



Texas Youth and Government

Democracy must be learned by each generation.

Tips and Tricks for the Judicial Section!

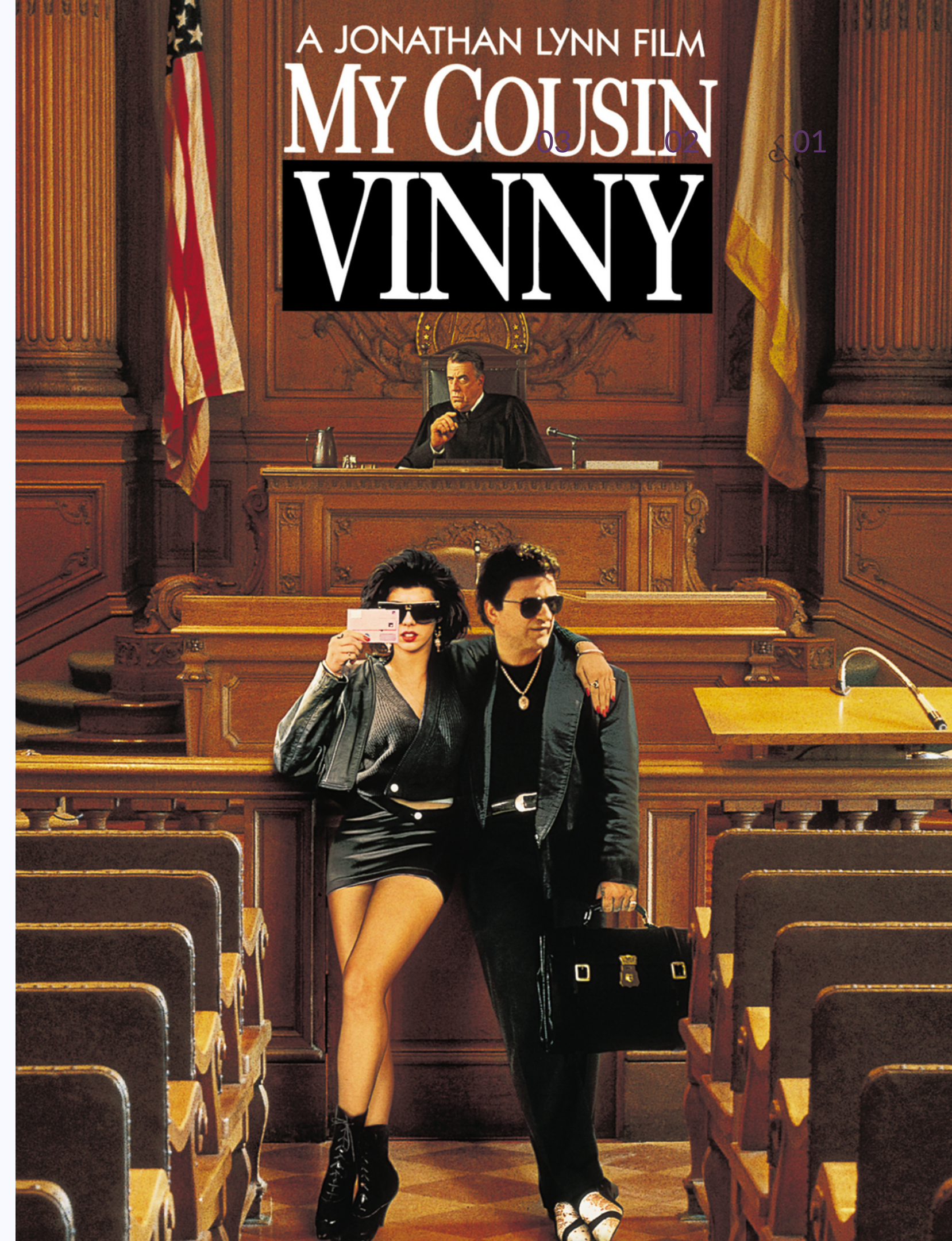
Texas.

- 01 Sweeps Nationals!
- 02 Top Trial Team (JBS)
- 03 Top Appellate Team (Creekview) -->
- 04 Trial Chief - Kelsey Wood (Akins)
- 05 Appellate Judge - Titus Brown (JBS)
- 06 Best Law School Advocacy Programs



Trial Court

- 01 5-8 Team Members
- 02 Two Attorneys, Three Witnesses
- 03 Prosecutor v. Defendant
- 04 Convict (guilty) v. Acquit (not guilty)
- 05 Objections
- 06 Student Judge
- 07 Evaluated Based on Trials Only





Appellate Court

- 01a Appellant v. Appellee
- 01b Petitioner v. Respondent
- 02 Based on Trial Court Record
- 03 Justices ask Questions
- 04 Questions of Law
- 05 Scored on Brief & Oral Arguments
- 06 Closed Case!

