# Pragmatic Strategies of Justification in the Slip Opinion of a Criminal Case

**Farah Kadhim Abed**
**Department of English/ College of Education for Women**
**University of Baghdad**
Farah.kadim1203a@coeduw.uobaghdad.edu.iq
**Asst. Prof. Ramia Fu'ad Abdulazeez (Ph. D.)**
**University of Baghdad/College of Science for Women**
Ramia.mirza@gmail.com

## Abstract

Justification covers a variety of actions which need to be reasoned in one way or another. The present study scrutinizes justification as an act of giving explanations for the truth in the slip opinion of a selected criminal case. The study aims at investigating justification in the slip opinion of Thompson vs. Clark Et. Al's criminal case. It also aims at examining the most frequent type of pragmatic strategies. The study incorporates pragmatic strategies to analyze the data qualitatively and quantitatively to achieve the aim. The first strategy is composed of types of reasoning; meanwhile, the second strategy is composed of the structures of inference. The study hypothesizes that deductive reasoning is the most prominent one and the argument from an established rule is the most common type structure of inference that is generally utilized in the slip opinion. The study concludes that deductive reasoning is employed more than other types in this case, meanwhile, the argument from an established rule is employed more than any other arguments in the judicial decision and this is due to its structure which is very common to be applied.

**Keywords:** justification, reasoning, the structure of inference, slip opinion

# الاستراتيجيات التداولية للتسويغ في قرار قضية جنائية

**فرح كاظم عبد**

**جامعة بغداد/ كلية التربية للبنات**

Farah.kadim1203a@coeduw.uobaghdad.edu.iq

**أ.م.د رامية فؤاد عبدالعزيز**

**جامعة بغداد/ كلية العلوم للبنات**

Ramia.mirza@gmail.com

**المستخلص**

التسويغ هو مفهوم واسع الاستعمال في عدة جوانب من الحياة ويتم ادراكه بطريقة او باخرى. الدراسة الحالية تقدم التسويغ كفعل لاعطاء توضيحات للحقيقة وبالاخص في قرار القاضي في قضية جنائية مختارة. المختار في قرار القضية الجنائية. تهدف الدراسة الحالية لاستقصاء التسويغ في قرار القاضي بالتحديد في القضية الجنائية للمدعي والضابط توماس و كلارك.تهدف الدراسة ايضا لتفحص الاستراتيجيات التداولية الاكثر استعمالا من قبل القاضي. لتحقيق اهداف الدراسة ، تستعمل الدراسة الاستراتيجيات التداولية لتحليل البيانات نوعيا وكميا. الاستراتيجية الاولى تتالف من انواع التفكر او البرهان، بينما الاستراتيجية الثانية تتالف من هياكل الاستدلال او الاستنتاج. الدراسة تفترض ان نوع التفكر او البرهان الاكثر استخداما هو هو النوع الاستنتاجي، والهيكل الاستدلالي هو الحجة من القاعدة او النظام المؤسس المستخدم بشكل عام في قرار القاضي. الدراسة تستنتج بأن نوع التفكر او البرهان الاكثر استخداما من اي نوع اخر هو النوع الاستنتاجي، والهيكل الاستدلالي هو الحجة من القاعدة او النظام المؤسس المستخدمة اكثر من غيرها بشكل عام في قرار القاضي وذلك تباعا لهيكليتها شائعة التطبيق.

**الكلمات المفتاحية:** التسويغ، التفكر او البرهان، هياكل الاستدلال ، قرار القاضي .

## 1. Introduction

Justification is not a strange or difficult concept to deal with. It is part and parcel of our everyday lives. Moreover, it can be found in a variety of fields of study, including philosophy, theology, law, politics, and above all linguistics. According to Audi (1999), justification is a broad notion that encompasses many aspects of various fields of knowledge. As a result, a wide variety of things, including intentions and acts, can be justified. However, this versatility, i.e. various approaches to the topic hence its commonness, is what makes it perplexed as each approach adds its flavour to the topic, and this is the point of departure of this study. That is, this work attempts to uncover the linguistic texture of justification as employed in the legal field, specifically in slip opinions (judgements). Justification plays a crucial part in the legal system. It can be found in all acts of the legal encounter: trial, detection, interrogation, and finally in the legal judgements. Legal justification, as employed in the judgements, is a worthy subject to research because this phenomenon has not been tackled or given its due attention pragmatically.

