



# Harvard Model Congress

## Boston 2024

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## GUIDE TO THE SUPREME COURT

*Edited by Alexa Jordan*

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### INTRODUCTION

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Welcome to HMC Supreme Court, a simulation of the nation's highest level of judicial decision-making! At the conference, you will serve both as counsel and justice, arguing legal principles and ruling on constitutional matters.

In the federal court system, nearly all cases begin with a trial in a federal district court. Decisions of federal district courts can be appealed to federal courts of appeals and may ultimately be appealed to the highest court in the land, the United States Supreme Court. Almost always, the nine justices who comprise the Supreme Court can decide whether or not to hear a specific case. If four of nine justices agree to hear a case, the Supreme Court will grant a writ of certiorari, which begins the process whereby the Court hears a case. Of the thousands of appeals that the Court receives on an annual basis, only about 80 cases are granted writs of certiorari. Therefore the cases that do appear before the Court are often highly complex and constitutionally controversial.

As a delegate to Harvard Model Congress' Supreme Court, you will be charged with deciding and arguing four cases that have gone through the federal court system. During the conference, you will act as both lawyers and members of the Supreme Court, debating over the hotly contested constitutional issues within each of the cases.

As legal counsel, you will always work with a partner (who will usually be from your school). For each case, we will give you the decision issued by the court of appeals. These rulings will outline the facts of each case and describe the legal issues at stake. Before the conference, you should prepare extensive and **well-researched arguments for both sides of each case**: the petitioner and the respondent. As legal counsel for the petitioner, it will be your job to craft an argument in which you attempt to convince the Court to overturn the previous decision made by the lower court. As legal counsel for the respondent, you will attempt to persuade the justices to uphold the previous decision. When you are fulfilling the role of an associate justice, it is your task to devise questions and assess the merits of the oral arguments delivered by both sides.

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We realize this sounds like a lot, but don't worry. Experienced staffers will be with you every step of the way to make sure you understand your role! To start your preparation, begin by acquainting yourself with the HMC Supreme Court Guide.

## YOUR RESPONSIBILITIES

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### *Before the Conference*

1. Carefully read the provided case law, appeals court opinions, and any updates.
2. For each case, prepare a list of ten questions you would ask as an associate justice.
3. Prepare oral arguments for both sides of all four cases. You should have a completed outline for at least one side of the case. Outlines for both sides are, however, highly encouraged, for you will not know which role you will have for each case until the conference.
4. Think carefully about the constitutional questions that are raised by each case and what precedents are most applicable to each case.
5. Compile a list of the precedents listed in each case and make sure that you understand the significance of each one. Most cases hinge on questions of precedent, so this will be an especially important part of your pre-conference work. However, remember that as the highest court in the United States, you may suggest a new "test" or suggest a deviation from precedent if you think previous cases were decided incorrectly.

### *At the Conference*

At the conference all delegates will rotate among three roles

1. Petitioner: Presents a 20-minute oral argument to convince the Supreme Court to overturn the appellate court's decision, with the option of reserving up to 5 minutes of the overall 20 minutes for a rebuttal following the Respondent's argument.
2. Respondent: Presents a 20-minute oral argument to convince the Supreme Court to agree with the previous court's decision.
3. Associate Justice: Asks questions of petitioners and respondents during oral arguments and later deliberates with other associate justices and votes to determine the opinion of the Court. You may ask these questions at any time during the lawyer's oral arguments. An example of this can be found on the "Argument Audio" portion of the [Supreme Court website](#).

## YOUR ROLES

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### *As Counsel*

Your job as counsel, whether for the petitioner or the respondent, is to convince the Court that the law is on your side. If you are the petitioner, it is your job to persuade the Court that the lower court ruled incorrectly, and if you are the respondent you should

attempt to convey to the Court that the lower court ruled correctly. Doing this requires both excellent performance at the conference and, most importantly, effective preparation beforehand.

A persuasive legal argument depends on a solid and thorough understanding of the legal issues involved, the facts of the case, and of the relevant precedent cases. Beyond that, you will need to develop your own arguments, tying the facts and precedents together to illustrate why your side is right and why the other side is wrong. Your ability to perform well at the conference will be primarily a product of how well you prepared before the conference.

