

## Topic Sentences—Potentially Brilliant Moments of Synthesis

*Writers' Toolbox ... is a regular feature of Perspectives. In each issue, Professor Anne Enquist offers suggestions on how to teach specific writing skills, either in writing conferences or in class. Her articles share tools and techniques used by writing specialists working with diverse audiences, such as J.D. students, ESL students, and practitioners. Readers are invited to contact Professor Enquist at ame@seattleu.edu.*

### By Anne Enquist

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With every year that I teach legal writing, I find myself talking more and more about topic sentences. Yes, topic sentences. At first my law students seem to be surprised. After all, they learned about topic sentences way back in high school or even junior high. They probably haven't thought much about topic sentences since they wrote essays for their undergraduate freshman writing course. Nevertheless, I find that topic sentences are often a bellwether of a law student's legal analysis, or more precisely, of a law student's legal synthesis.

In talking with law students about topic sentences, I start by making the point that the garden variety topic sentence they wrote in high school or as undergrads ("There are three reasons why capital punishment is not an effective deterrent of crime") is a useful beginning for thinking about topic sentences in legal writing but that it is only a

beginning: in law school they will need to move beyond the basics and be more sophisticated about every aspect of their writing (and thinking). That basic topic sentence did little more than set up a rudimentary organization for the points that follow. It suggests that the writer has taken the time to group his or her thoughts about the topic and now they will be presented to the reader in a 1, 2, and 3 order.

The law student version of these undergraduate topic sentences tends to be a "placeholder" topic sentence that looks something like this:

Another case that discusses substituted service of process is *Shurman v. Atlantic Mortg. & Inv. Corp.*, 795 So. 2d 952 (Fla. 2001).

Placeholder topic sentences are useful in the drafting stage because they allow a writer to put something where the real topic sentence should go and keep on writing without breaking stride. Without stopping to think through exactly why the writer believes the reader should hear about *Shurman* at this point, the writer gets to the case and starts constructing a paragraph about *Shurman's* facts, holding, and reasoning. The hope here is that in the act of writing about *Shurman* the writer will discover or firm up in his or her mind what *Shurman* adds to the discussion. And, as we all know, that had better be something more than the simple fact that it is one more case that discusses substituted service of process.

Many law students advance beyond this most basic placeholder topic sentence even in their early drafts. They start drafting their paragraph about *Shurman* knowing that they are using the case for one of the elements, usual place of abode, and that *Shurman* is an example of a situation in which that element was not met. Their more advanced placeholder topic sentence might look something like this:

“I find that topic sentences are often a bellwether of a law student's legal analysis, or more precisely, of a law student's legal synthesis.”

“The simple suggestion of moving a version of what was the concluding sentence up to the topic sentence works for many students. ...”

In *Shurman v. Atlantic Mortg. & Inv. Corp.*, 795 So. 2d 952 (Fla. 2001), the usual place of abode element was not met.

As the paragraph develops, they include the key facts, holding, and court’s rationale and then somewhere toward the end of the paragraph it appears—the real reason why they are telling the reader about *Shurman*. Although the summons was left with the defendant’s relative, the defendant proved he was not living with the relative, which was where the summons was served. So *Shurman* stands for something. It is not just one more case about substituted service, and it’s not just a case in which a particular element was not met. *Shurman* adds a key point to the developing analysis—giving a summons to a relative is not enough; the defendant has to be living with that relative.

Okay, so now that we know why we are using *Shurman*, let’s not keep the reader in suspense; this is not a murder mystery where the writer saves whodunit for the end. The simple solution is to move what was probably the concluding sentence in the draft *Shurman* paragraph to the front of the paragraph thereby replacing the placeholder topic sentence with a more sophisticated, hardworking topic sentence that is doing more than just getting the discussion of *Shurman* started.<sup>1</sup>

In a case in which a summons was left with a defendant’s relative but the defendant did not live with that relative, the court held that the usual place of abode element was not met. *Shurman v. Atlantic Mortg. & Inv. Corp.*, 795 So. 2d 952 (Fla. 2001).

or

In a case in which the court held that the usual place of abode element was not met, the summons had been left with the defendant’s relative, but the defendant was able to prove that he was not living with the relative when

service was made. *Shurman v. Atlantic Mortg. & Inv. Corp.*, 795 So. 2d 952 (Fla. 2001).

The simple suggestion of moving a version of what was the concluding sentence up to the topic sentence works for many students, and in fact they are pleased to discover that they had already written the synthesis sentence. Now all they need to do is move it up to the opening of the paragraph.

Other students respond well to a somewhat different approach. For this second group of students, I simply ask either the question “Why are you using this case?” or the expanded version, “What point does this case contribute to your overall analysis?”<sup>2</sup>

The question method has the added benefit that it leads quite naturally to the next question one would ask when the student needs to synthesize two or more cases: “Taken together, what do these cases say?” This, of course, is the more advanced synthesis moment—the point in which the students must discern a pattern, trend, or principle for which that group of cases stands.

Initially this point may throw some students who may have assumed that they should treat each case in isolation. However, once they think about the courts establishing trends or agreeing on some principles, then they are more comfortable doing the synthesis we want. In fact it is in the synthesis of case law where the lessons on topic sentences pay the biggest dividends. Talking about topic sentences becomes one more way to make the point that legal analysis is not just walking the reader through case after case after case. One of the “values added” by the writer is the way he or she sorts through and organizes the cases, extracting from them patterns and common themes. And where is the pattern or common theme articulated? In the topic sentence, of course.

<sup>1</sup> Several of the example topic sentences in this column come from Laurel Currie Oates & Anne Enquist, *The Legal Writing Handbook* 59, 153–54 (4th ed. 2006).

<sup>2</sup> One shortcoming of the question approach is that initially some students may think the question is more about their case selection than it is about their ability to synthesize their thoughts about a case into a topic sentence. To head off that potential misunderstanding, simply start with a preamble something like “let’s assume (or agree) that *Shurman* is a case you should include in your memo (or brief).”

Writing topic sentences that synthesize several cases is not a skill that all students can master immediately. It does hasten the learning process if, once the students have done their initial research and are familiar with the cases for their next assignment, you show them a few examples of topic sentences that synthesize two or more of those cases, such as the ones below.

In most of the cases in which the courts have held that the summons was not left at the defendant's usual place of abode, the defendant had not lived at the house where service was made for a substantial period of time. *See, e.g., Shurman v. Atlantic Mortg. & Inv. Corp.*, 795 So. 2d 952 (Fla. 2001); *Alvarez v. State Farm Mut. Auto Ins. Co.*, 635 So. 2d 131, 132 (Fla. Dist. Ct. App. 1994).

In the cases in which the courts have found that there was not sufficient evidence to support a finding of constructive possession, the defendant was only a temporary visitor and had another residence. *See, e.g., State v. Callahan*, 459 P.2d 400 (Wash. 1969); *State v. Davis*, 558 P.2d 263 (Wash. Ct. App. 1977).

A final, and for some folks favorite, way of dramatizing how topic sentences need to be workhorse sentences that provide a framework for the analysis is to show students a well-written memo or brief with the topic sentences highlighted. Ask the students to read just the highlighted topic sentences and see if those sentences create an outline of the writer's analysis. Another variation is to give the students only the topic sentences from a memo or brief. This technique can also be used to dramatize how woefully inadequate placeholder topic sentences are when they end up in a final draft.

Sophisticated topic sentences, then, are one more hallmark of excellent legal writing. They are the result of the intersection of a high level of critical thinking and skillful writing. In short, they are potentially brilliant moments of synthesis.

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