Hence, pragmatics means how humans use language through interactions (May 2001 as cited in Sahib & Hasan, 2022). It relates to the study of meaning as it is expressed by a speaker (or writer) and inferred by a listener (or reader). That area of knowledge is concerned with the speaker's meaning. In other words, it focuses on the appropriate meaning, or how to translate what people mean in a given context and how that context affects what is said (Abbas & Fouad, 2021).

Justification has been defined from a lot of perspectives in which each

adds an important aspect to the topic, linguistically speaking. To start with, Goetz, (2010, p. 403) defines justification as a method of negotiating the social world in which people justify their actions or thoughts based on *inferences* about others' sentiments and views. On another side, justification is defined as "the use of argument, *reason*, and outcome, diversion, and justification to persuade or convince an opponent" (Tiryaki,2016, p.64). (italics is mine)

From what has been mentioned above, three significant elements of justification are mentioned: inference, reasoning, and argument, respectively.

These constitute justification as intended to be approached in this work.

Accordingly, the present paper attempts to establish pragmatic strategies of justification by analyzing slip opinion pragmatically away from any other non-linguistic perspectives. The data represented by the criminal case named Thompson vs. Clark Et. Al.

## 2. Justification as a Concept
## 2.1 Definition and Nature

As a term, justification covers a variety of actions which need to be reasoned in one way or another. It is part and parcel of our daily life-starting with raising our children (e.g. when telling them not to do something because of such and such), ending with various fields of knowledge such as philosophy, psychology, logic, and above all, linguistics. However, only the definitions that add some aspect to the present work are cited.

The term *justification* has been first defined by Toulmin (1958) who relates justifications to the components of the argumentation model that improve the connection between the data and the

claims (i.e. testimonies and evidence).

Van Dijk (1977) asserts that the act of justification is a secondary speech act for another primary speech act. The kind of speech act that incorporates primary and secondary ones is called complex, as in the following example:

**(2.1) "I'm hungry. Do you have a sandwich for me?"** Van Dijk (1977)

Van Dijk (1977) elucidates that the speaker does not just say he is hungry but adds that he wants a sandwich. The statement explicates why the request is being made and specifies a justification for the request to make it more acceptable; hence, there is a reason for making the request.

More clearly, Kasachkoff (1988) states that justifications are provided to persuade others of the truth of claims. Justification is not always an easy task, and only the environment in which it occurs can determine its interpretation.

Pragmatically speaking, Comparini (2013) argues that justifications are linguistic acts with social and cultural contexts. These speech acts represent a pragmatic device utilized to accomplish certain goals.

According to Susen (2017), the word justification refers to the act of giving explanations for the truth, legality, and defendability of (a) a deed, (b) a conviction, and/or (c) a social structure.

In the legal context, justification is synonymous with and representative of legal reasoning. MacCormick (1998) defines legal reasoning as the process of formulating, reflecting on, or providing arguments for legal actions and judgments, as well as grounds for speculative ideas about the interpretation of the law and its applicability to action.

With respect to the focus of the current study, justification incorporates first the legal reasoning of the judicial decision (i.e.,

slip opinions) by MacCormick (1998). Hence, justification has a central role to play, Gordon (1978, as cited in Buchanan, 2000) believes that it refers to elements that make action less criminal, or non-criminal. Second, the current study adopts Susen's (2017) definition as it involves the act of giving explanations for the truth, legality, dependability and defendability of (a) a deed, (b) a conviction, and/or (c) a social structure. It offers a useful framework for the purpose of this study as it is comprehensive and encompasses all relevant elements within the scope of justification.

Justification is a broad concept that has many types. These types differ along with different taxonomies proposed by different scholars. One taxonomy is to be reviewed as follows.

**2.2 The Pragmatic Strategies of Making Justification**

Generally speaking, a justification could be applied to any argument with an inference. More clearly, an argument has two senses the first "refers to a kind of utterance or a sort of communicative act" while the second "refers to a particular kind of interaction" " (Okeef,1977, p. 221-8). More accurately, the first sense refers to 'argument' as a product whereas the second sense refers to 'argument' as a process. The first sense is adopted as it suits the type of data and serves the aims of the study.

