



Moot Court
An Appellate Court Simulation

People of the State of Michigan v Booker T. Hudson, Jr.

**Teacher
Guide**



Michigan Supreme Court Learning Center

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Contents

Introduction	2
Grade Level & Curriculum.....	2
Suggestions for Collaboration.....	2
<i>People v Hudson</i> : Background	3
Sequence of Activities.....	4–7
Tips for Teachers	8
Statement of the Case.....	9–10
Case History	11
Questions Involved	12
Constitutional & Legislative Provisions.....	13
Job Descriptions	14–20
Tips for Legal Research	21
Guide for Attorneys.....	22–24
Guide for Justices	25–28
Order of Business.....	29
Glossary	30–34
Further Resources	35–36

Introduction

Simulations, such as mock trials and moot court, can be excellent ways to engage students in real-life situations that require higher-order thinking. They allow students to practice skills related to public discourse and decision making.

Moot court replicates the conversation between attorneys and judges/justices at the appellate level. This structured discourse requires those involved to understand the case from all angles and to project the impact of decisions on future cases.

People v Hudson is based upon a court case of the same name, which proceeded through the Michigan court system and was eventually heard by the U.S. Supreme Court in 2006. *These materials are written as if the case was being heard and decided by the Michigan Supreme Court.*

The case, which examines Fourth Amendment rights related to search and seizure, was originally written for the high school session of the Learning Center’s Exploring Careers in the Law, 2006. Participants were 10th–12th grade students interested in pursuing legal careers. The students played all of the roles required for moot court, including justice, attorney, court crier, and public information officer. For more information about Exploring Careers in the Law, contact Rachael L. Drenovsky, Learning Center Coordinator, at 517-373-5027 or drenovskyr@courts.mi.gov.

Grade Level & Curriculum

These materials are intended for use at the high school or undergraduate level. They align with multiple standards and strands of the Michigan Curriculum Framework, including:

Social Studies

SOC III.3.HS.1, SOC III.3.HS.2, SOC V.1.HS.1, SOC V.1.HS.2, SOC V.2.HS.1, SOC V.1.HS.2, SOC VI.1.HS.1, SOC VI.2.HS.1, SOC VI.3.HS.1

English Language Arts

CE 1.3.1, CE 1.3.2, CE 1.3.5, CE 1.3.6, CE 1.3.7, CE 1.3.8, CE 1.3.9, CE 1.5.1, CE 1.5.2, CE 1.5.3, CE 1.5.5, CE 2.1.1, CE 2.1.3, CE 2.1.4, CE 2.1.7, CE 2.1.10, CE 2.1.11, CE 2.2.2, CE 2.2.3, CE 2.3.1, CE 2.3.3, CE 2.3.4, CE 2.3.5, CE 4.1.1, CE 4.1.2, CE 4.1.3, CE 4.1.4, CE 4.2.1, CE 4.2.2

Suggestions for Collaboration

Moot court can provide an excellent opportunity for collaboration across the curriculum and with members of the community. In addition enlisting those who teach social studies, speech, and debate, teachers may also wish to involve experts from the legal field, including lawyers, judges, law professors, and law students. Moot court competitions are a popular extra-curricular activity in law schools, so many members of the legal community have experience in preparing and presenting a moot court.

People v Hudson: Background

Real Case

People of the State of Michigan v Booker T. Hudson, Jr. is based upon a court case of the same name, which proceeded through the Michigan court system. The case was appealed to the Michigan Supreme Court, which declined to hear the case—“denied application for leave to appeal.” The case was then appealed to the U.S. Supreme Court, which agreed to review the case—“granted *certiorari*”—and issued a decision in June 2006. (See Further Resources for materials related to the federal case.)

At Issue

The case is important because it deals with the constitutional issue of unreasonable search and seizure. Not only are protections offered by the Fourth Amendment of the U.S. Constitution, but they also appear in Article I, Section 11, of the Michigan Constitution. Further, Michigan law under the “knock and announce” statute (MCL 780.656) requires police officers to announce themselves before entering a dwelling.

The case, which began with the search of the home of Booker T. Hudson of Detroit and the discovery of crack cocaine, centers on the following questions:

- Did the search of the defendant’s house violate the constitutional protections from unreasonable search and seizure and the requirements of the “knock and announce” statute?
- Should the evidence be excluded as a result of any violations?

