been asked to edit a portion of your colleague’s brief (a court document). You are the last person who will cite-check the document before it gets filed. Your supervisor expects the document to be perfectly “Bluebooked,” but also asks you turn on “Track Changes” so that she can see the full extent of your edits. Do not fix any grammar or substantive errors—focus only on Bluebook compliance.

**ACTIVATE “TRACK CHANGES” FOR WORK ON THIS SECTION ONLY**

Despite the apparent constitutionality of Zero Tolerance (“ZT”) policies, *see* Tracey Golden, *Three, Two, One, Zero Tolerance a Go*, The Volokh Conspiracy (Apr. 6, 2008, 10:32 PM), http://www.volokh.com/posts/12716903.html, criticism of the basic elements of these policies has abounded in the academic literature and in national and local media. The media tends to focus on the most bizarre outcomes of ZT policies to illustrate their unreasonableness, *e.g.*, Ellen S. Smith, *6-Year-Old Boy Expelled For Finger Gun*, Educ. News (Nov. 19, 2014), http://www.educationnews.com/2014/11/6-year-old-boy-suspended-for-finger-gun/, while academic attacks explore how ZT policies fail to increase school safety, communicate negative perceptions of American youth, and have detrimental long-term outcomes on students. *E.g.*, Gerald Levine & Susan T. Unders, *Zero Tolerance Doesn’t Add Up to Zero: Negative Effects on American Youth*, 2 Fed. Fam. L.J. 34, 33-35 (2011).

ZT policies, in their earliest forms, targeted student activities that were believed to pose the greatest danger to school safety. *See* *Ratner v. Ga. Elementary Sch.*, 16 F. App’x. 140, 143 (C.J. Taft, concurring) (providing a history of ZT policies). However, the absolute promotion of “zero tolerance” over reasoned judgment results in “overbroad” grouping: students whose offenses pose no actual threat to school safety are classed with those students whose offenses present a genuine threat. For example, the Fourth Circuit upheld a District Court’s dismissal of a thirteen-year-old student’s suit “challenging the validity of his suspension for possessing a knife at school.” *Mouse v. Charlotte Cty. Pub. Sch.*,18 F.3d 189, 199-200 (4th Cir. 2001) (en banc) (per curium) (citations omitted). The student came into possession of the knife when a classmate confided in him that she was having suicidal thoughts and had brought the weapon to school in her binder. *Id.* at 192-93. The plaintiff convinced his classmate to give him her binder, which he immediately placed in his locker. *Id.* at 191. Despite suspending the plaintiff, the school administrator stated that she believed “that at no time did [the plaintiff] pose a threat to harm anyone with the knife.” *Mouse*, 18 F.3d at 191.

Such messages hamper the ability of children to form meaningful and trusting relationships with school personnel. *See* Professor Shikman (@smartprofessor), Twitter (Sep. 3, 2016, 6:10 PM), https://twitter.com/smartprofessor/status/505704145035468800; *Campaign for Healthy Child Dev. v. State of Minnesota*, 12 N.W. 2d 845, 845 (Minn. 1999). Imposition of consequences disproportionate to the sanctioned behavior de-legitimizes not only school disciplinary policies but also the authority of those imposing such punishments. *Cf.* Tom R. Tyler, *Why People Obey the Law* 3-4 (1990) (Describing the normative perspective and explaining that individuals may voluntarily comply with the law when official power is legitimate and when people agree with the morality of rules).

Equally troublesome is the fact that enforcement of ZT policies is often accompanied by criminal sanctions or referral to the local juvenile justice system. For instance, some districts have expressly implemented policies requiring a school to report particular classes of behavior to school police officers or other officials. *See, e.g.*, S.C. Code Ann. § 59-24-60 (2004); R.I. Gen. Laws § 2-45-61(c) (2000). Critics have noted that the nexus between ZT policies and referrals to the criminal system has disrupted the balance between the school system and juvenile courts, Am. Psychol. Ass’n., *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*, 63 Am. Psychol. 852, 852 (2008), such that family courts now encounter a range of “infractions” that have taken place at school and traditionally would have been handled within the school. *See, e.g.*, *Molnar v. L.O.L.*, 22 A. 2d. 31, 40 (D.C. 1997) (hearing case on juvenile who knocked over desk); *State v. S.E.S.*, 12 A.3d 707, 710–12 (Del. Fam. Ct. 2003) (“I am *literally* going out of my mind dealing with this case about a stolen pencil”)(emphasis in original), *amended by* 12 A.3d 1012 (Del. Super. Ct. 2004) (striking the lower court’s improper use of “literally”).