It is worth mentioning there is a difference between justification as a product and as a process. Lodder (1999) states, a general structure of support between sets of premises and conclusions is defined when the product of justification is evaluated, according to this statement. The exchange of information that is introduced separately to support a statement is known as the justification

process; each piecemeal represents a stage at which a statement is either justified or unjustified. Rules that specify whether a statement is justified or not at each stage of the process are defined when the justification process is researched (Lodder,1999).

Two strategies are detected in the current study. First, *reasoning* or "the process of inferring conclusions from premises" (Walton,1992, p. 171). Second, *the structure of inference* (argumentation schemes) denotes the speaker's pattern for constructing an argument (Walton, 2006). The following sections explicate these two strategies in more detail.

## 2.2.1 Reasoning

Toulmin et. al. (1984) assign a pervasive influence to reasoning and consider it as a crucial component of daily life in general and of the legal field in particular.

In general, reasoning is "the process of inferring conclusions from premises," as Walton (1992, p. 200) puts it. Legal reasoning, "usually takes the form of an inference in which the main premise expresses a generalization (rule) and the minor premise is a specific statement that fits the circumstances (facts) of the particular instance within the scope of the general premise" (Walton, 2002).

Luque (2011, p. 79) makes the clear assertion that the non-explicit process of reasoning in (legal) context "consists of judgments and is related to the power of communication to produce mental states and, in particular, to persuade us of what is stated" at this point. He (2011, p.73) asserts this with confidence since, in his view, the reasoning is "an invitation to inference".

This brief explanation answers the following question: Are inference and reasoning two sides of the same coin? In fact, they are really not.

Walton (1992) is very informative in offering the answer to the question. Inference, in his opinion, is just a single step in the reasoning process. Simply said, any process contains numerous stages that together make it up and give the entire thing a distinctive identity; in reasoning, inference is the first distinct phase. Besides, Walton (1996) concludes this illustration by referencing Govier (1986) as follows: Before you argue, you might reason, and your argument contains part of your (best) reasoning. However, there is a significant amount of reasoning that takes place before and outside the context of arguments.

Actually, regardless of the kind (of reasoning) that is labelled, Toulmin et al. (1984) and Walton (1992, 2008) replace any purely logical or abstract reasoning with a pragmatic one by using context as a fulcrum point. Toulmin et al. (1984) insist, for instance, that reasoning includes "dealing with claims with an eye to their contexts, to competing claims, and to the individuals who hold them." Therefore, the concept is used in the context of the current study. Furthermore, a number of reasoning typologies have developed based on the context-related characteristics that are taken into account. The most pertinent ones to this study are listed below.

## 2.2.2 Types of Reasoning

It has been observed that a large number of publications give a binary division of reasoning into deductive and inductive, which is interesting when beginning to study other types of reasoning. However, because there have been countless instances where neither deduction nor induction could calm the flames of controversy, many scholars most notably Pierce, as indicated by Walton (1996) have felt a need to search

among the myriad of ideas for alternative types.

As a result, the most two prevalent types are to be reviewed below, (For further classification, see Walton (1992a, p. 208-12), Walton (1992b, p. 11-16), and Freely and Steinberg (2009, p. 169-89).

### 2.2.2.1 Deductive Reasoning

It is not too difficult to define this type of argument because it appears in every book on this topic (along with its inductive equivalent). Contrarily, choosing a thorough definition has become difficult due to this familiarity. Walton (2008) is referenced instead of other notable authors who have written on the subject. He illustrates deductive reasoning in a straightforward manner by saying that it is impossible for all of the premises to be true while the conclusion is incorrect. This indicates how from its supporting premises, a conclusion follows logically. To put it another way, this line of reasoning is strictly based on the mathematical connection 1+1=2, and nothing else. Walton (2008) exemplifies deductive reasoning as follows:

**(2.19) "**All birds (strictly speaking) fly.
Tweety is a bird.
Therefore, Tweety flies."
According to, this type of pattern is monotonic, which indicates that the emergence of recently discovered pieces of information (or evidence, in legalese) won't add anything new because the conclusion will remain the same.

### 2.2.2.2 Inductive Reasoning

This type is described by Walton (2008) as the process by which conclusions that are plausible are derived. The conclusion might therefore possibly be false rather than true, even if the premises (from which a conclusion is drawn) are truthful. As a

result, inductive reasoning is a probability-based process, in contrast to its deductive peer.

Walton (2008, p.141) cites the following example of this type:

**(2.20)** "If I graduate, I have paid my tuition.

I've paid my tuition.

