HOW TO: RESEARCH CASE LAW IN PRINT

Purpose

The purpose of this guide is to provide a very basic overview of how to find case law using print resources.

Introduction

Cases, or court opinions, are published by appellate level courts to let the public know how they decided in a particular case and why. These are very valuable to the legal researcher because these cases create precedent, which courts generally try to follow. Knowing how a court ruled in a case similar to yours lets you know the likely result in your own case. Not every case is published, but only those that the court thinks are of broad interest.

Cases are published in reporters in chronological order. Some reporters only cover one jurisdiction, while others cover several, and the same case may be published in several different reporters. Some jurisdictions also divide their reporters by court. For example, a North Carolina Court of Appeals opinion would be published in the Southeastern Reporter as well as the North Carolina Court of Appeals Reports.

A court will usually name one reporter as the “official” reporter for that state. This may be published by the state or privately published but deemed by the state to be the official version. Unofficial reporters include the text of the case along with helpful additions from the editors. In our example from above, the North Carolina Court of Appeals Reports is the official version while the Southeast Reporter is not. You can tell if the reporter you are using is the official version because it will typically say so at the beginning of the volume.

Available online and in a series of unofficial reporters (called the Federal Appendix, containing Federal Court of Appeals cases only) are published “unpublished” opinions. As mentioned above, the court does not choose to publish every opinion it writes, however private publishers have chosen to make some of these available to the public. These cases are not precedential; however, you may cite to them in a court document if no other published cases are available.

Finding Case Law

There are two main ways of finding relevant case law.

1. Using a Citation

If you have a citation the work is mostly done for you, it’s just a matter of being able to translate the citation into a location on the bookshelf. A citation consists of four crucial parts, the case name, the volume number, the reporter abbreviation, and a page number. For example:

The first number, 152, is the volume number located on the spine of the book. The middle part, “N.C. App.” is the abbreviation for the reporter, in this case the North Carolina Court of Appeals Reports. The last number is the page on which your case starts. So in this example, this case starts on page 469 of volume 152 of the North Carolina Court of Appeals Reports. The year in which the case was decided is in parentheses at the end—in our example, 2002.

2. Using Topics and Key Numbers
West publishers have divided every possible legal issue into 414 major “topics” (i.e. “negligence,” “contempt,” or “adoption,” etc.), then subdivided all those topics into thousands and thousands of sub-topics. Each of those subtopics is assigned a numeric identifier called a “key number.” For example, West has isolated “Contempt” as a topic. Under contempt there are many subheadings such as “Acts or Conduct Constituting Contempt of Court” or “Power to Punish, and Proceedings Therefor.” These subheadings have even more subheadings underneath. When West gets down to the smallest, individual issues, they assign that issue a key number. Then the topic, Contempt, and that sub-sub-sub-topic’s key number, such as Misconduct in the Presence of the Court, a.k.a. 6, come together to give you Contempt 6. Every case that deals with misconduct in the presence of the court is coded with the topic and key number Contempt 6. Now keep in mind, that ONLY West publications use topic and key numbers, so you MUST use a West reporter to use this system.

How are these used to conduct legal research?

2.A. If you already have a case on point
West reporters summarize each individual legal issue discussed in a case at the beginning of the case in short paragraphs called headnotes. Each headnote is marked with the relevant topic and key number. If you have a case that is on point, then it is a simple matter to skim the headnotes and take note of the topic and key numbers that correspond to the most relevant legal issue, because that same topic and key number is assigned to every case that deals with that legal issue.

For example, let’s say your client was held in contempt for failing to stand when the bailiff instructed everyone to rise. You have one case that seems on point, State v. Randall. At the beginning of that case in a West reporter are summaries of each legal issue discussed in the case—one of which is failing to stand when the bailiff says to. Preceding the summary would be topic and key number. Here’s an example of a headnote:

Contempt

6 Misconduct in Presence of Court.

Defendant’s repeated failure to stand in courtroom was contemptuous, where defendant failed to stand when all were asked to rise by bailiff, defendant against failed to stand when judge asked all to rise, when asked why he did not stand, defendant indicated that he was getting his books and did not believe he had to stand.
Every case published by West that deals with defendants failing to stand when ordered are assigned that topic and key number “Contempt 6.” Once you have that key number, you can use it to look up every case on that particular issue in a digest. More on digests below.

Using a Digest

Digests are books in which West lists every topic and key number followed by a citation and brief summary of every case that has dealt with that issue.

Digests are broken down by jurisdiction and time period to loosely match each reporter system printed by West. For example the Southeastern Digest 2d covers all the cases that are in the Southeastern Reporter 2d, but they cover four years’ worth of cases from the Southeastern Digest (1935-1939). There is one master set of digests called the Decennial Digest. This set covers all cases in most of the West Reporters (regional, federal, bankruptcy, etc.). Because there is so much case law, however, more recent editions will only cover cases in the past three years. You will need to look in different volumes under the same key number in three-year increments, unless you are looking for older cases, in which each volume may cover five or ten year increments.

If you already have a case on point, it is a simple matter of pulling the digest for the jurisdiction and time period you are interested in and looking up that topic and key number. For example, if you looked at the North Carolina Digest 2d under Contempt 6 you would find listed over a dozen summaries of North Carolina cases dealing with misconduct in the presence of the court.

2. B. If you do not have a case on point

If you do not have a case on point, then you need to search for the topic and key number yourself. The first step is to come up with a list of likely keywords then search the index for your terms. There are two sets of indexes. The easiest to use is the Descriptive–Word Index. In this volume you will find keywords matched with their key numbers. In our example from above, a likely keyword would be “contempt.” Contempt is a large section of the index, so you then scroll through until you find some likely subsections. In this case “Elements of” could be good, or, of course “Misconduct.” You can then flip to those sections of the digest and read the summaries of the issues listed in relevant cases and see how closely they match yours.

In the back of your digest you will find a pocket part. The pocket part contains additional cases that have come out since the digest was published. For example, the volume of the North Carolina Digest dealing with contempt was published in 2007. At the time I am writing this, August of 2012, four years have passed since the volume was published, so it’s possible more cases have come out. The pocket part is arranged exactly as the main volume is, but topic and key number, so you only have to turn to Contempt 6 to see if there have been any newer developments.
Updating Cases (a.k.a. Shepardizing or Keyciting)

You always, always need to update your case law research. If not, you may rely on a case that has since been overturned—and that is malpractice. Additionally, updating your case law research is good way to find more relevant cases and expand your research.

Updating a case is when you look for any subsequent actions that have affected it, and it also allows you to look at the history of the case as well. Updating resources will provide a list of cases that are somehow related to your case, with a description of how. For example, a case may be listed stating “followed by,” “overturned by,” or “cited in.” You can then follow those cases to see how those courts dealt with the same issue.

Updating used to be done in print, but now is mostly done electronically. To update a case electronically use either the Keycite feature in Westlaw or the Shepardize feature on LexisNexis. Campbell Law Library collects the print updating service for North Carolina law. Please see a reference librarian if you would like to learn how to update using print resources.

Prepared by Campbell Law Library, last updated 8/6/2012