For the best preparation as counsel, we ask that you prepare an outline of the legal arguments you will be making as the petitioner and the respondent. This outline should essentially provide a template for your oral arguments. The outline should include the following parts: a brief statement of the case history and of its facts; the constitutional issues present in the case; and the background and application of precedent cases and statutes that support your claims. Remember, the best outlines (and thus arguments) are those that anticipate and rebut possible counterarguments. You have an advantage here, because throughout the course of the conference, you will be assigned to argue both sides of the case. You will understand after you prepare where the weak spots are on each side – capitalize on this knowledge. It is also imperative that you emphasize to the Court what ruling in your favor would mean for the future of American law. Make this outcome explicit in your oral arguments.

In order to effectively prepare your case, you can seek out advice from a lawyer or someone who has knowledge about the legal system. Even if you are only able to have someone proofread your arguments, this alone may be incredibly helpful. Additionally, feel free to contact the HMC staff for help with composing your briefs.

## In Oral Argument

At the conference, we operate four (Zoom) courts at the same time, each with its own set of justices. The procedure at these sessions is straightforward. The Chief Justice of each Court is a Harvard staff member who directs the proceedings and may also ask a few questions to the attorneys. Each side is given 20 minutes to present their arguments, but do not be surprised if a lot of this time is spent on answering questions posed by the justices. In fact, the best oral arguments are not read off a piece of paper – they are argued, in the form of responding to Justices’ questions. Generally, at HMC, the justices are not allowed to ask questions for the first or last minute of oral arguments. This allows counsel time to introduce and conclude their arguments without interruption. However, during the rest of your 20 minutes of time, any of the justices on the bench can interrupt with questions. Counsel for the petitioner will argue first and may reserve up to five of their 20 minutes for rebuttal after the respondent side presents their arguments.

Oral argument is your chance to present your key arguments without the restraint of the formal structure of a brief, to respond to arguments of your opponents, and to speak to the Court’s concerns. Remember that in the Supreme Court, the facts of the case are

not in question. You are only arguing points of law. To illustrate this difference, imagine you are appealing the case of a death row inmate. If the prisoner has been found guilty during a trial, the Supreme Court assumes that the prisoner has been determined to be guilty by a jury of his peers. The question of the prisoner's guilt is not a concern for the Court. Instead, as Supreme Court lawyers, you must argue that there was a legal error in the trial (e.g. the prisoner's rights were violated due to prosecutorial or police misconduct, or that the death penalty is unconstitutional in of itself, etc.). The justices are already familiar with the case by the time oral arguments occur. As such, do not spend time reviewing facts just for the sake of review. Everything you say should advance your case or undermine the case of the opposing counsel.

Presenting an oral argument in the Supreme Court is not like delivering an entirely prepared speech. Remember that the justices will frequently interrupt you with questions. Only the first and last minute of oral argument is "protected" from the questioning of the justices. A good lawyer will know the points that he or she wants to get across, but will be flexible in their order, adapting in order to answer the questions of the justices.

You must introduce yourself by saying, "May it please the Court, my name is \_\_\_\_\_, and my partner's name is \_\_\_\_\_. We represent the petitioner/respondent in this action."

When you represent the petitioner in a given case, you should decide in advance how much time you want to reserve for rebuttal and express this after you have introduced yourself. Then, go right into your argument and show the justices why your side is right. Remember, though, that after your first minute, the justices can interrupt you with questions.

Do not look at questions as unwanted interruptions; rather, see them as opportunities to shine. When justices ask questions, you have the chance to show them why you are right. When justices are not asking questions, you have no way of knowing what they are thinking. Have they already decided that they agree with what you are saying? Or have they already made up their minds that they disagree? You will want to provoke questions about your argument so that you can address any concerns convincingly.

When justices do ask questions, listen carefully and answer directly and immediately. Do not tell justices that you will get to their questions later in your presentation. Do not get flustered by a justice's question. If you do not understand the question, simply ask the justice to repeat it or frame it differently. Again, let your presentations be guided by the strongest constitutional and precedent based arguments that favor your side. Additionally, the highest level of decorum is maintained in Court proceedings. It is possible to be extremely assertive without being disrespectful. For instance, you may say that you respectfully disagree with a justice who has challenged your argument and then proceed to vigorously counter the justice's objection. However, you may not say something along the lines of, "I think you are wrong." It is also completely appropriate during this time to confer with your partner if you are unsure about a prodding question posed to you. In such cases, you may discuss such a question before

responding, though be careful not to expend all of your debate time planning what you will say.