**Part B – Multiple Choice Questions**

This portion of the Competition contains twenty (20) multiple-choice questions. Enter your answers on the spreadsheet below. In grading the competition, only the answers below can receive credit. (Answers or explanations provided after each question will not be considered when awarding credit.)

|  |  |
| --- | --- |
| **Question** | **Answer** |
| 1 | E |
| 2 | D |
| 3 | D |
| 4 | B |
| 5 | C |
| 6 | C |
| 7 | E |
| 8 | C |
| 9 | E |
| 10 | E |
| 11 | E |
| 12 | B |
| 13 | E |
| 14 | B |
| 15 | F |
| 16 | F |
| 17 | C |
| 18 | E |
| 19 | A |
| 20 | A |

1. Which of the following citation sentences is most compliant with the Bluebook? Assume the citation appears in a court document.
   1. *United States v. Dubray*, 727 F.2d 771, 772 (8th Cir. 1984) (affirming conviction despite petitioner’s allegations of “[I]neffective assistance of counsel based on counsel’s alleged failure to interview and call witnesses . . . and to object to evidence of other crimes.”).
   2. *United States v. Dubray*, 727 F.2d 771, 772 (8th Cir. 1984) (affirming conviction despite petitioner’s allegations of “ineffective assistance of counsel based on counsel’s alleged failure to interview and call witnesses . . . and to object to evidence of other crimes.”).
   3. *U.S. v. Dubray*, 727 F.2d 771, 772 (8th Cir. 1984) (affirming conviction despite petitioner’s allegations of “ineffective assistance of counsel based on counsel’s alleged failure to interview and call witnesses . . . and to object to evidence of other crimes”).
   4. *United States v. Dubray*, 727 F.2d 771, 772 (8th Cir. 1984) (affirming conviction despite petitioner’s allegations of “ineffective assistance of counsel based on counsel’s alleged failure to interview and call witnesses . . . and to object to evidence of other crimes”).
   5. *United States v. Dubray*, 727 F.2d 771, 772 (8th Cir. 1984) (affirming conviction despite petitioner’s allegations of “ineffective assistance of counsel based on counsel’s alleged failure to interview and call witnesses . . . and to object to evidence of other crimes”).
2. Lauren is using five sources (all cases) in a string cite in her Appellate Brief (a court document). Three of these sources support her proposition. One of these sources offers some support for her proposition. One of these sources contradicts her proposition. Which of the following would be the most accurate citation?
   1. *See Peckham v. Wis. Dep’t of Corr.*, 141 F.3d 694, 696 (7th Cir. 1998); *Kyllo v. United States*, 533 U.S. 27, 30 (2001); *Malmin v. State*, 30 Ariz. 258, 261 (Ariz. 1926). *Cf. State v. Henderson*, 629 N.W.2d 613, 617 (Wis. 2001). *But see Parilla v. Eslinger*, No. 6:05-CV-850-ORL, 2005 WL 3288760, at \*2 (M.D. Fla. Dec. 5, 2005).
   2. *See Kyllo v. United States*, 121 S. Ct. 2038, 2042 (2001); *Peckham v. Wis. Dep’t of Corr.*, 141 F.3d 694, 696 (7th Cir. 1998); *Malmin v. State*, 30 Ariz. 258, 261 (Ariz. 1926). *Cf. State v. Henderson*, 629 N.W.2d 613 617 (Wis. 2001). *But see Parilla v. Eslinger*, No. 6:05-CV-850-ORL, 2005 WL 3288760, at \*2 (M.D. Fla. Dec. 5, 2005).
   3. *See Kyllo v. United States*, 533 U.S. 27, 30 (2001); *Peckham v. Wis. Dep’t of Corr.*, 141 F.3d 694, 696 (7th Cir. 1998); *Malmin v. State of Ariz.*, 30 Ariz. 258, 261 (Ariz. 1926); *cf. State of Wis. v. Henderson*, 629 N.W.2d 613 617 (Wis. 2001); *but see Parilla v. Eslinger*, No. 6:05-CV-850-ORL, 2005 WL 3288760, at \*2 (M.D. Fla. Dec. 5, 2005).
