

Basics of Judicial Writing

I. Five Rules to Live (Write) by:

- A. In English, the usual and most communicative sentence order is SUBJECT/VERB/OBJECT.

EXAMPLE: Prances proudly the powerful steed.

- B. As a rule, use active voice.

EXAMPLE: The defendant was pursued by the police.
The police pursued the defendant.

Exception, e.g.: "Mistakes were made."

- C. As a rule, simplify sentences.

An important corollary of this rule is to rein in the grammatical gremlin known as the prepositional phrase. Often, sentences may be simplified by changing the prepositional phrase to a one-word adjective. (example 1.)

- D. Avoid expletive constructions.

EXAMPLE: There is a law that forbids cruelty to animals.
It is a sure thing that he will appeal.

- E. Avoid nominalizations.

EXAMPLE: The lawyer made a motion to continue the case.
Counsel presented an argument for leniency.

(Review additional examples 1 - 6.)

II. Most Common Errors Seen in Legal (if not all) Writing:

- A. Comma usage.

1. Before coordinating conjunctions when they link independent clauses.

(examples 7, 9 - 13, 31)

2. Following adverbial clauses and most other introductory phrases.

(example 8)

3. Separating items in a series, including coordinate conjunctions. Commas separate parallel items such as those in a series. Comma is preferred before the penultimate item but may be omitted when there is no danger of misreading.

4. Setting off nonrestrictive and other parenthetical elements.

(examples 14, 15)

B. Syntax.

1. “Since” “while” (examples 18, 19)
2. “Where” (example 21)
3. Verbs (examples 23, 24)
4. Modern slang

C. Subject-verb agreement.

(examples 28, 29)

D. Quotation mechanics.

(example 30)

E. Pronoun usage.

Use pronoun case according to the “internal sentence.” (example 25)

III. **Tips on Proofreading**

- A. First tip on proofreading: Do it!

B. Proofread separately for mechanical accuracy and substantive accuracy.

C. Tactics.

1. Allow document to “cool off” before proofreading.
2. Read document to second person who follows text.
3. Read document backwards (?).
4. Warning: Watch connectors, e.g., articles and prepositions!

Appendix

1. The order of the court in the post-conviction case that is now challenged by the petitioner, on appeal, entered November 17, 2002, proceeds to dismiss the petition in summary fashion.

(The petitioner challenges the court’s November 17, 2002 summary order dismissing the post-conviction petition.)

2. It is an axiom that irrelevant evidence is inadmissible.

3. She rode a horse in blue pajamas.

4. The court gave its opinion that the claim was barred.

5. It is a rule that propensity evidence is not admissible.

6. It is sometimes challenging when equal protection issues arise.
7. The petition accused counsel of ineffective assistance and it claims the plea is involuntary.
8. Because the Vols lost to Vanderbilt, they failed to post a winning season.
9. Fly-fishing is a sport, and an art form.
10. The blue truck ran the light, and collided with the red car.
11. The driver braked but he couldn't stop in time.
12. The woman in the red car was screaming so we stopped to help her.
13. The photographs of the body are relevant to the cause of death and they are admissible.
14. My sister who forgot my birthday is quite selfish.
15. Any sister who forgets birthdays is quite selfish.
16. She's the one who's father is a senator.
17. Bill and Ted were sorry. Each of them cried.

18. Since we were in town, we bought the food.
19. While the lawyer argued estoppel, the judge thought of the dirty hands doctrine.
20. The man looked angrily.
21. Where a defendant claims insufficiency of the evidence, the court reviews the evidence in the light most favorable to the state.
22. When he did not pay his court costs, the state filed a warrant to revoke the defendant's probation.
23. The court argued that it had no jurisdiction.
24. The trial court felt sympathy for the plaintiff.
25. She offered help to whomever needed it.
26. I appreciated him helping Daniel.
27. The man sitting at the desk annoyed us.
28. Neither the basket nor the apples were expensive.

29. The jury is deliberating.

30. Judge: The defendant is not credible.

The judge said that “the defendant is not credible.”

The judge said, “The defendant is not credible.”

“The defendant,” the judge said, “is not credible.”

31. The victim testified that she called for help, and her neighbor came within five minutes.

32. Before the shots were fired, the defendant testified that he left the scene.