This is the Ultimate Team Activity

Trial Court:

- Witnesses are absolutely critical!
- Both attorneys should know objections
- Prepare, prepare, prepare
- Procrastination is not a skill

Appellate Court:

- There are only two of you!
- Understand the precedents
- Read, write, and argue

Practice rounds help develop chemistry!



Command respect based on your knowledge, not your volume!

From Trial Court Evaluation Form:

- *Team members were courteous and observed general courtroom decorum*
- *Displayed good sportsmanship to competitors, regardless of trial results*

From Appellate Court Evaluation Form:

- *Speak respectfully to opponents? Refrain from yelling/raising voice?*

You are evaluated based on points, not on beating the other team! You can fail together or you can succeed together. So if you get into a shouting match, know that both teams lose.



Think About Your Audience

Simplify your arguments!

- Signposting
- Present it to an unprepared audience

Cater to Pathos, Ethos, & Logos!

- Different strokes for different folks
- Prepare for various perspectives

Make it Entertaining!

- Use your voice, use the content, move!
- This may be their third time hearing the case
- Do not ask more questions than necessary



Let's focus on trial court!

General Trial Sequence

- Judge takes control of the court and addresses housekeeping matters
- Opening Statement by Prosecution (openings are two minutes)
- Opening Statement by Defense (unless they defer)
- Prosecution Witnesses
 - Each witness is directed and crossed, and possibly redirected and recrossed
 - **BE STRATEGIC ABOUT THE ORDER IN WHICH YOU CALL WITNESSES!**
 - Think about the story you want to tell.
- Prosecution rests its case
- [Defense opening if they deferred]
- Defense Witnesses
- Prosecution Closing (can save up to one minute for rebuttal)
- Defense Closing (three minutes)
- Prosecution Rebuttal (if necessary)

Opening Statement

- Signpost!
 - Break it down into a few critical pieces and let us know how you will lead us down that path
 - *Today we will prove that, one, Smith was killed on October 20th. Two, that Tom was at the scene of the crime at the time of the crime. And Three, Smith was killed by a Colt 45 registered to Tom.*
- Introduce your witnesses persuasively!
 - **NO!:** Hank will tell you where he was at the time of the crime.
 - **YES!:** Hank will tell you that he saw Tom leaving from that dark alley not five minutes after the estimated time of death!
- Burden of proof and legal standard
 - If innocent until proven guilty, who has the burden of proof?
 - Defense should emphasize the weight of the legal standard!
- Defense can wait until after the prosecution's case-in-chief to deliver their opening. Most teams present after the prosecution's opening.
- **INTRODUCE YOUR THEME!**
 - What short and memorable line captures your argument?



Simple Opening Statement Script

[THEME! Start with a bang!]

Your honor, my name is [name] and I represent the [who are you representing?] along with my co-counsel [their name].

We are here today because [brief recitation of the facts presented in a manner favorable to your case]

Because this is a criminal case, the burden is on the [who has the burden? Prosecution or defense?] to prove [guilt or innocence]. [Here is where you can introduce the legal standard.]

In this case, the [prosecution/defense] will [succeed/fail] in satisfying this burden of proof.

Today, we will show that [1,2,3... etc. use the elements of the crime to establish your signposts]. We will do so through the testimony of our three witnesses. Witness [name] will [how will they help your case]... [so on for other witnesses].

At the end of the trial, and based on witness testimony and evidence, we will ask you to find the defendant [guilty?]. Remember, [THEME].

This is a basic template! This might help you prepare a first draft that you can then transform into a persuasive presentation.

Closing Statement

- Reflect the language and structure of your opening!
 - Demonstrates consistency throughout your arguments!
 - Like a hook and loop in creative writing!
- Opening: We will prove, Closing: We proved that
- Remind the court of your strengths and their weaknesses
- Should adapt to the trial proceedings
 - If one witness was critical in the round, address it!
- Delivered without a script, but notes from trial are acceptable
- **NO NEW INFORMATION!** If it didn't come up during testimony, it cannot be introduced in the closing!
- **UTILIZE YOUR THEME!**
- Prosecution can save up to a minute for rebuttal after defense closing. Can be helpful for the prosecution to get the final word



Direct Examination of your Witness v. Crossing their Witness

How would you describe direct examination questions?

- Direct examination questions are open-ended questions that let the witness be the star of the show. You trust YOUR witness, so let them shine!

Cross examination questions imply the answer, correct?

- Correct

Attorneys should be the star during cross, correct?

- Correct

Yes or No Questions are not Leading Questions

- Are you a licensed physician? yes/no, not a leading question
- You're licensed in Texas, right? leading question

For cross and direct, keep your questions simple and concise!