   4. *See Kyllo v. United States*, 533 U.S. 27, 30 (2001); *Peckham v. Wis. Dep’t of Corr.*, 141 F.3d 694, 696 (7th Cir. 1998); *Malmin v. State*, 30 Ariz. 258, 261 (Ariz. 1926); *cf. State v. Henderson*, 629 N.W. 2d 613, 617 (Wis. 2001). *But see Parilla v. Eslinger*, No. 6:05-CV-850-ORL, 2005 WL 3288760, at \*2 (M.D. Fla. Dec. 5, 2005).
   5. *See* Kyllo v. United States, 533 U.S. 27, 30 (2001); Peckham v. Wis. Dep’t of Corr., 141 F.3d 694, 696 (7th Cir. 1998); Malmin v. State, 30 Ariz. 258, 261 (Ariz. 1926); *cf.* State v. Henderson, 629 N.W. 2d 613, 617 (Wis. 2001). *But see* Parilla v. Eslinger, No. 6:05-CV-850-ORL, 2005 WL 3288760, at \*2 (M.D. Fla. Dec. 5, 2005).
3. Lauren is now a 2L and is writing her Note. She wants to use the same five sources in a footnote in her Note (an academic work). Which of the following would be the most accurate citation?
   1. *See Peckham v. Wis. Dep’t of Corr.*, 141 F.3d 694, 696 (7th Cir. 1998); *Kyllo v. United States*, 533 U.S. 27, 30 (2001); *Malmin v. State*, 30 Ariz. 258, 261 (Ariz. 1926). *Cf. State v. Henderson*, 629 N.W.2d 613, 617 (Wis. 2001). *But see Parilla v. Eslinger*, No. 6:05-CV-850-ORL, 2005 WL 3288760, at \*2 (M.D. Fla. Dec. 5, 2005).
   2. *See Kyllo v. United States*, 121 S. Ct. 2038, 2042 (2001); *Peckham v. Wis. Dep’t of Corr.*, 141 F.3d 694, 696 (7th Cir. 1998); *Malmin v. State*, 30 Ariz. 258, 261 (Ariz. 1926). *Cf. State v. Henderson*, 629 N.W.2d 613 617 (Wis. 2001). *But see Parilla v. Eslinger*, No. 6:05-CV-850-ORL, 2005 WL 3288760, at \*2 (M.D. Fla. Dec. 5, 2005).
   3. *See Kyllo v. United States*, 533 U.S. 27, 30 (2001); *Peckham v. Wis. Dep’t of Corr.*, 141 F.3d 694, 696 (7th Cir. 1998); *Malmin v. State of Ariz.*, 30 Ariz. 258, 261 (Ariz. 1926); *cf. State of Wis. v. Henderson*, 629 N.W.2d 613 617 (Wis. 2001); *but see Parilla v. Eslinger*, No. 6:05-CV-850-ORL, 2005 WL 3288760, at \*2 (M.D. Fla. Dec. 5, 2005).
   4. *See Kyllo v. United States*, 533 U.S. 27, 30 (2001); *Peckham v. Wis. Dep’t of Corr.*, 141 F.3d 694, 696 (7th Cir. 1998); *Malmin v. State*, 30 Ariz. 258, 261 (Ariz. 1926); *cf. State v. Henderson*, 629 N.W. 2d 613, 617 (Wis. 2001). *But see Parilla v. Eslinger*, No. 6:05-CV-850-ORL, 2005 WL 3288760, at \*2 (M.D. Fla. Dec. 5, 2005).
   5. *See* Kyllo v. United States, 533 U.S. 27, 30 (2001); Peckham v. Wis. Dep’t of Corr., 141 F.3d 694, 696 (7th Cir. 1998); Malmin v. State, 30 Ariz. 258, 261 (Ariz. 1926); *cf.* State v. Henderson, 629 N.W. 2d 613, 617 (Wis. 2001). *But see* Parilla v. Eslinger, No. 6:05-CV-850-ORL, 2005 WL 3288760, at \*2 (M.D. Fla. Dec. 5, 2005).
4. Which of the following string cites is in compliance with the Bluebook? Assume the citations appear in a court document.
   1. *See* House of Good Samaritan, 320 N.L.R.B. 421 (1995); *Baylor Univ. Med. Ctr. v. NLRB*, 662 F.2d 56 (D.C. Cir. 1981); *Brockton Hosp. v. NLRB*, 294 F.3d 100 (D.C. Cir. 2002); *State v. Guzman*, 968 P.2d 194 (Haw. Ct. App. 1998); *Murphy v. Kenneth Cole Prods., Inc*., 40 Cal. 4th 1094 (Cal. 2007); 29 U.S.C. § 158 (2012).
   2. *See* 29 U.S.C. § 158 (2012); *Brockton Hosp. v. NLRB*, 294 F.3d 100 (D.C. Cir. 2002); *Baylor Univ. Med. Ctr. v. NLRB*, 662 F.2d 56 (D.C. Cir. 1981); House of Good Samaritan, 320 N.L.R.B. 421 (1995); *Murphy v. Kenneth Cole Prods., Inc*., 40 Cal. 4th 1094 (Cal. 2007); *State v. Guzman*, 968 P.2d 194 (Haw. Ct. App. 1998).
