United States v. Lopez Mini-Moot Court Activity

United States v. Lopez (1995)

An Overview of a Mini-Moot Court

A moot court is a simulation of an appeals court or Supreme Court hearing. The court is asked to rule on a lower court's decision. No witnesses are called, nor are the basic facts in a case disputed. Arguments are prepared and presented on a legal question (e.g., the constitutionality of a law or government action or the interpretation of a federal statute).

In *United States v. Lopez*, the Supreme Court used its power of judicial review established in *Marbury v. Madison*. You will act as an attorney or justice to determine whether the Gun-Free Schools Zones Act is constitutional.

Activities

1) **Review the facts of the case:** In pairs, read the facts, issues, and constitutional provisions and precedents of *United States v. Lopez* (1995).

   Useful Vocabulary:

   – **Petitioner:** The person/organization/company who lost in the lower court and now appeals the lower court decision to a higher court.

   – **Respondent:** The person/organization/company who won in the lower court and now argues that the lower court decision was correct.

   Note: *In some states, different terms may be used such as appellant and appellee.*

   With your partner, discuss the following questions:

   – What happened in this case?

   – Who are the people/organizations/companies involved?

   – How did the lower court rule on this case?

   – Who is the petitioner? Who is the respondent?

   – What is the legal question that has to be resolved in this case?

   – How will judicial review be applied in this case?

2) Identify the issue in this case:

   – Who was the actor(s)?

   – What is the specific part of the Constitution involved?

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- Who was affected by the action(s)?
- What caused the controversy?

3) **You will be assigned a role:** You will be assigned to be a petitioner, respondent or justice for the mini-moot court. You will meet with others in the class who will play the same role to prepare.

4) **Prepare for your role in groups:**

Petitioner/respondent attorney group preparation:

Each group of students should consider:

- What does each side (party) want?
- What are the arguments in favor of and against each side?
- Which arguments are the most persuasive? Why? What counter arguments should you anticipate and how will you rebut them?
- How do the legal precedents, including *Marbury v. Madison*, influence this case? (A precedent is a previously decided case recognized as the authority for future cases on that issue. Using precedents allows for the development of more sophisticated arguments.)
- What might be the consequences of each possible decision? To each side? To society?
- Are there any alternatives besides what each side is demanding?

Note: *Your team should consider all of the facts in the summary. You may not argue the accuracy of the facts. Your arguments do not need to only be rooted in legal technicalities. Any argument that is persuasive from a philosophical, theoretical, conceptual, or practical standpoint can be made. Teams should rely on principles found or implied in the United States Constitution.*

Justice/judge preparation:

You should meet with the other justices to discuss the issue involved and any case precedents. You should prepare at least five questions for each side that you need to have answered by the attorneys in order to reach a decision. The questions should not ask about the accuracy of the facts, but rather how the established facts, constitutional provisions, and precedents support each argument. Think about possible hypothetical problems to ask. How will the decision in this case affect other cases in the future?

5) **The mini-moot court:**

Move to a mini-moot triad. Each triad will have a justice, a petitioner, and a respondent.

The justice will run the mini-moot court. The justice should ask each side to present their arguments in the following order:

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Initial Presentation	Petitioner	3 minutes
Initial Presentation	Respondent	3 minutes
Rebuttal	Petitioner	2 minutes
Rebuttal	Respondent	2 minutes

Each side gets three minutes for its basic argument and two minutes for rebuttal. Your teacher will be the official timekeeper of the proceedings.

The justice may ask questions at any time in an effort to clarify the arguments. Time continues to run as the justice interrupts to ask questions.

After all arguments have been presented, the justice should consider the arguments and reach a decision. Justices should write their decisions and a brief explanation of the reason they reached that decision including specific arguments and precedents.

6) **Handing down decisions:** Return to your original seats to listen to each justice hand down their decisions and the reasons behind them.

Your teacher will share the Court's decision in *United States v. Lopez*.

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United States v. Lopez (1995)

Argued: November 8, 1994

Decided: April 26, 1995

Background

The U.S. Constitution sets up a system of government in which the federal government and the states share power. The powers of the federal government are limited and are described in the Constitution. Other powers, not delegated to the federal government, are reserved for the states. Article 1, Section 8, of the Constitution lists many of Congress' powers, including the power to create post offices, raise an army, coin money, and declare war. One of Congress' broadest powers is the power to regulate commerce among the states, and many of the laws Congress passes depend on this power. In this case, however, it is argued that Congress passed a law that exceeded this constitutional power.

