

In this file, we have information about how to read court decisions that is definitely useful for nonprofessionals, and may help those with legal training as well. We have a separate definitions file.

This program is intended for use by attorneys, government officials, businesspersons, educators, health care workers, those with AIDS-- many different groups. This file will especially help orient those who are not legally trained but is worth the few minutes it will take to read for everyone.

1. EDITORIAL NEUTRALITY-- Do not assume that our comments are in support of any particular ideology. Comments begin with /* and end with */ and are not a part of the official opinion. Those who have attended law school might find the comments to be similar to discussions of cases in law classes. For example, we may criticize the reasoning within a particular case. Often we will state that a particular argument is unconvincing. This is done as a suggestion only for litigants and lawyers and reflects an opinion, or alerts persons to the counter-arguments related to a particular theory. But that does not imply that we have any opinion on the ruling itself. These comments are offered as guides to reading for non-lawyers, or, offered to attorneys for their consideration in preparing their arguments. REPEAT- this service is one of journalism, not advocacy. Do not assume that any comment is meant as a political one or indicative of what the staff may believe personally.

2. WHAT COURT? Let's have a quick civics course in the organization of the court system.

A. Federal courts-- The lowest level of federal court is the US District Court. US District Judges usually preside, but not always. Some cases are referred totally or partially to US Magistrate Judges. Unlike US District Judges, Magistrates are not life tenured appointees, and thus can only hear cases either if their actions are not "case dispositive" or with the parties consent. Appeals are almost always taken to Court of Appeals, which are referred to as "the First Circuit" etc. There are 13 districts, each of which has a particular geographic area to cover. District Courts SHOULD always follow opinions of the Circuit that hears their appeals. If there is a split between Circuits, allegedly the US Supreme Court should hear the matter. There are other federal courts, but do not usually hear civil cases such as most of those in this service. The US Supreme Court is the court of last resort. Under some circumstances state court decisions can be appealed to the US Supreme Court.

B. Military courts- Each services have summary and full courts martial and appeals courts.

C. State courts- The names of courts within the states are often guess work. Typically trial courts are called "County Courts," "District Courts" or "Circuit Courts." Appeals courts are usually named "Court of Appeals," "Appeals division" or "Supreme Court." There are still some states, Georgia for example, that do not have a uniform court system. Therefore, every county has different courts as set by state law. Generally, except for California and New York, all opinions that are reported are from appeals courts. The name of the Court usually gives some hint of what it is-- when this is not true, we point this out in our comments.

Be sure when reading a case to consider if it is an appeals court or trial court case.

4. GENERAL PRINCIPLES FOR REVIEW OF CASES- In reviewing a case look out for these factors.

Date of the decision- Cases brought at the beginning of public awareness of the AIDS crisis rely on what was known to medical science at that time. The exact means of infection were not agreed upon (and in some cases are still not agreed upon) and courts often grappled with they thought were life and death decisions without a great deal of certainty from medical experts. The date of a decision is also important, since many states have passed comprehensive aids laws. Decisions prior to the effective date of the law are not precedent for cases decided under the law in effect before the AIDS specific laws.

Stage of the litigation- A court may render an opinion at many different stages of a case. Be sure to look for a statement of the "standard of review" applicable to the case at that time. Usually the court will state the standard of review for each point that it considers. The standard of review is different from stage to stage.

Courts only grant temporary restraining orders rarely because there is a very high burden of proof to obtain such relief.

At trial the plaintiff has the burden of proof, usually to a preponderance of evidence (greater weight, that is 50% plus 1

feather). Therefore it is easier for the plaintiff to win a case at trial than for purposes of a pre-trial injunction.

An appeal will usually be reviewed with a presumption of correctness.

If an issue is decided before trial for the purpose of a motion, one party or the other may have the burden of proof, and the burden of proof may be much different.

If a court is reviewing the legal sufficiency of a complaint, the court has to accept that the allegations of fact are true. However, if a plaintiff moves for summary judgment, all inferences will be held against the plaintiff.

What kind of case is being decided?

Special rules apply to child custody cases, to injunction cases and to cases brought under statutory authority.

5. What about the case I heard about on TV last month? Why isn't it here?

There are regular media reports about HIV related cases. However, many of these cases never make it into law reporters. To complete this program, manual and computer searches were made of numerous law reporters.

The backbone of all case related legal research is the National Reporter System, published by West Publishing Company. This includes collections of cases from state and federal courts. In some states, like Florida, West's reports are the official reporter for the state. Other states publish their own reports. Numerous companies publish specialized reporters. All of these sources were reviewed. However, the fact is that only a very small fraction of cases ever have any part thereof collected and printed. Nevertheless, the program contains virtually all reported cases about HIV law.

Most civil cases are settled before trial. In this case, unless the court made any significant pre-trial rulings, you might not find any opinions explaining the reasons for an order reading the court file. Indeed, most court orders are very short, and are prepared by the lawyers and then submitted to the Judge. These orders are as illuminating as:

This cause came on to be considered on the Defendant's Motion to Dismiss Counts II and III of the Eighteenth Amended Complaint, and the Court having considered the matter, IT IS ORDERED that the Motion is denied.

Litigants usually keep all settlement terms private, so, the only opinion may be on a pre-trial motion. Thereafter, the parties got some idea of where the case was heading and worked it out.

Most state court Judges are so overwhelmed with work that they do not write explanatory opinions on their own for cases, sometimes for periods of years at a time. Other state court Judges write opinions on anything and everything. However, only a small fraction are ever printed.

Many orders in federal district court cases are never submitted for publication.

In fact, federal and state appeal courts often mark opinions as "DO NOT PUBLISH" and then even other litigants are barred from using the opinion. With the federal reporter now graduating from 1000 Fed.2d to 1 Fed.3d, it's no wonder that Judges do not want everything they write to be printed.

Fairly significant cases, if appealed, may result in a per curiam opinion such as the famous, "they can fit on a post card opinions" like:

AFFIRMED

REVERSED

Therefore it is very possible for cases that are mentioned in the media to be resolved without there being any record of why and for how much. Over time, we will include opinions in cases that are not regularly reported. Attorneys and Judges may send opinions or pleadings to us and we will be pleased to publish them in updates to the extent of space available.

In collecting cases for this, the baseline edition, we tried to develop a sense of which cases were the most important, the best written and the most informative.

Please feel free to suggest other cases for inclusion in future versions.