

Georgetown University Law Center's Supreme Court Institute Sheds Light on Supreme Court Oral Argument Techniques

[by Erica Winter]

Before the United States Supreme Court heard arguments in the case *United States v. Booker* last October, the winning side was mooted at Georgetown University Law Center's Supreme Court Institute, Washington, DC.

The *Booker* decision on federal sentencing guidelines was handed down on January 12 and will have a "huge impact," says Georgetown Law Center Professor Steven Goldblatt. While the Court did not invalidate the sentencing guidelines entirely, it did say that the guidelines were not mandatory.

Georgetown Law has more faculty members who have argued before the United States Supreme Court than any other law school. It is for this reason, combined with the fact that the law school is only three blocks away from the Supreme Court itself, that the school's Supreme Court Institute was launched about four years ago, says Goldblatt, who has argued five cases before the Court and is the institute's Director.

Professor Richard Lazarus, who is currently on leave as Director, originally founded the institute.

The Supreme Court Institute hosts panel discussions on the Court, offers continuing legal education for practicing lawyers, and invites guest speakers to campus. There are plans to expand the Institute's reach, says Goldblatt.

The core of the Institute right now, however, is its Supreme Court Moot Court Program—one of the few organized forums allowing lawyers to practice the arguments that will go before the Supreme Court. The program "took off like wildfire," says Goldblatt. By the program's second year, they were turning people away. In fact, half of the cases heard by the court last year were first mooted at

Georgetown.

The program has a simple yet lofty goal: improve the arguments put before the Supreme Court. Though there are many takers for Georgetown's program, all must follow its guidelines. The moot court is non-partisan, completely pro bono, confidential, and first-come first-served. In addition to preserving an unbiased assessment of the arguments, the program will not moot both sides of the same case.

Once a case has been put on the Supreme Court's calendar, a lawyer can contact Georgetown's Supreme Court Institute and request a moot session. If there is space on the calendar, and the other side of the case has not beaten him or her to it, the lawyer can arrange to moot the case. "We're there to help anyone who wants that help," says Goldblatt.

At the moot court session, five or six experts will sit on a panel to hear the case. The panel could be comprised of any mix of faculty members with Supreme Court experience, former Supreme Court clerks, and lawyers from the D.C. area, many of whom have been before the Supreme Court, says Goldblatt.

The panelists pepper the lawyer with questions on his or her case just as the Supreme Court justices would, says Goldblatt. While panelists do not adopt the personality or mindset of a specific justice, they do try to cover questions that truly might be raised in the Supreme Court session.

Cases are usually mooted the week before the actual Supreme Court oral arguments are scheduled to be heard, says Rebecca Cady, who works full time as the Institute's student fellow and is in the third year of the four-year Georgetown Law evening program. Mooting allows the lawyer time to make changes to the arguments and hone the case before climbing the marble steps. It is "the final dress rehearsal," says Cady.

Georgetown law students are invited to attend the moot court arguments, and usually 10 or 20 come to any one session, says Goldblatt. Each student must sign a confidentiality agreement promising not to reveal what took place at the session, and students may not comment during the proceedings, only observe.

However, cases are discussed with students after the moot session, covering both the substance of the case and the argument techniques, says Goldblatt. Students often attend moot sessions for classes and clinics. Ideally, students will also attend the real Supreme Court session dealing with the same case they saw in the moot session, says Goldblatt, to see the parallels and the differences—both in questions from the bench and in arguments from lawyers.

While public service is the main purpose of the moot court sessions, students benefit from seeing the inner workings of Supreme Court preparation, says Cady. The moot sessions are "very candid," because they are closed to the public and confidential.



Students get the chance to see a dialogue between the expert panel and a wide range of lawyers. The discussions involve both the points of the lawyer's argument and also the strategy of how to win the case--such as ideas on which justices to target and how to distill theses down to quick responses, says Cady. For students, it's a look inside "some pretty intimate stuff," she says, "like slicing through a layer of rock to see what's inside."