Redirect and Recross

After opposing counsel crosses your witness, you have the option to Redirect your witness to address anything that came up on cross.

You should know your witness's weaknesses and have some redirect prepared

- [X] Attacked Mr. Smith's vision - Ask about reading glasses
- [] Attacked their police record - Ask about their training at the academy

REMEMBER! Redirect is like Direct where you cannot ask Leading Questions!

- *If opposing counsel asks leading questions on redirect, "Objection! Leading Question!"*
- Leading questions on Redirect are VERY common in Mock Trial: easy objection!
- If you prepare possible redirect questions, then you can avoid possible objections!

After redirect, there will be an opportunity for recross to address the redirect!

When the judge asks if you have any redirect or recross...

"No your honor"

- Sometimes this can sound like you do not have any questions prepared

INSTEAD:

- "No Redirect Necessary, Your Honor" OR
"No Recross Necessary, Your Honor"
 - Sounds like you are standing by the strength of your prior examination

How to Score a 5 as a Witness:

On Direct Examination

- You should know your story better than anybody in that courtroom
- Use your tone, volume, and attitude to get in character (not over the top)
- Make it conversational! Wait for your attorney to ask the question

On Cross Examination

- Understand your team's trial strategy and how they will attack you
- **Do not fight every single question**
 - You lose credibility with the jury AND you prevent the judge from being able to understand the case
- Do not try to kill the other side's time

Remember that you are evaluated before and after you take the witness stand

Objections - Quick Intro

Critical: Only the attorney who will direct or cross the witness can object!

Less can be More when it comes to Objections

- Your goal is not to say objection as many times as you can
- Be strategic and understand that the judge is trying to understand the facts

Relevance is OVERUSED!

- Relevance is a very low bar
- Evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence

Also, if you ever ask a witness what somebody else said, be prepared for a hearsay objection! Chances are, there is a hearsay exception that applies!

This is a very short introduction to a few objections! There are many more!

Now, Appeals Court!

Precedent = Cases that were previously decided

Appeals court is all about highlighting good precedent and addressing bad precedent.

Your case will include legal questions and cases that address each question. Some of these case decisions (precedent) will favor the Appellant and some will favor the Appellee. The attorneys must convince the court to follow favorable precedent!

Whenever a case favors your side (good/favorable precedent), you should be able to explain to the court why this case is similar to that one and the same rule should apply!

Whenever a case favors the other side (bad precedent), you should be able to tell the court why that rule should not apply!

Outlining your Arguments

- [Legal Question #1]
 - [Case #1]
 - Good for us:
 - How do we prove that our case is similar in this regard?
 - Bad for us:
 - How do we differentiate?
 - [Case #1]
 - Good for us:
 - How do we prove that our case is similar?
 - Bad for us:
 - How do we differentiate?

You will need to find the strengths and weaknesses of your argument in each case.

Argument, Counterargument, Counter-Counterargument, etc.

As you pull all the cases together, you start forming overarching arguments that span across cases. For each argument, you should have a counterargument and a counter to that counterargument. This will prepare you for the Justices' questions.

Appellant Key Arguments

- [Argument One]
 - [Their Counterargument]
 - [Counter to the Counterargument]
- [Argument Two]
 - [Their Counterargument]
 - [Counter to the Counterargument]

Do this for each side's key arguments and you will be ahead of the game

Common questions and how to answer effectively!

The [bad precedent case] tells us that [rule that hurts our case]. Shouldn't we apply the same rule in this case?

Your honor, unlike the [bad precedent case], here [explain why this is different!] In our case, it would be more appropriate to apply the rule from [good precedent case] because [tell us why that case is more closely aligned].

Counsel, you are arguing that we apply the [good precedent case] rule, but in that case [court says why it was different]. Why should we apply that precedent here?

Your honor, while there were differences in terms of the [acknowledge the distinctions], the critical piece is that in both the [good precedent case] and this case, [tell us why they are similar and the rule should apply!].

You should also be ready for a public policy question about the greater implications of ruling in your favor! What would it mean for other folks? Would it have negative consequences down the line?

Remember: There is only so much that you can be asked!

Every practice or competition round, have somebody write down the questions that you face whether you answer them effectively or struggle!

You probably will not have a perfect response the first time you face a question. That is why practice rounds are so important for appellate court. Fail the first time, improve the second time, and sway the court in your favor the third time!

By the time you reach the district competition, you should have a glossary of questions and answers that you might be asked during oral arguments!

The more practice rounds you can get with unique audience members and justices, the more diverse perspectives and questions you will be offered!

And now the ultimate tip that
applies to trial and appeals court...

Be Nervous!

You do NOT need to run away from normal human experiences!

+ Nervous people tend to work hard to prepare before trial!