State v Federal

The materials for this case were prepared as if the case were being heard by the Michigan Supreme Court. The briefs emphasize state law and precedents of state courts. The case can be used to compare and contrast the state and federal governments. It can also give students an idea about the workings of the state court system. The great majority of court cases in Michigan are undertaken by the state courts, and citizens are more likely to have direct contact with Michigan’s one court of justice than the federal courts.

Sequence of Activities

Time Required

The simulation can be completed in 1–2 weeks.

- Steps 1–2 1–2 class periods
- Step 3 1 class period
- Step 4 1–3 class periods
- Step 5–6 1–2 class periods
- Step 7–8 1–2 class periods

1. Discuss the structure of the Michigan court system, explaining the difference between trial courts, which conduct trials, and appellate courts that review those trials to see if they were conducted fairly. The Michigan Supreme Court, which is the highest state court, is the final word on the law in the State of Michigan.

Resources

- Michigan’s One Court of Justice, Michigan Supreme Court Learning Center
<http://courts.michigan.gov/lc-gallery/mich-court-system.htm>
 - One Court of Justice, State Court Administrative Office
<http://courts.michigan.gov/scao/resources/publications/pamphlets/onecourt.pdf>
 - Self-Help Center: Going to Court, State Court Administrative Office
<http://courts.michigan.gov/scao/selfhelp/intro/court.htm>
2. Discuss how a court case proceeds to the Michigan Supreme Court and the role that oral arguments play in the Court’s decision-making process. Oral arguments are structured, highly stylized conversations between the attorneys and judges or justices about a case. It is very helpful for students to see and/or hear how they are conducted. Several resources are available.

Resources

- Oral Arguments in the Michigan Supreme Court, MSC Learning Center
This video resource and companion classroom discussion guide examine the role of oral arguments in the appellate process of the Michigan Supreme Court. The resource uses the civil case *Wayne County v Hathcock* as a case study. The case decided issues related to eminent domain and property rights.
Discussion Guide <http://courts.michigan.gov/plc/orals-discussion-guide.pdf>
VHS/DVD Request Form <http://courts.michigan.gov/plc/orals-loan-form.pdf>
- Overview, Michigan Supreme Court
http://courts.michigan.gov/supremecourt/AboutCourt/msc_over.htm
- Supreme Court Processing of Cases, Michigan Supreme Court
http://courts.michigan.gov/supremecourt/2003-48_02-03-05.pdf
- Live Coverage of the Michigan Supreme Court, Michigan Government Television
<http://www.mgtv.org/>
- Video Stream of *People v Kazmierczak* (1999), Michigan Government Television
<http://www.mgtv.org/video.html> (scroll down)

3. Distribute the statement of the case to students. Review the facts of the case and debate the merits of each side.
 - What happened in the case? (See Case History)
 - Who is the appellant/appellee?
 - What are the issues involved? (See Questions Involved, Constitutional & Legislative Provisions)
 - How did the lower courts rule?
 - Why was the ruling controversial? What are the implications for the future?

Resources

- Academic Controversy Primer, PBS
Detailed handouts and instructions for engaging students in a type of debate and problem-solving that encourages participants to see both sides of an issue.
<http://www.pbs.org/wnet/wideangle/classroom/controversy.html#procedure>

4. Familiarize students with the Fourth Amendment and search and seizure, including search warrants, warrantless searches, and the exclusionary rule by completing the activities related to the important precedent, *Mapp v Ohio* (1961), available through the Landmark Cases web site. Review the search warrant form used by Michigan courts.

Resources

- *Mapp v Ohio*, Landmark Cases
Activities <http://www.landmarkcases.org/mapp/home.html>
Answers <http://www.landmarkcases.org/keys/mapp.htm> (hidden)
- Affidavit for Search Warrant and Search Warrant, State Court Administrative Office
<http://courts.michigan.gov/scao/courtforms/generalcriminal/mc231.pdf>.

5. Ask students to select their roles. Depending upon the size of the class, you may vary the number of students in each role. If the class has few students, the roles of court crier, court clerk, and public information officer can be combined.
 - Justices (7)
 - Court crier (1)
 - Court clerks (1–2)
 - Public information officers (1–3)
 - Attorneys for the appellant (2–6)
 - Attorneys for the appellee (2–6)
 - Journalists (2–10)
6. Distribute the tip sheets to the justices and attorneys and make the briefs for both sides available to all the groups. The justices and employees of the Court, the attorneys for each side, and the journalists should gather as groups to discuss the case.
 - **Journalists** may listen to the conversations of the other groups to write their news stories. They may obtain statements from the attorneys and speak with the public information officers; however, the public information officers may not discuss which arguments the justices favor.