   3. *See* 29 U.S.C. § 158 (2012); *Brockton Hosp. v. N.L.R.B*., 294 F.3d 100 (D.C. Cir. 2002); *Baylor Univ. Med. Ctr. v. N.L.R.B*., 662 F.2d 56 (D.C. Cir. 1981); *State v. Guzman*, 968 P.2d 194 (Haw. Ct. App. 1998); *Murphy v. Kenneth Cole Prods., Inc*., 40 Cal. 4th 1094 (Cal. 2007); House of Good Samaritan, 320 N.L.R.B. 421 (1995).
   4. *See* 29 U.S.C. § 158 (2012); *Murphy v. Kenneth Cole Prods., Inc*., 40 Cal. 4th 1094 (Cal. 2007); *Brockton Hosp. v. N.L.R.B*., 294 F.3d 100 (D.C. Cir. 2002); *State v. Guzman*, 968 P.2d 194 (Haw. Ct. App. 1998); *Baylor Univ. Med. Ctr. v. N.L.R.B*., 662 F.2d 56 (D.C. Cir. 1981); House of Good Samaritan, 320 N.L.R.B. 421 (1995).
   5. *See* 29 U.S.C. § 158 (2012); *Murphy v. Kenneth Cole Prods., Inc*., 40 Cal. 4th 1094 (Cal. 2007); *Brockton Hosp. v. NLRB*, 294 F.3d 100 (D.C. Cir. 2002); House of Good Samaritan, 320 N.L.R.B. 421 (1995); *State v. Guzman*, 968 P.2d 194 (Haw. Ct. App. 1998); *Baylor Univ. Med. Ctr. v. NLRB*, 662 F.2d 56 (D.C. Cir. 1981).
5. Defendant filed a Motion for an Amended Complaint. In response, Plaintiffs filed a Motion to Dismiss. After amending the complaint, Defendant filed a Motion for Summary Judgment. Now, Defendant wants to file a Motion to Supplement the Record. How should an attorney cite these court documents to be in accordance with the Bluebook? The documents will be listed in the order in which they appear in this problem.
   1. Def.’s Mot. Am. Comp; Pls.’ Mot. Dismiss; Def.’s Mot. Summ. J.; Def.’s Mot. Suppl. R.
   2. Def.’s Mot. Am. Compl.; Pl.’s Mot. Dismiss; Def.’s Mot. Summ. J.; Def.’s Mot. Suppl. R.
   3. Def.’s Mot. Am. Compl.; Pls.’ Mot. Dismiss; Def.’s Mot. Summ. J.; Def.’s Mot. Suppl. R.
   4. Def.’s Mot. Am. Compl.; Pls.’ Mot. Dismiss; Def.’s Mot. Summ. Judg.; Def.’s Mot. Suppl. R.
   5. D.’s Mot. Am. Compl.; Pls.’ Mot. Dismiss; D.’s Mot. Summ. J.; D.’s Mot. Suppl. R.
   6. D.’s Mot. Am. Compl.; Ps.’ Mot. Dismiss; D.’s Mot. Summ. J.; D.’s Mot. Suppl. R.
6. Kim needs to cite a newspaper in her Motion to Dismiss. Which of the following citations is correct?
   1. Patricia Highhorse, *Fans Wait Patiently As Teams Rebuild for the Next Year*, Philadelphia Inquirer, October 12, 2014, at D3.
   2. Patricia Highhorse, *Fans Wait Patiently As Teams Rebuild for the Next Year*, Phila. Inquirer, Oct. 12, 2014 at D3.
   3. Patricia Highhorse, *Fans Wait Patiently As Teams Rebuild for the Next Year*, Phila. Inquirer, Oct. 12, 2014, at D3.
   4. Patricia Highhorse, *Fans Wait Patiently As Teams Rebuild for the Next Year*, Philadelphia Inquirer, Oct. 12, 2014, at D3.
   5. Patricia Highhorse, *Fans Wait Patiently As Teams Rebuild for the Next Year*, Philadelphia Inq., Oct. 12, 2014, at D3.
   6. Patricia Highhorse, *Fans Wait Patiently As Teams Rebuild for the Next Year*, Phila. Inq., Oct. 12, 2014, at D3.
7. You are trying to cite a treatise in a draft of an article, which you are co-authoring with a professor. The professor will seek publication in a Law Review. Which is the best citation?
   1. 1 Richard J. Pierce, Jr., *Administrative Law Treatise* 401–700 (5th ed. 2010).
   2. 1 Richard J. Pierce, Jr., *Administrative Law Treatise*, 401–700 (5th ed. 2010).
   3. 1 Richard J. Pierce, Jr., Administrative Law Treatise 401–700 (5th ed. 2010).
   4. 1 Richard J. Pierce, Jr., Administrative Law Treatise 401–700, (5th ed. 2010).
   5. 1 Richard J. Pierce, Jr., Administrative Law Treatise 401–700 (5th ed. 2010).
   6. 1 Richard J. Pierce, Jr., Administrative Law Treatise 401–700 (5th ed. 2010).