Therefore, I will graduate."

Here, Although the first two premises are true, they do not lead to the intended result. This can be explained by the possibility that graduating from college involves more than just paying tuition. Hence, in this instance, the truth of the premise does not exclude the truth of the conclusion.

Rescher (1964, p. 60, as cited in Weddle, 1986, p.383) clearly differentiates between these two types:

An argument that attempts (or is claimed) to provide conclusive evidence for its conclusion is called a deductive argument. In contrast, an inductive argument attempts (or is claimed) simply to provide some grounds for the conclusion that is, to furnish good reasons for accepting the conclusion without providing conclusive evidence for it.

### 2.2.2.3 Disjunctive Reasoning

This type of reasoning means to choose one among a set of alternatives, by narrowing them down, the alternative is chosen by excluding all other elements in the set (Walton, 2005). The simplest type of disjunctive reasoning is traditionally called a disjunctive syllogism. A syllogism in which the major premise contains mutually exclusive alternatives, usually indicated by such words as *either, or, neither, nor, but, and although* which are either explicitly stated or clearly implied(Freely & Steinberg, 2009, p. 153). As shown in this disjunctive syllogism:

Either A or B

 Not-A

Therefore, B

**(2.21)** An example of a disjunctive syllogism type of reasoning would be the following case:

**Premise:** Either the fox went over the hill or in the hole.

**Premise:** The fox did not go over the hill.

**Conclusion:** Therefore, the fox went into the hole.

In this pattern of reasoning, once the disjunctive is eliminated that the fox went over the hill (presumably, by the observation of the hill), then it is concluded that the fox must have gone into the hole (even though his entry was not observed) (Walton, 2005).

After reviewing the types of reasoning above, it is worth mentioning that Walton (2002) insists on building his argumentation schemes (henceforth structure of inference) as listed in the following subsections.

## 2.2.3 Structures of Inference (Argumentation Schemes)

When reading or hearing a statement, inferences take place that cause one to predict something based on prior knowledge and experience that is neither expressed nor indicated by the statement. Inference as Walton (1992, p.200) states "a single step of reasoning" that means inference is the process of reasoning when one uses reasoning to draw a conclusion from true facts.

According to Walton (2005), the structures of inference can be evaluated in the context of everyday conversation. In this study, the structures of inference are examined in the legal context. Structures of inference are conventionalized ways that show the relationship between what is mentioned in the explicit premise, i.e. argument, and what is stated in the standpoint. It links those premises and standpoints together in a special way in order to characterize the type of refutation or justification that is being introduced in the argument for the standpoint

(Eemeren, 2001). Any arguer's goal in any argumentation, according to Van Eemeren (2001), is to persuade the audience to agree with the position being argued. As a result, the interlocutor designs the argument to forward his objectives. By doing so, he depends on what is known as pre-made argument schemes, which help in convincing the audience by encouraging them to make specific inferences of various types from the premises (expressed and unexpressed) depending on the scheme used, and this is why the scheme is sometimes referred to as "structures of inference" (Mirza & Al- Hindawi, 2016).

The most common structures of inference in law are shown in the following sections along with examples that illustrate each one as adopted from Walton (2002; 2005; 2006).

### 2.2.3.1 Argument from Analogy

This type of argument compares two situations that are comparable from one point of view. Since they are comparable, one situation has a certain feature and another situation similarly has that feature. Although one example may be comparable to another, it does not mean that the two cases will be identical in all respects since they are not one case; rather, they are two cases that share some characteristics but differ from one another in other respects (Walton; 2002; 2006). According to Itkonen, (2005, as cited in Mirza 2019), analogy implies structural resemblance between two (or more) systems' relationships.

Notably, the symbols C1 and C2 symbolize an idea or a specific situation; moreover, the rest of the structures use some symbols. The structure of inference that describes this type is the following:

**Major Premise**: Generally, C1 is similar to case C2.

**Minor Premise**: Proposition *A* is true (false) in C1.

**Conclusion**: Proposition *A* is true (false) in C2.

 **(2.22)** Walton (2002, pp. 36-7) mentions the following example:

Similar to prospecting for gold, a scientist may dig effectively, bravely, energetically, and intelligently only a few feet away from a rich vein. Therefore, the rewards for hard work, perseverance, creativity, and intelligence in scientific research are very uncertain.