- **Justices** should select a chief justice to lead this discussion and other proceedings of the Court. Then, the justices and the employees of the Court should examine the issues and study important precedents, which may be listed in the briefs. Each justice should develop questions to ask the attorneys. (Sample questions are included in the tip sheet.) The justices may not speak with the attorneys or the media.
- **Public information officers** should act as liaisons between the Court and the media. In addition, they should prepare their press release about the case.
- **Attorneys** should select two–three students to argue for each side. Then, they should examine the arguments, including important precedents, which may be listed in the briefs. If possible, they should develop tests or rules for the Court to adopt.

Resources

- Cases and Codes, Findlaw
<http://www.findlaw.com/cascode/>
 - Opinion Search for the Michigan Supreme Court and Court of Appeals
<http://courtofappeals.mijud.net/resources/opinions.htm>
Includes published opinions since 2001. Use “field search” to look for party names or case types. “Text search” allows for keyword searching of the opinions.
People of the State of Michigan v Christopher Lamar Hawkins (2003)
http://courtofappeals.mijud.net/DOCUMENTS/OPINIONS/FINAL/SCT/20030620_S121698_63_hawkins13-14dec02.PDF
This opinion discusses the exclusionary rule and important precedents, including two Michigan Supreme Court cases, *People v Eugene Stevens* (1999) and *People v Michelle Ann Sobczak-Obetts* (2001).
 - Search Warrants Seminar Materials, Michigan Judicial Institute
<http://courts.mi.gov/mji/webcast/searchWarrants/search-warrants-final.pdf>
Detailed information for state judges about search warrants, constitutional protections, and case law. Includes a discussion of “knock and announce.”
 - Press Releases, Michigan Supreme Court Public Information Office
<http://courts.michigan.gov/supremecourt/Press/index.htm>
7. Arrange the classroom to replicate the Michigan Supreme Court courtroom. Then, undertake oral argument, following the procedures outlined in Order of Business. Allow 10–15 minutes for each side’s arguments, including questions from the justices and rebuttal. If the justices still have relevant questions after the full time has elapsed, you may allow the attorneys to continue answering questions.
- **Journalists** should listen carefully to the arguments and then write a follow up news story about the impact of the Court’s decision.
 - **Justices** should listen carefully to the arguments and ask questions to clarify issues. After arguments, the justices should meet to discuss and come to a decision. Once the Court has a majority decision, the “author” of the majority opinion should announce the decision and reasoning. Justices with dissenting opinions should do the same. Note: The Michigan Supreme Court only releases opinions in writing. The Court does not announce opinions from the bench.

- **Attorneys** should make their best arguments for each issue and answer the justices' questions as completely as possible. You may wish to allow the attorneys to confer on their answers.

Resources

- Michigan Hall of Justice, Michigan Supreme Court Learning Center
<http://courts.michigan.gov/plc/misc/HOJbrochure.pdf>
- Ten Tips for Presenting Better Oral Argument, Sacramento Bar Association
http://www.sacbar.org/members/saclawyer/mar_apr2005/law_motion.html
- UCLA Law School Moot Court Program
http://www.law.ucla.edu/moot/materials_on_advocacy.htm

8. Debrief the experience with the students.
 - What went well? What did not?
 - What surprised you about the arguments?
 - What were the similarities/differences in the arguments?
 - What were the most forceful arguments and why?

You may also wish to discuss the outcome of the case at the U.S. Supreme Court. If the students do not make the same decision as the federal Court, their conclusions are not wrong, only different. They heard different arguments and their decisions were based upon state law and precedents as opposed to federal law.

Michigan v Hudson (2006), Oyez: U.S. Supreme Court Media
http://www.oyez.org/cases/case/?case=2000-2009/2005/2005_04_1360