You and your partner will share the floor during oral argument. Only one person may speak at a time. You must both participate, but how you split your twenty minutes is up to you. When you address the Court, you must be standing, though if you are not speaking, you do not need to remain standing. When formulating your case and arguments, be certain to adequately research the topic that you will be discussing. It is worthwhile for you to research each of the cases mentioned as precedents and understand the implications of each of these cases. Research these cases on academic websites or through other resources that are available to you. As you prepare your argument, keep in mind that you should be able to present numerous reasons as to why the law is on your side.

First, you should possess a coherent philosophy of government that the Supreme Court ought to enforce. For example, you can discuss the Constitution from the strict constructionist standpoint or the looser interpretive standpoint. We suggest using scholarly websites or library resources to study different judicial philosophies, such as originalism, common law, libertarian, and others that will be mentioned in this guide. Before the conference begins, you should be familiar with the various viewpoints held by justices as they interpret the Constitution. Make use of resources like <http://www.supremecourtus.gov> for more specific details about the Court. Before you begin your argument, you should understand why each particular case is important when pondering the larger questions of democracy.

Second, you should present a clear argument rooted in historical precedent and intertwined with the facts of the case and also with your view of how government ought to function. Look up the precedents listed in the case and determine why they are in your favor or against your case. Have this information nearby while you make your arguments, and actively cite any precedent that is in your favor. We recommend writing a brief sentence about each precedent relevant to the case and keeping this list nearby during your arguments.

Third, consider the arguments the opposing counsel will probably use, and prepare and present a counter-argument for their case. If the opposition is able to present an argument that you did not properly defeat during your oral argument, it could be the reason that you lose a case. Be certain that you do not become entirely displaced in your strategy by a well-placed question posed by a justice. Answer all questions, but be certain to continue to drive home the key points of your case, and don't allow yourself to veer too far away from your original argument.

Once court is adjourned, the justices will deliberate and come to a decision. After it is read, the justices and attorneys will discuss the case informally. The justices will answer your questions and give you pointers for the next case. It is important that the

counsel use this time to ask the justices why they decided as they did and which of the discussed arguments were most compelling and why.

### *As Justice*

Equally important as the role of counsel is the associate justice role. As an associate justice, you will listen to arguments and then enter a deliberative stage, during which you will discuss the case with the other justices and vote to determine the outcome of the case as well as the opinions of the Court. Although your role as a lawyer is to advocate for a particular side, when you fulfill the role of associate justice you must overcome any personal bias towards one side or the other and determine what is constitutionally just. In many ways, being an associate justice may be more of a demanding task than serving as counsel.

An associate justice must have a thorough command of the facts and legal precedents relevant to the case at hand. During oral arguments, associate justices should ask probing questions to resolve the legal issues. Listen carefully to the arguments and answers that counsel presents: this information should help guide your decision. Be sure to take notes during this stage. After arguments, the justices will debate the issues, as presented by counsel, and vote to determine how the Court will rule.

Remember that members of the Supreme Court do not face elections. Because they hold lifelong appointments, justices are ideally free from political pressures to make decisions based on whatever logic or precedent they feel is appropriate. Judicial independence is valuable to our system of government but may also pose dangers, as it enables a small group of people to wield a tremendous amount of control over the direction of our country's governance. Often a justice will cite an old and seemingly moot case to support his or her opinion. Perhaps he or she will cite no past precedent at all and make his or her decision in the belief that the precedent is simply wrong. Bear in mind that as an associate justice, one of your ongoing concerns will be ensuring that the legitimacy of the Supreme Court remains intact. Do not prepare to simply ask biting questions of the counsel. Come prepared to ask questions about justice, democracy, and the way in which a court system apportions decisions based on the Constitution.

### Preparation as Associate Justice

A good associate justice is very familiar with the case facts and with precedent cases. This point cannot be reiterated enough. Reading and understanding the given materials is the most important aspect of your preparation. It is not everything, however. Another important aspect of being an associate justice is the capacity to ask questions. You should prepare for the conference by thinking of different types of questions that you can ask during the proceedings of the case. Another good method of preparation is to think in advance of the types of arguments that will be made by both sides and consider questions based on what you anticipate they will say. Remember that cases do not necessarily have to hinge on a broad range of questions regarding the philosophy of government; sometimes a case can be decided based on a seemingly minor detail. This is why thorough preparation is critically important. It will be difficult to make the right



decision if, during the case, you are still discovering the facts instead of debating the implications of those facts.

The questions that you ask as an associate justice are very important. Some should be straightforward and deal with facts. You might use these to force counsel to focus on an event or circumstance that is particularly important. Other questions may focus on the relevance of certain precedents, while others may pose hypothetical situations. For instance, as an associate justice, you might ask counsel how the case would be different if some of the facts were changed.