This argument, according to Walton, contrasts two activities: scientific research and gold prospecting, where exactness and technique are the areas of resemblance, i.e., both need adhering to the same procedures in addition to the hard effort. The following structure of inference is applied to the argument:

**Major Premise:** Generally, gold prospecting is similar to conducting scientific research.

**Minor Premise:** Gold prospecting is liable to fail.

**Conclusion:** Scientific research is liable to fail as well.

In this argument, the inference is that conducting research and gold prospecting is within the same framework and can fail (Hameed & Alasadi, 2018 p.23).

## 2.2.3.2 Argument from Verbal Classification

This argument is very common. It has explicit nature and may be used by people unconsciously. Moreover, it "concludes that a particular thing has a certain property on the grounds that this thing can be classified under a general category of things that have this property" (Walton, 2002, p. 51, Walton, 2006, p. 128).

According to Walton (2002, p. 51), the argument from verbal classification has the following structure:

**Major Premise**: If some particular thing *a* can be classified as falling under verbal category *C*, then *a* has property *F* (in virtue of such a classification).

**Minor Premise**: *a* can be classified as falling under verbal category *C*.

**Conclusion**: *a* has property *F* (Walton, 2006, p. 128).

The following example translates this structure as follows:

**(2.23) Premise 1**: All dolphins are classified as mammals.

　　　**Premise 2**: Flipper is a dolphin.

　　　**Conclusion:** Flipper is a mammal (Walton, 2006, p. 128).

The structure of inference above can be applied to the argument as follows:

**Major Premise**: If a particular thing "flipper" can be classified as falling under the category dolphin, then flipper has the property of mammals.

**Minor Premise:** Flipper can be classified as falling under the category of dolphin.

**Conclusion:** Flipper has the property mammal.

The inference that Flipper is a mammal is justified by the two classificational premises. One can say that by the science of biology, all dolphins are mammals. This result is based on scientific facts. Walton (2006, p.128) suggests that the bases on which one can classify things are summarized by mentioning that the classification may be due to scientific terminology. Here, the inference can be classified as deductively valid. However, it is impossible for the conclusion to be false if its premises are true.

**2.2.3.3 Argument from an Established Rule**

This argument addresses the rules that are previously established. This is the way it may operate: "At first, there is some agreement made, usually inside an

institutional framework, on putting some rules in place" Walton (2002, p. 40).

The following is the structure of an inference from an established rule:

**Major Premise:** If carrying out types of actions including the state of affairs A is the established rule for x, then (unless the case is an exception), x must carry out A.

**Minor Premise:** Carrying out types of actions including the state of affairs A is the established rule for a.

**Conclusion**: Therefore, a must carries out A (Walton, 2008)

A very common case, in the educational situation, is invoked by Walton (2002) to clarify what he has in mind. Fixing a deadline for handing in essays and some students are late to react is a good case to exemplify:

**(2.24) Student**: Would it be OK if I handed in my essay after the weekend?

**Professor:** Today is the deadline. That's the rule.

**Student:** I have another assignment due at the same time, I can't do a good job on both unless I have more time.

**Professor**: Your planning and how many courses you take are up to you. I can't grant you an exemption for that reason.

In this example, the decision of the professor is based on the previously established and accepted rule that there is a deadline for the submission of assignments.

### 2.2.3.4 Argument from Sign

Argument from sign is clarified by Walton (2002) as based on a sign that is used as evidence for the occurrence of an event in a particular circumstance For instance, a person may notice certain tracks that they recognize as being made by bears. Based on the presence of such evidence at a certain location, one might assume that a bear previously existed there.

According to Walton (2001, p. 42), the structure of inference for this argument is as follows:

**Major Premise**: Generally, if this type of indicator is found in a given case, it means that such-and-such a type of event has occurred, or that the presence of such-and-such a property may be inferred.

**Minor Premise**: This type of indicator has been found in this case.

**Conclusion**: Such-and-such type of event has occurred, or the presence of such-and-such type of property may be inferred, in this case.

The structure of inference above can be clarified in the following example (Walton, 2002, p. 43):

(2.25) The testimony of a police officer is concerning the sobriety of a driver to clarify this scheme. In this case, the police officer may list the following as signs that the driver was drunk: losing control over his car (in that the car was weaving), the driver was unsteady on his feet, alcohol clearly smelled out of him, he had watery or bloodshot eyes, and he had slurred speech.