Tips for Teachers

- For added pomp and circumstance, swear in the lawyers and justices using the official oaths. For more information, see the lesson on legal ethics in the Careers in Law and Legal Studies curriculum guide, <http://courts.michigan.gov/plc/resources.htm>.
- It also helps to ask students to dress for their roles, including conservative business attire for the attorneys and robes for the justices. Graduation gowns and choir robes make good stand-ins for judicial robes. Although black is traditional for judicial robes in the United States, they can be of any color.
- To lend authenticity to the briefs, copy the cover of the appellant's brief on blue paper and the appellee's brief on red, as is the practice of the Michigan Supreme Court clerk's office.
- During oral argument, the justices sit according to seniority. The chief justice sits in the center. Associate justices are seated according to seniority, alternating to the right and left of the chief justice. Thus, the justice with the most seniority sits to the chief justice's immediate right and the justice second in seniority is on the chief justice's left. The pattern continues in this way, ending with the justice having the least seniority sitting to the chief justice's far left. Using the age of the students is an easy way to determine "seniority" for moot court.
- Consider placing name cards on the bench to assist attorneys in addressing the justices during their argument.
- The briefs list two issues, so it is easiest to divide the arguments according to the issues. A third student can make the rebuttal for the appellant.
- Although the justices are allowed to ask questions at any time during the argument, justices in moot court often find it difficult to interrupt their peers, waiting till the end to ask their questions.
- Justices should be prepared for persuasive arguments to sway their preliminary votes.
- If the moot court will be held in front of spectators, students may find it helpful to stage a dry-run, completing the formalities only, or a mini-moot court, allowing students to make limited arguments.

Statement of the Case

At 3:35 in the afternoon of April 27, 2003, Detroit police officers executed a warrant for narcotics and weapons at the Detroit residence of Booker T. Hudson, Jr. The first officer to the door, the so-called “shotgun man” testified that the officers yelled “Police, search warrant!” as they approached the premises. He also testified that it took “maybe 3 to 5 seconds” before the premises were entered; this occurred “real fast.” The officer did not knock, did not wait for someone to answer the door, and he did not hear anything inside before entering. He testified that he entered by simply opening the door and going inside. This officer had been shot at in the execution of previous search warrants.

After the entry was made, Mr. Hudson was directed to stand, and individually wrapped rocks of crack cocaine in a plastic bag were discovered in the chair where he had been sitting, at which point he was arrested. In the search after that arrest Mr. Hudson was found to have five rocks of crack cocaine in his pocket when searched by the same officer. It was the latter contraband upon which Mr. Hudson was convicted.

Before trial, an evidentiary hearing was held on Mr. Hudson’s claim that the officers executing the warrant had failed to wait a reasonable period after announcing their presence and purpose, and that accordingly, the evidence obtained after the illegal entry should be suppressed.¹

The trial judge agreed with Mr. Hudson that the entry was unlawful, and entered an order suppressing the evidence.

The prosecutor appealed this decision immediately, before trial – an interlocutory appeal.² This was necessary because without the evidence of the contraband, the case against the defendant could not proceed successfully. The Michigan Court of Appeals accepted the case and peremptorily reversed the trial court. The Michigan Supreme Court did not grant leave for defendant to appeal the interlocutory order.

Defendant Hudson was then convicted at a bench trial.³ That conviction was affirmed by the Court of Appeals. The Michigan Supreme Court then granted leave to appeal.

The defendant, called “appellant” in the pleadings is appealing on the bases raised in the evidentiary hearing and interlocutory appeal. His argument will be that, 1) the entry was unlawful for several reasons, and 2) any evidence obtained as a result of that entry should

¹ “Suppression” of evidence means that the evidence is not permitted to be presented against the witness at trial. “Exclusion” is another term that means the same, and the “exclusionary rule” is the law that has developed to establish the basis for excluding evidence from trial.

² An “interlocutory” appeal is of a ruling made by a judge before a trial is conducted and jury verdict entered.

³ A “bench trial” is a trial conducted before a judge, without a jury. A defendant may waive his right to trial by jury.

have been suppressed under the exclusionary rule. He will request that the Supreme Court reverse his conviction.

The prosecution, which is the State of Michigan in this case, and termed “appellee” in this appeal, will argue that the entry was not unlawful because of 1) exigent circumstances,⁴ particularly concerns that the drugs they expected to find could have been quickly disposed of, and 2) the concern that the defendant posed an immediate threat to the officers, since the warrant was also for weapons. The appellee will also argue that, even if the entry was found to be unlawful, the exclusionary rule does not apply here and suppression of evidence would be inappropriate. The appellee will request that the conviction and the decision of the Court of Appeals be affirmed.

A note – if the Supreme Court had granted leave for the interlocutory appeal, and decided the issues then, the appellant would have been unable to appeal for the same reasons, based on the doctrine of *res judicata*, which bars appeals based on issues already decided by the Court. (In other words, once the Court decides on an issue in a case, there is no second chance on that issue.) Here, however, the Supreme Court did not rule on the merits of the case, so the appeal may proceed.

⁴ “Exigent circumstances” require immediate action, as in “now or never.” They can be justification for a warrantless search.