Questions 8, 9, and 10 reference the text below. Assume that this material appears in a court document.

To satisfy the second element of a prima facie case of employment discrimination, Plaintiff must demonstrate that he was qualified for his position. *See*, *Flemming v. N.Y.*,248 F. Supp. 2d 88, at 91-2 (N.D.N.Y. Jul. 2003). **[Citation 1.]** While the language of this element has alternately been set out as “qualified for the position” and “satisfactory job performance,” the substantive requirement for satisfying either variant is identical: Plaintiff need only show that he had the qualifications necessary for his job. *See id.* at 91-2 (Jul. 2003) (“a mere distinction in phrases between ‘qualified for the position’ and ‘performing satisfactorily’ is not significant”). **[Citation 2.]**

1. Which of the following elements of Citation 1 is/are correct?
   1. The use of “see” as a signal
   2. The abbreviation of New York to “N.Y.” in the case name
   3. The volume, first page, and reporter information
   4. The inclusion of a “Jul.” in the date information
   5. B and C are correct
   6. B, C, and D are correct
2. Which of the following elements of Citation 1 is/are incorrect?
   1. The pincite to “91-2”
   2. The non-italicized comma following the case name
   3. The abbreviation of New York to “N.Y.” in the case name
   4. The jurisdiction information (N.D.N.Y.).
   5. A and C are incorrect
   6. A, C, and D are incorrect
3. Which of the following changes should be made to Citation 2?
   1. The pincite should be removed
   2. An unitalicized comma should follow “see”
   3. The quotation in the parenthetical should be edited to capitalize the first letter of the quote

(“[A] mere distinction in phrases between ‘qualified for the position’ and ‘performing satisfactorily’ is not significant”).

* 1. The quotation in the parenthetical should include a period at its conclusion

(“a mere distinction in phrases between ‘qualified for the position’ and ‘performing satisfactorily’ is not significant.”).

* 1. A and D
  2. A, C, and D should be implemented

Question 11 references the text below. Assume the text appears in a court document.

A police officer can use force to effectuate an investigatory stop without transforming the stop into an arrest as long as the amount of force used was reasonable under the totality of the circumstances. See e.g., People v. Archuleta, 980 P.2d 509, 513 (Colo. 1999).