Facts

In 1990, Congress passed the Gun-Free School Zones Act (GFSZA). In an effort to reduce gun violence in and around schools, the GFSZA prohibited people from knowingly carrying a gun in a school zone. A school zone was defined as any area within 1,000 feet of a school. A 12th-grade student, Alfonso Lopez Jr., was convicted of possessing a gun at a Texas school. Lopez appealed his conviction, arguing that Congress never had the authority to pass the GFSZA in the first place. The U.S. Court of Appeals for the Fifth Circuit agreed with Lopez and reversed his conviction. The U.S. government asked the Supreme Court to hear the case, and the Court agreed to do so.

Issue

Did Congress have the power to pass the Gun-Free School Zones Act?

Constitutional Clauses and Supreme Court Precedents

- **Article 1, Section 8, Clause 3 (The Commerce Clause) of the U.S. Constitution**

  "The Congress shall have the power … to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes…"

- **Article 1, Section 8, Clause 18 (The Necessary and Proper Clause) of the U.S. Constitution**

  "The Congress shall have the power … to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

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- *Wickard v. Filburn* (1942)

  In an effort to increase wheat prices during the Great Depression, Congress passed a law limiting the amount of wheat that some farmers could grow. One farmer argued that Congress could not use the Commerce Clause to stop him from growing wheat for personal consumption because that wheat would not be sold and, therefore, would not be part of interstate commerce. The Supreme Court ruled that Congress could regulate a farmer's personal wheat crop because the production of wheat is a commercial activity that has interstate consequences. The Court reasoned that Congress may regulate *intrastate* activities that, if taken all together, would substantially affect interstate commerce. If many farmers decided to grow their own wheat and not buy it on the market, they would substantially affect interstate commerce.

- *Heart of Atlanta Motel v. Unites States* (1964)

  The Civil Rights Act of 1964 made racial discrimination in public places, including hotels, illegal. An Atlanta hotel that refused to serve African American customers argued that Congress did not have the power to pass the Act under the Commerce Clause. The Supreme Court ruled against the hotel, concluding that "commerce" includes travel from state to state and that racial discrimination in hotels can affect travel from state to state. Congress can, therefore, prohibit discrimination in hotels because, in the aggregate, it affects interstate commerce.

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Handout 1: Justice/Judge

Prepare at least five questions to ask each side (petitioner and respondent). The questions should not ask about the accuracy of the facts, but rather how the established facts, constitutional provisions, and precedents support each argument.

Call the case to order by saying, "We will hear arguments today in (case name)." After hearing arguments from both the petitioner and the respondent, decide whether you think the decision of the lower court should be upheld or overturned. Be prepared to share the reasoning behind your decision.

Case name:	
Constitutional question(s):	
Questions for petitioner:	
Questions for respondent:	

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Questions for respondent (cont.):
Notes on the petitioner's argument:
Notes on the respondent's argument:

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Notes on respondent's argument (cont.):

Decision:

Reasons for decision (opinion):

Consider the strengths of the arguments and how precedents should be applied. Be sure to consider the impact of your decision on other situations that may arise in the future. If there is a precedent that is directly on point (very similar to your case) and you decide NOT to follow that precedent, be prepared to explain why you are overturning an established precedent (this should only happen on rare occasions and for extremely compelling reasons).

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Handout 2: Petitioner

Outline an argument for the petitioner using the established facts, constitutional provisions, and precedents. Predict what questions the justice/judge will ask. Take notes on the respondent's argument to help prepare your rebuttal.

In preparing your arguments, you should think about the following questions:

- Why is the decision of the lower court wrong?
- What decision do you want?
- What are the legal and policy arguments in favor of and against each side? (Anticipating the opposition can strengthen your argument.)
- Which arguments are the most persuasive? Why?
- What are the precedents and how do they influence this case?
- What might be the consequences of each possible decision?

Case name:	
Petitioner:	
Constitutional question(s):	
Precedents that support your argument:	

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Argument for petitioner:
Possible questions from justice:

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Respondent argument notes:
Rebuttal points:

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Handout 3: Respondent

Outline an argument for the respondent using the established facts, constitutional provisions, and precedents. Predict what questions the justice/judge will ask. Take notes on the petitioner's argument to help prepare your rebuttal.

In preparing your arguments, you should think about the following questions:

- Why is the decision of the lower court right?
- What decision do you want?
- What are the legal and policy arguments in favor of and against each side? (Anticipating the opposition can strengthen your argument.)
- Which arguments are the most persuasive? Why?
- What are the precedents and how do they influence this case?
- What might be the consequences of each possible decision?

Case name:	
Respondent:	
Constitutional question(s):	
Precedents that support your argument:	

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Argument for respondent:
Possible questions from justice:

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Petitioner argument notes:
Rebuttal points:

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