

PAPER 2

- Thesis & Plan due Week 7 (February 21 or 22)
- Rough Draft due Week 8 (February 28 or 29)
- Final Revision & Supporting Documents due to TA Wednesday, **March 5** in lecture
↳ this includes Thesis & Plan, Rough Draft, Peer Reviews, and Rubric
- Final paper due online to Turnitin.com before 4:00 p.m. on March 5

CONTEXT:

In *McCleskey v. Kemp* (1983), the Supreme Court took up the issue of the death penalty. At stake in *McCleskey* was the question of whether racial disparities in the charging and application of a capital sentence, as outlined in an extensive study, violated the Equal Protection clause of the 14th Amendment. Neither the Court nor the State of Georgia questioned the veracity of the findings. The Court ruled, however, that while there were “discrepancies” in the use of the death penalty, the 14th Amendment test of Due Process had been met.

In 2005, in *Simmons v. Roper*, the Court revisited the death penalty, looking this time at whether the execution of minors was constitutional. The Court decided that it was not. In writing for the majority, Justice Kennedy outlined a broad rationale to be used in death penalty cases before the Court. First, he argued, the Court must consider the “evolving standards of a maturing society.” Second, there was evidence, Justice Kennedy argued, of a growing national consensus against the death penalty. Finally, Kennedy argued that there was a growing *international* consensus against the death penalty, especially among the democracies.

ASSIGNMENT:

Using only Kennedy’s broad rationale in *Simmons v. Roper* as explained above, construct an argument about whether the decision in *McCleskey*, which turned aside the relevancy of racial disparities, should be allowed to stand. In doing so, you must consider whether the 14th Amendment is a guarantee only of procedural due process or is also a guarantee of equal protection. Explain your interpretation of the 14th Amendment.

In order to answer the question and construct a sound and compelling argument, you must consider the following based on course materials:

- ❖ What is the Constitutional question in a review of *McCleskey*?
- ❖ What parts of the Constitution are relevant to the question?
- ❖ Are there relevant precedents to consider?
- ❖ Explain the logic of your interpretation of the Constitution and precedents.

In a 6-page essay, you must consider not only arguments that support the side you advocate, but also the strongest counterarguments in favor of the side you oppose and how they can be refuted.

THE WRITING PROCESS: Developing a Thesis and Plan

I. Exploring Ideas – Ann Raimés offers a variety of ways to generate ideas for your paper (chapters 1c-d and 4). Remember that your overall purpose in writing your paper is to persuade your reader that your position is reasonable and based on solid evidence.

Since you have been given a specific topic for your paper, begin with a close reading of the relevant texts. This is not a research paper. Base your essay on the readings from the course. While reviewing them, note key terms, evidence and reasoning. Creating a list of the reasoning and evidence will help you prepare for your essay and clarify different arguments. How are the decisions related to justice? Is one set of arguments more just or fair?

II. Drafting a Thesis – Based on your notes from readings, lectures, and discussion, answer questions A-E below. Bring a copy of your notes and thesis to section for peer and TA evaluation.

- A. Which position will your paper argue in favor of?
- B. What is the question before the Court? What are the relevant parts of the Constitution? What are the relevant precedents to the question? How (by what method) should those be interpreted?
- C. What is the strongest counterargument to the approach that you have chosen? Summarize it briefly along with its key supporting claims.
- D. How will you answer the strongest counterargument and related claims? (Raimés offers suggestions in chapter 4g). List the supporting reasons and evidence you might use. Briefly state each sub-claim and explain how it supports your entire argument. Each sub-claim should clearly refute a key opposing sub-claim.
- E. Analyze your list of key supporting reasons and evidence, and then draft a thesis that identifies your subject and argues for why specific claims support your position. (Raimés offers guidelines, 1e-f). Conclude your thesis with a forecast statement that briefly maps out your supporting claims.

III. Developing a Plan – 1-2 pages typed, double-spaced, DUE Week 7

Based on your working thesis and other notes from A-E, organize and complete a sentence outline of the key claims in your argument (Raimés 1f). Many organizational plans for your argument are possible. Following are two commonly used plans.

Plan A: In an introduction, briefly explain the controversy; introduce the key counterargument against your position; and finally state your thesis. Following the introduction, focus each paragraph by refuting a key claim in the counterargument with the key reasons and evidence that support your position. Conclude your essay by explaining the larger significance of your approach to the Constitution. This organizational plan helps you clarify and focus your argument in response to an opposing view.

Plan B: You can also begin by introducing the controversy along with your thesis. The body of the paper explains the key reasons and evidence that support your position. The counterarguments and supporting claims follow your primary evidence, and then you refute the key claims of the counterargument. Conclude your essay by explaining the larger significance of your approach to the Constitution.

IV. Further Help: In addition to the help you can get from your TA, on-line tutor, OASIS, and Ann Raimés' handbook, the DOC Program has a center for writing assistance in Sequoyah Hall room 125. The writing assistant offers individual and group conferences to address any reading or writing questions. New sign-up sheets are posted each Thursday at 2:00 p.m. on the bulletin board outside Sequoyah Hall 125.