1. What changes would you make to correct the citation above?
2. Add an underlined comma following “see.”
3. Underline the comma following “e.g.”
4. Remove the underline from the comma following Archueta
5. A and B
6. A and C
7. A, B, and C
8. Following correctly full-citing Professor Turley’s piece referenced above, you now wish to short-cite the same article two footnotes later. That piece was originally referenced in footnote 80. You are now referencing pages 310 and 311. Which is the best citation for footnote 82?
   1. Turley, supra note 80, at 310-311.
   2. Turley, *supra* note 80, at 310-11.
   3. Turley, supra note 80, at 310-311.
   4. Turley, *supra* note 80, at 310-311.
   5. Turley, *supra* note 80, at 310-11.
9. You are referencing page 21 of Professor Eskridge’s article in the Harvard Journal of Law and Public Policy, which also starts on page 21. You have not yet cited this source. Which of the following is the best citation if you are citing it in a Law Review article?
   1. William N. Eskridge, Jr., *Relationships Between Formalism and Functionalism in Separation of Powers Cases*, 22 Harv. J. L. & Pub. Pol’y 21, 21 (1998).
   2. William N. Eskridge, Jr., *Relationships Between Formalism and Functionalism in Separation of Powers Cases*, 22 Harv. J. of L. & Pub. Pol’y 21, 21 (1998).
   3. William N. Eskridge, Jr., *Relationships Between Formalism and Functionalism in Separation of Powers Cases*, 22 Harvard J.L. & Pub. Pol’y 21, 21 (1998).
   4. William N. Eskridge, Jr., *Relationships Between Formalism and Functionalism in Separation of Powers Cases*, 22 Harv. J.L. & Pub. Pol’y 21 (1998).
   5. William N. Eskridge, Jr., *Relationships Between Formalism and Functionalism in Separation of Powers Cases*, 22 Harv. J.L. & Pub. Pol’y 21, 21 (1998).

Questions 14, 15, and 16 reference the text below. Assume that this material appears in a court document.

In support of this argument, Defendants cite *King v. Maple*, 11-CV-937 (RMB), 1996 WL 1318750, at 3 (S.D.N.Y. Apr. 16, 1996). **[Citation 1.]** But the Defendants fail to consider this Court’s more recent decision on employment discrimination. McCray Administrator v. N.Y.C. Police Dept., CV-99-9035 (CBA), 2008 WL 209845, at 2 (S.D.N.Y. Jan. 18, 2008) (holding that a police officer who tested positive for cocaine after having been reported for domestic violence could not demonstrate satisfactory job performance and was therefore unable to establish a prima facie case.) **[Citation 2.]** Moreover, as the Second Circuit has stated, “the [Act] may not be read in such a way as to shift into the plaintiff’s prima facie case an obligation to anticipate and disprove the employer’s proffer of a legitimate, non-retaliatory basis for its decision. It is *unusual* for a plaintiff to fail to meet this standard.” *Donnelly v. Raleigh Central School District Number 7*, 671 F.2d 134, 147 (2d. Cir. 2012) (citation omitted). **[Citation 3.]**