This example may be used to illustrate how inferences are structured as follows:

**Major Premise**: Generally, if a driver is found losing control of his car, standing unsteadily on his feet, having an alcoholic smell, with watery or bloodshot eyes, and speaking in a slurred manner, it means that the driver is drunk.

**Minor Premise**: This type of indicator has been found in this case.

**Conclusion:** The driver is drunk, in this case (Walton, 2002).

This type of argument needs to be evaluated with some facts about a given case, however, it depends on context.

**2.3.2.5 Argument from Position to Know**

This type of argument is very common where one interlocutor lacks some information supposed to be

known, the interlocutor asks someone who is in a position to know (Walton, 2002). The structure for argument from position to know could be used to help interpret the text.

The following is an illustration of the structure of inference:

**Major Premise**: Source *A* is in a position to know about things in a certain subject domain *S* containing proposition *A*.

**Minor Premise:** *a* asserts that *A* is true (false).

**Conclusion**: *A* is true (false).

**(2.26)** Since Markley has said that the weather in California is good and is in a position to know this, then an argument for the proposition that the weather in California is good is true (Walton,2006).

As shown above, the argument about telling the weather in California is asserted by Markley who is the source of information or in a position to know because he lives there and the conclusion according to the scheme will be that California has pleasant weather.

Walton (2008) proposes another terminology for this argument: "argument from authority"; however, the one that is going to be used is the one proposed in (2002) "argument from position to know". As mentioned by Walton (2002), this argument has two subtypes that are used commonly in legal argumentation; first, an argument from testimony (out of the scope of this study), and second, an argument from expert opinion (the one adopted in the current study).

## 2.3.2.6 Argument from Expert Opinion

As Walton (2002) states argument from expert opinion can be considered a sub-type of the argument from position to know. In this case, the person who is in a position to know is an expert who knows about a certain field(s).

The special kind of information sought in an argument from expert opinion arises from a situation where one party in dialogue has information that the other lacks. The one party is an expert. The other is not. The expert has knowledge that the non-expert wants to use in order to determine how to proceed with a problem or choice of actions (Walton, 2008).

As demonstrated in Walton (2006, pp.85-6), the structure for argument from expert opinion has two premises and a conclusion:

**Major Premise:** Source E is an expert in subject domain D containing proposition A.

**Minor Premise:** E asserts that proposition A (in domain D) is true (false).

**Conclusion:** A may plausibly be taken to be true (false).

**(2.27)** For instance, Helen puts an argument "Dr Phil says that tipping lowers self-esteem" (Walton,2006, pp. 85-6)

To clarify, Dr Phil is an expert psychologist, so Helen's argument is based on an appeal to an expert opinion that can be stated as follows:

**Premise:** Dr Phil says that tipping lowers self-esteem.

**Premise:** Dr Phil is an expert in psychology, a field that has knowledge about self-esteem.

**Conclusion:** Tipping lowers self-esteem.

### 2.3.2.7 Practical Reasoning Argument

Practical reasoning, which Walton (2002) describes as "particularly crucial in legal arguments," is added to the lengthy list of argumentation schemes. It is described as "a goal-directed, information-based, action-guiding species of inference that integrates an agent's [i.e., reasoner's] goals with potentially effective alternative courses of action, in relation to the agent's knowledge of its current circumstances."

The structure of practical reasoning is the following

where the letter G is used as a symbol to refer to a goal:

**Premise:** I have a goal G.

**Premise:** carrying out this action to realize G.

**Conclusion:** Therefore, I need to bring about G.

To elaborate on this structure of inference the following example is considered:

**(2.28)** Suppose my goal is to close the door, and the means to close the door is to turn the doorknob and push the door. Therefore, I ought (practically speaking) to turn the doorknob and push the door (Walton, 2006, p.300).

The first premise describes the goal of closing the door while the second premise is to describe the way to accomplish the goal by using a means and finally, the conclusion recommends carrying out the goal (Walton, 2006).

## 2. Slip Opinion

Slip opinions are the first version of the court's opinions posted on the website. Slip opinion comprises the majority or main opinion which refers to any concurring or dissenting views authored by the Justices, and a prefatory syllabus that is created by the Reporter's Office and provides a summary of the decision. The syllabus discusses the sequence of the case's progression through the Federal Court and includes relevant details. It ends with a holding, which is the court's slip opinion's final decision. The Supreme Court's decisions represent the final part and serve as the official interpretation of American law. Following the hearing of a case, the Supreme Court's Justices privately debate and vote before expressing their majorities and publishing their decisions (American Bar Association, 2022).