### Oral and Written Participation of Associate Justice

The oral argument is the time for you to confront counsel with questioning. Remember that you are not asking questions just for the sake of asking questions. Instead, your queries are a means to obtain a more thorough understanding of the case and to help you arrive at a constitutionally correct ruling. Do not ask questions simply to assert yourself or to prove you are knowledgeable about the case. Listen to the arguments counsel makes, and listen to their answers when you interrupt them. Find the right balance between being aggressive as an associate justice and being too soft. You want to keep counsel on their toes, but you don't want to knock them over. Just like politicians, many Supreme Court justices have a political agenda. Instead of giving speeches and campaigning, justices affirm their agenda by asking particular questions and writing well-reasoned opinions.

After arguments, you and the other associate justices will talk about the case with the Chief Justice. You will vote on the case and assign justices to write the majority opinion. If you agree with the majority decision but want to qualify your support or explain your reasoning separately, you can write a concurring opinion instead of contributing to the majority opinion. If you disagree with the majority decision, you can write a dissenting opinion that is contrary to the logic and conclusion reached by the majority.

It is important to realize the differences between the Harvard Model Congress Supreme Court and the real Supreme Court. In the HMC simulation, the immediate decision (i.e. which side wins) is probably the most pressing matter on your mind. In the real Supreme Court, the precedent set by a case is the most important part of the case. Chief Justice Warren Burger used to switch his vote in order to ensure that he would be a part of the majority. This allowed him to decide who could write the opinion of the Court, and he often took on this responsibility himself. By controlling the precedent that resulted from a case, Burger was able to assert more power as Chief Justice, and also make a lasting impression on the future decisions of the Supreme Court.

While we do not maintain the precedents set by Harvard Model Congress, it is important to realize that the opinions resulting from a case are a key component of the real Supreme Court. Justices explain their reasoning and assess the arguments given in briefs and in oral argument through their opinions. Like attorneys, justices reason through legal principles and cite precedents to support their decisions. The Chief Justices have a thorough knowledge of the cases and can answer your questions as you write your opinions.

## RESEARCH TOOLS

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There are many tools and resources that can be helpful in preparing for the conference. While you are doing your research, however, remember that the conference briefing is your best source. You will not be held accountable for any information that is not included within the cases that will be discussed during the conference. The following section provides information about online sources, explains how laws and cases are cited, and offers advice on writing briefs. **In short, you may use outside information if you chose.** This additional preparation is not necessary.

### *Online Resources*

If you have access to Lexis-Nexis, Westlaw, or a law library, you can find Supreme Court decisions there. Supreme Court decisions are also available for free at <http://www.findlaw.com>, in the “For Legal Professionals” section. This site includes a feature called a citatory, which allows you to look up all subsequent Supreme Court opinions that cite a particular decision. The citatory helps you see how the Court itself has used the precedents referred to in the court of appeals opinions. You may also find that online search engines will bring up interesting scholarly work on a particular case. Another invaluable online resource is [The Oyez Project](#). This multimedia database contains summaries of Supreme Court cases dating back to the 1790s. The site also contains recordings of oral arguments and biographical information about the various justices who have served on the Court.

## CITATIONS

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There are standard formats for citing statutes and case law to ensure that everyone will be able to find the authorities to which attorneys and legal scholars refer. This information should help you identify rulings you might come across during your research.

### *Federal Statutes*

Federal laws are published in the United States Code. The Code organizes laws into titles and sections. For example, 42 USC § 1983 refers to Title 42, Section 1983 of the United States Code. This statute reads in part: “Every person who, under color of any statute, ordinance, regulation, custom, or usage...subjects, or causes to be subjected, any citizen of the United States...to the deprivation of any rights, privileges, or immunities secured by the Constitution...shall be liable to the party injured in an action at law....”

When making oral arguments, you might quote a particular phrase from the United States Code. For example, “[A]ny citizen of the United States...shall be liable to the party injured in an action at law...” 42 USC § 1983.

### *Decisions of the Supreme Court*

Supreme Court decisions are collected and cited in volumes that are published by the federal government. Citations may come after the sentence, or be set off by commas within a sentence. For instance: the “Court has departed from the rule...that all



government aid that directly assists the education function of religious schools is invalid. *Agostini v. Felton*, 521 US 203, 225 (1997).”