1. What changes should be made to Citation 1?
   1. The month and day of the decision should be removed and only the year should remain
   2. The pincite to page 3 should reference \*3
   3. The pincite to page 3 should not be preceded by the word “at”
   4. The comma following *Maple* should be italicized
   5. A, B, and C
   6. A and C
2. What changes should be made to Citation 2?
   1. The period within the explanatory parenthetical should be removed
   2. The pincite to page 2 should not be preceded by the word “at”
   3. “Administrator” should be changed to “Admin.”
   4. The case name should be italicized rather than underlined
   5. A, B, and D
   6. A and D
3. What changes should be made to Citation 3?
   1. “Central” should be abbreviated to “Ctr.”
   2. “School” should be abbreviated to “Sch.”
   3. “District” should be abbreviated to “Dist.”
   4. “Number” should be abbreviated to “No.”
   5. B and D
   6. B, C, and D
4. You are trying to cite a Law Review article in your Note, which you hope to publish in *The* *George Washington Law Review* next year. Which is the best citation?
   1. Jonathan Turley, *Madisonian Tectonics: How Form Follows Function in Constitutional and Architectural Interpretation*, 83 Geo. Wash. L. Rev. 305, 308 (2015).
   2. Jonathan Turley, Madisonian Tectonics: How Form Follows Function in Constitutional and Architectural Interpretation, 83 Geo. Wash. L. Rev. 305, 308 (2015).
   3. Jonathan Turley, *Madisonian Tectonics: How Form Follows Function in Constitutional and Architectural Interpretation*, 83 Geo. Wash. L. Rev. 305, 308 (2015).
   4. Jonathan Turley, *Madisonian Tectonics: How Form Follows Function in Constitutional and Architectural Interpretation*, 83 G.W. L. Rev. 305, 308 (2015).
   5. Jonathan Turley, Madisonian Tectonics: How Form Follows Function in Constitutional and Architectural Interpretation, 83 G.W. L. Rev. 305, 308 (2015).
5. Imagine that you are assigned to edit an article that your journal is publishing. Assume the citation sentence below appears in a footnote of a Law Review article. Assuming each source is equally helpful, which citation is the most correct?
6. Thomas Long, *The Importance of the First Amendment*, 64 Emory L.J. (forthcoming 2016); Steven Baicker-McKee, *Reconceptualizing Managerial Judges*, 65 Am. U. L. Rev. 353 (2015); Adam Park, Note, *A Divided Court: How Justice Scalia’s Death Nullifies the Spring 2016 Term*, 115 Geo. L.J. 206 (2016); E-mail from Makau Mutua, Chairman, Kenya Human Rights Comm’n, to author (Dec. 28, 2006, 16:18 EST) (on file with author).
7. Thomas Long, *The Importance of the First Amendment*, 64 Emory L.J. (forthcoming 2016); Adam Park, Note, *A Divided Court: How Justice Scalia’s Death Nullifies the Spring 2016 Term*, 115 Geo. L.J. 206 (2016); E-mail from Makau Mutua, Chairman, Kenya Human Rights Comm’n, to author (Dec. 28, 2006, 16:18 EST) (on file with author); Steven Baicker-McKee, *Reconceptualizing Managerial Judges*, 65 Am. U. L. Rev. 353 (2015).
8. Thomas Long, *The Importance of the First Amendment*, 64 Emory L.J. (forthcoming 2016); Adam Park, Note, *A Divided Court: How Justice Scalia’s Death Nullifies the Spring 2016 Term*, 115 Geo. L.J. 206 (2016); Steven Baicker-McKee, *Reconceptualizing Managerial Judges*, 65 Am. U. L. Rev. 353 (2015); E-mail from Makau Mutua, Chairman, Kenya Human Rights Comm’n, to author (Dec. 28, 2006, 16:18 EST) (on file with author).
9. Steven Baicker-McKee, *Reconceptualizing Managerial Judges*, 65 Am. U. L. Rev. 353 (2015); Thomas Long, *The Importance of the First Amendment*, 64 Emory L.J. (forthcoming 2016); E-mail from Makau Mutua, Chairman, Kenya Human Rights Comm’n, to author (Dec. 28, 2006, 16:18 EST) (on file with author); Adam Park, Note, *A Divided Court: How Justice Scalia’s Death Nullifies the Spring 2016 Term*, 115 Geo. L.J. 206 (2016).
10. Steven Baicker-McKee, *Reconceptualizing Managerial Judges*, 65 Am. U. L. Rev. 353 (2015); Thomas Long, *The Importance of the First Amendment*, 64 Emory L.J. (forthcoming 2016); Adam Park, Note, *A Divided Court: How Justice Scalia’s Death Nullifies the Spring 2016 Term*, 115 Geo. L.J. 206 (2016); E-mail from Makau Mutua, Chairman, Kenya Human Rights Comm’n, to author (Dec. 28, 2006, 16:18 EST) (on file with author).
11. Alice needs to cite a magazine in her Motion Memo (a court document). Which of the following citations is correct?
    1. Jillian Lepore, *Rock, Paper, Scissors: How We Used to Vote*, New Yorker, Oct. 8, 2013, at 7.
    2. Jillian Lepore, *Rock, Paper, Scissors: How We Used to Vote*, The New Yorker, October 8, 2013, at 7.
    3. Jillian Lepore, *Rock, Paper, Scissors: How We Used to Vote*, New Yorker, October 8, 2013, at 7.
    4. Jillian Lepore, *Rock, Paper, Scissors: How We Used to Vote*, The New Yorker, Oct. 8, 2013 at 7.
    5. Jillian Lepore, *Rock, Paper, Scissors:* How We Used to Vote, New Yorker, Oct. 8, 2013, at 7.
12. The following appears in Michelle’s appellate brief (a court document), which you have been asked to review and edit. The statute cited is available in the most recent edition of the United States Code.

