



BLACK LAW STUDENTS'
ASSOCIATION OF CANADA

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NOIRS EN DROIT DU CANADA

2024 – 2025 Julius Alexander Isaac Moot Question Responses – Nov. 11th, 2024

Q: *What do the three suggested headings on page 3 mean and are factums required to follow those headings? Are these headings ('Existing Law', 'Impracticality of Current Law Argument', and 'Revision of Law Argument') simply guideposts for the Doctrinal Argument? Or do they encompass both the Doctrinal Argument and the Theoretical Argument? If they encompass both, which headings go where?*

A: The three headings are to be used to help participants organize their submissions. They are to be used as precursors in your sub-headings when identifying doctrinal and theoretical arguments. I.e :

- Doctrinal Arguments
 - Existing Law Argument 1 : The Current Legal Standard for Racial Profiling
 - Existing Law Argument 2 : Trial Judge's Interpretation Errors
 - Impracticality of Current Law Argument 1 : The Interpretation Errors Reveal that ...
- Theoretical Arguments
 - Revision of Law Arguments X-Z :

Q: *The problem references a recent US decision that found race-conscious affirmative action unconstitutional. Are relevant US and international decisions also seen as persuasive by the DHCC?*

A: Only Canadian legal decisions are seen as persuasive by the DHCC. The U.S. decision mentioned in the Problem as well as the international comparisons were only added to provide theoretical background and provoke comparative thought for the participants. International decisions may be useful in contextualising how Canada can do things differently, or to support a theoretical argument.

However, the purpose of this Moot is to focus on how Canadian law can be interpreted or evolved to address racial profiling in the Canadian context. American and other international legal decisions should not be solely relied upon in submissions.



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Q: *Regarding b) Nature of Argumentation - what is the scope of the phrase "existing legal sources?"*

A: Jurisprudence, legislation, treatises, textbooks, etc. However, all sources must be hyperlinked in the factums and publicly accessible. If they are not publicly accessible, a PDF of the full text must be linked. If any sources cannot be found, penalties will be assessed.

Q: *Are we allowed to submit s.8 and s.9 arguments?*

A: Charter arguments are permitted, but we encourage participants to ground their arguments in criminal law.

Q: *Can the Doctrinal Argument simply be phrased as an error (with the subheadings and multiple (3-part) doctrinal issues matrix identified in the Moot Problem encompassed within the error)? In other words, can the Doctrinal Argument follow the form: "The SKCA erred in law by interpreting the racial profiling test in R v Le to require X".*

A: In theory, yes. However, you must still address each of the doctrinal issues on appeal and use the required subheadings to identify each of said arguments. This ensures clarity for the factum graders and all other parties receiving your documents.

Q: *For doctrinal issues, are we expected to only address the issues outlined in the moot problem or can we raise additional issues?*

A: Doctrinal issues are confined to those raised in the problem. However, we encourage participants to be innovative in their theoretical argument submissions.

Q: *Please confirm that teams should address the standard of review and that their alleged errors (or lack of) should be based thereupon.*

A: Yes, this is correct. Teams should analyse the trial judge's errors (or lack thereof) using the applicable standard of review.

Q: *Is Doctrinal Issue 2.1 a specific issue each team should address explicitly, or is it meant as a guiding question to frame consideration of Doctrinal Issue 2?*



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A: It is a guiding question to frame consideration of Doctrinal issue 2. It is also helpful to consider analysis errors made by the dissent in the event that your team finds no errors with the trial judge's analysis.

Q: *Given the wide scope for theoretical arguments, both in terms of amount and subject matter, to what extent are these arguments expected to match up with the theoretical arguments of the opposing team?*

A: Appellants will be submitting their Factums a week ahead of Respondents in order to allow them to modify their arguments accordingly. However, Respondents are expected to begin their CRT research well before receiving the Appellant factums. Additionally, in oral arguments, teams will not be confined to their written submissions, and both sides will have received opposing counsel's factums ahead of time. As such, Respondents are expected to present relevant theoretical arguments to rebut those of the Appellants.



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