This citation refers to the Court’s decision in *Agostini v. Felton*, which was decided in 1997 and published in volume 521. The decision begins on page 203 of that volume and the quotation is taken from page 225.

### *Decisions of the US Court of Appeals*

Federal appeals court decisions are published in the Federal Reporter. A sample citation reads: *Kohl v. Woodhaven Learning Center*, 865 F. 2d 930 (8th Cir. 1989). This citation indicates that the decision was issued by the Eighth Circuit of the United States Court of Appeals in 1989. The decision can be found in volume 865 of the second series of the reporter on page 930.

### *Decisions of the US District Courts*

District court rulings are published in the Federal Supplement of the US District Court Reporter. They may be cited as follows: *Thomas v. Atascadero Unified School District*, 662 F. Supp. 376 (C.D. Cal. 1989). This citation indicates a case decided by the District Court for the Central District of California in 1989. The case begins on page 376 of volume 662.

## WRITING BRIEFS (LEGAL OUTLINES)

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Writing briefs is a good way to prepare as counsel. You will not know which side you will argue for each case until the conference, so it is crucial to study every case and write comprehensive briefs for both sides. Work with your partner as you write; you can bounce ideas off of one another and develop a team dynamic. The more thoroughly prepared you are, the more fun and success, both as an attorney and as an associate justice, you will have at the conference.

Briefs should be systematic statements of your arguments to the Court. Briefs begin with accurate, precise facts. They assert strong general principles and develop clear, focused arguments. They should provide appropriate, relevant legal authority and above all, briefs should be persuasive. Instead of having you compose full-fledged briefs (which could be an endless number of pages), we are asking that you just write a legal outline of your arguments, as detailed below, and in the earlier section about your role as counsel. To keep things simple however, we will refer to your legal arguments outlines as briefs.

For your briefs, your job is to cast the case in a light that favors your client and to showcase the issues supporting your side. Characterize every fact, every argument, and every precedent with one goal in mind: bolstering your case.

When you write the petitioner’s brief, you are writing for the side that lost in the court of appeals. You are petitioning the Supreme Court to reverse the appeals court’s ruling. When you write the respondent’s brief, you are writing for the party that won on appeal. You are asking the Court to affirm the lower court’s ruling. Be sure to use language efficiently and precisely, and try to avoid convoluted phrases just because they sound

lawyerly. Such language can often complicate the issue without adding meaning to the argument.

## *Statement of Legal Questions*

Begin your brief by stating each legal question that the Supreme Court is called on to decide. Each question should be stated in one sentence and correspond to a separate, numbered paragraph in the body of your argument. This is your opening shot at convincing the Court: state the questions accurately but leave no doubt that these questions should be decided in your favor. Introduce your arguments and dazzle the court with your analysis.

## *Statement of Facts*

By the time a case is presented to the US Supreme Court, the facts are generally not disputed. Recite the facts succinctly. Use accurate facts that do not blatantly distort the situation, but that instead characterize those facts in a way that persuades the Court of the justice of your cause. Emphasize striking facts that favor your side. The story you tell here will be the basis for your arguments.

At some point in your statement of facts, you will need to give the procedural history of the case, which might read, “Party A filed this discrimination action against Party B. The District Court entered summary judgment for Party A. Party B appealed. The Court of Appeals reversed and ordered that summary judgment be entered for Party B. Party A filed the appeal now before this Court.”

## *Arguments*

Taking each legal principle in turn, offer solid, well-structured arguments that support your portrayal of the case. Do not dilute the quality of your strong arguments by adding weak ones just for the sake of including more points; one very strong, well-reasoned argument could be enough to win. Support every argument with statutes and case law. Explain why the precedents you cite are relevant and why they favor your side.

Feel free to use ideas you find in the decision of the Court of Appeals, but do not restrict yourself to these arguments. Read the Supreme Court decisions cited in the Court of Appeals opinions and develop your own analysis of what the decisions say and how they apply to the cases at hand. Often, there will be concurring opinions that the appeals court decisions do not cite that may be more relevant for your argument. Dissenting opinions may help you to discredit the other side’s use of certain precedents.

## *Conclusion*

Although it comes at the end of your argument, the conclusion should not be drab. Be concise, convincing, and creative. This is your final opportunity to convince the Court of your case. At some point in your conclusion be sure to state how you would like the Court to rule (i.e. The petitioner ask that this Court overturn the ruling of the lower court). Finally, conclude your brief with the phrase 'respectfully submitted' and date it.