The right to second counsel in capital cases was first established in 1948 when Congress passed 18 U.S.C. § 3005 (1948). See, United States v. Waggoner, 339 F.3d 915, 917 (9th Cir. 2003).

What edits do you need to make?

1. Remove the comma following “See”
2. Remove the space after §, changing the statute section cite to “§3005”
3. Leave the comma following “See” but do not underline it
4. A and B
5. B and C
6. None of the above

**Part III – Case Analysis**

Facts

In 2003, a boy was shot and killed in Boston. A witness saw a young man flee the scene with a pistol. A baseball hat fell off the young man’s head. The hat was recovered, and its distinctive markings linked it to Kentel Weaver. DNA obtained from the hat matched Weaver’s. After being questioned by police and later his mother, Petitioner Weaver confessed to the murder and was indicted for first-degree murder and the unlicensed possession of a hand gun. Petitioner pleaded not guilty and proceeded to trial. The pool of potential jurors was larger than the capacity of the courtroom. All potential jurors were brought into the courtroom so that the judge could introduce the case and asks preliminary questions of the entire panel. As all seats were occupied by the potential jurors, an officer of the court excluded any member of the public who was not a potential juror, including Petitioner’s mother and her minister. Defense counsel was told of the closure but believed courtroom closure for jury selection was constitutional and did not discuss the matter with Petitioner or object. Petitioner was convicted on both counts and sentenced to life in prison on the murder charge and about a year in prison on the gun-possession charge.

Procedural History

Five years after his conviction, Petitioner filed a motion for a new trial in Massachusetts state court arguing his attorney provided ineffective assistance by failing to object to the courtroom closure. The court recognized the violation of the right to a public trial but denied the motion because Petitioner had not offered any evidence or legal argument establishing prejudice. Petitioner appealed to the Massachusetts Supreme Judicial Court, which recognized that a violation to the right of a public trial constituted a structural error, but affirmed the lower court stating that Petitioner had failed to show that trial counsel’s conduct caused prejudice warranting a new trial. The Supreme Court granted certiorari.

Issue

Whether, when defendant’s attorney failed to object to a structural error, defendant is entitled to a new trial without further inquiry, or only when defendant can show prejudice.

Decision and Reasoning

The Petitioner is not entitled to a new trial because he has not shown reasonable probability of a different outcome but for counsel’s failure to object, and he has not shown that counsel’s shortcomings led to a fundamentally unfair trial. Violation of the right to a public trial is a structural error. Structural errors affect the framework within which the trail proceeds, rather than the process itself, which makes analysis of the error’s harm difficult. The right to public trial is a right to the public and press as well as defendant, and there are times closure is justified. Thus, the court concludes in some cases an unlawful closure might take place, and yet the trial will still be fair from the defendant’s standpoint. The Court follows the *Strickland* standard: to show prejudice requires a reasonable probability that but for counsel’s unprofessional errors, result of the proceeding would have been different. Relief still must be granted if the defendant shows the error rendered the trial fundamentally unfair. The court holds Petitioner has not shown reasonable probability of a different result, or that the trial was fundamentally unfair. Although petitioner’s mother and her minister were excluded during jury selection, the trial was not conducted in a secret or remote place. Additionally, there has been no showing of any harms taking place as a result of this error.

Concurring & Dissenting Opinions

Justice Thomas Concurrence, with Justice Gorsuch

Justice Thomas has doubts whether Sixth Amendment right to a public trial extends to jury selection. Additionally, Justice Thomas believes *Strickland* did not hold, as the Court assumes, that a defendant may establish prejudice by showing counsel’s errors rendered the trial fundamentally unfair, but rather the standard should be reasonable probability that result would be different, or showing counsel labored under conflict of interest.

Justice Alito Concurrence, with Justice Gorsuch

To obtain relief under *Strickland*, a defendant must show that the result of his trial was unreliable. He could do so by demonstrating a reasonable likelihood that counsel’s error affected the verdict, or that the error falls within the short list of errors for which prejudice is presumed.

Justice Breyer Dissent, with Justice Kagan

A defendant should only be required to show that his attorney produced a structural error and need to demonstrate that the error change the outcome of the proceeding. Structural errors effects are defined as “too hard to measure”. Thus, its effects are not susceptible to actual-prejudice analysis under *Strickland*, and the majority’s approach creates a burden impossible to meet.