## SUBMITTING BRIEFS

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If you wish to receive feedback, we're happy to provide it, but please submit your briefs in a timely manner (i.e., before the due date). In addition, there are a number of research resources and a variety of contact information listed on the Supreme Court webpage. Please take advantage of this exciting aspect of our conference!

## CONCLUSION

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If you have any questions about your briefs or about Court procedure, or the cases themselves, the Harvard Model Congress staff is available throughout the year to support you. Please don't hesitate to email us or to have your faculty advisor contact us. Remember, the more preparation you do beforehand, the more rewarding the conference will be. We look forward to meeting you in February!

APPENDIX A: SAMPLE OUTLINE

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Case: *Roe v. Wade*

Arguments for the Appellant (Petitioner): Roe

Roadmap

Penumbral

14th/Due Process Clause

9th Amendment

Law does not recognize a fetus as a person

Statement of Facts

Facts are not in dispute

24 year old pregnant woman desiring to terminate her pregnancy

Refused care by doctors because of the Texas Statute

Case is an Appeal directly from district court of north district of TX

Penumbral argument

Right to privacy exists in the shadows of other Amendments.

Define Privacy as: Freedom from Intrusion (in this instance, freedom from unjustified government intrusion).

Summary: The petitioner has a right to privacy which should not be infringed upon by the state government of Texas.

Precedents

*Griswold v. Connecticut* (1964)

Majority Opinion:

Right of Privacy within the penumbras of Bill of Rights guarantees privacy within a marriage.

The implication therein is the right to not conceive a child—i.e. the government cannot force you to conceive a baby.

Also (rhetorical question), if there is a right to privacy in a marriage—a state-sanctioned institution—how can there not be a right to privacy within one’s own body?

*Skinner v. Oklahoma* (1941)

Court held that the involuntary sterilization mandated for prisoners was unconstitutional, effectively outlawing and ending it altogether.

The implication is that there exists a right to choose to conceive a child—i.e. the government cannot intrusively prevent you from conceiving a baby.

Skinner + *Griswold*

If we then view the two cases in tandem, one has a right to choose whether or not to have a child.

This clearly suggests that there exists a right to control over one's body as it pertains to reproduction-based rights.

## First Amendment

Freedom of Privacy in Associations (NAACP v. Alabama)  
Freedom of Press: Confidentiality of Sources  
Cervantes v. Time, Inc. (US Court of Appeals, 8th Circuit)

## Third Amendment

The fact that the government cannot quarter soldiers in your home carries a penumbra/implication of privacy within that home.

## Fourth Amendment

Remind court of definition of privacy as: Freedom from Intrusion (in this in-stance, freedom from unjustified government intrusion)  
Weeks v. United States (1914) (Mapp v. Ohio [1961] for In-corporation)  
Expansion of privacy and limitation of government intrusion  
Harlan's Test  
Reasonable Expectation of Privacy  
Reasonable Expectation of Privacy should provide freedom from government intrusion  
Hearken back to Griswold—If there is a reasonable expectation of privacy in marriage, and a reasonable expectation of privacy in the use of a public phone booth (Katz), how can a woman not have a reasonable expectation of Privacy within her own body?

## 14th Amendment

LIBERTY!

Rochin v. California (1952)

Government intruded into the body (much as they do in following the Texas Statute)  
Was declared unconstitutional—violated the Liberty of the petitioner

Loving v. Virginia

Marriage is one of the basic civil rights of man, “fundamental to our very existence and survival.”

Declared unconstitutional governmental intrusion into the marriage process.

Implication is that one has a certain privacy in the marriage—to determine who to marry

Again, if there's a fundamental right to marriage, why would there not be one within a woman's own body?

## 9th Amendment

Griswold Concurrence (Justice Goldberg)

The Ninth Amendment simply lends strong support to the view that the liberty protected by the Fifth and Fourteenth Amendments from infringement by the Federal

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Government or the States is not restricted to rights specifically mentioned in the first eight amendments.

Pierce v. Society of Sisters and Meyer v. Nebraska Nowhere in the constitution does it say that there is a right to learn a foreign language or a right to attend the school of one's choice, yet this court has held those rights to exist.

Weems v. United States Quote (Justice McKenna) In the application of a constitution therefore, our contemplation cannot be only of what has been, but of what may be.

### Conclusion:

Fetus is not legally a person.

The Constitution never says when life begins/when it recognizes a person.

Texas does not give death certificates for miscarried fetuses.

14th Amendment says all persons born in the United States are citizens