The court's opinion consists of two parts, the first one is before the conclusion of the decision which contains the justification and explanation before making the final decision while the second is

after the conclusion which consists of numbers that give historical facts, opinions of other state courts, and related rules detail the case's background and pertinent legal framework in addition to the Court's decision (American Bar Association, 2022).

## 3.    Data Description

A summary of the one criminal case is presented below.

Larry Thompson was living in a Brooklyn apartment with his fiancée, their infant daughter, and his sister-in-law.    The *Thompson* case began when his sister-in-law called 911, alleging that Thompson was sexually abusing the baby. Two Emergency Medical Technicians (henceforth EMTs) responded. Thompson denied abusing the child and turned them away. Four police officers came next, and Thompson told them that they could not enter without a warrant. Despite this, they went in,

fought with Thompson, and handcuffed him. When the EMTs arrived, they discovered "red markings" on the infant and carried her to the hospital, where doctors found that the wounds were really diaper rash rather than proof of abuse. In the meanwhile, Thompson was detained by the police and accused of "obstructing governmental administration and resisting arrest." Thompson spent two days in jail before being let out. Thompson filed a lawsuit against the cops when the prosecutor or judge finally dropped the charges. He filed allegations for wrongful entrance, false arrest, use of excessive force, and malicious prosecution under Section 1983 (Justia,2022).

The Supreme Court opinion or decision authored by Justice Kavanaugh. After giving his justification, the judge gives the conclusion in this case and held that to demonstrate a favourable termination of criminal

prosecution for purposes of the Fourth Amendment claim under §1983 for malicious prosecution, a plaintiff need only show that his prosecution ended without a conviction. Thompson satisfied that requirement in this case. We, therefore, reverse the judgment of the U. S. Court of Appeals for the Second Circuit and remand for further proceedings consistent with this opinion ( Justia,2022).

## 4.    Data Analysis

Justification is detected in three extracts from one criminal case. Selecting extracts as samples for qualitative analysis and excluding the rest of the extracts from the whole case is done to avoid redundancy. Three extracts are selected from the case and the whole case is analyzed quantitatively in terms of pragmatic strategies. These extracts have justification,

which is underlined to be highlighted.

**Extract (1):**
 *"To maintain that Fourth Amendment claim under §1983, a plaintiff such as Thompson must demonstrate, among other things, that he obtained a favorable termination of the underlying criminal prosecution. This case requires us to flesh out what a favorable termination entails. Does it suffice for a plaintiff to show that his criminal prosecution ended without a conviction? Or must the plaintiff also demonstrate that the prosecution ended with some affirmative indication of his innocence, such dismissal accompanied by a statement from the judge that the evidence was insufficient?".*

The pragmatic strategies that are identified in this extract are as follows:

**The type of Reasoning: Disjunctive reasoning,** the judge could reach one of two

conclusions: either the plaintiff had to demonstrate that his case resulted in a clear indication of his innocence or that it ended without a conviction. As in the following pattern:

**Major premise:** Either the plaintiff showed the prosecution ended without a conviction or an indication of his innocence.

**Minor Premise:** the plaintiff did not show the prosecution ended with his innocence.

**Conclusion:** Therefore, he showed that the prosecution ended without a conviction and satisfied the requirement of this case.

**The Structure of Inference: Practical Reasoning Argument,** the judge had a goal to get the evidence from the plaintiff to demonstrate what a favorable termination entails. The judge tried to get information on whether the criminal prosecution ended without a conviction or with some affirmations of his innocence. The following structure of practical reasoning is:

**Premise:** The judge had a goal to get the evidence.

**Premise:** Carrying out the demonstration about the favorable termination to realize the goal.

**Conclusion:** Therefore, the judge needed to bring about the evidence.

**Extract 2**

*"Thompson could not put forth any substantial evidence that would explain why the prosecutor had moved to dismiss the charges or why the trial court had dismissed the charges. Therefore, the District Court ruled that Thompson's criminal case had not ended in a way that affirmatively indicated his innocence. The District Court granted judgment to the defendant officers on that Fourth Amendment claim. Notably, the District Court also opined that the relevant Second Circuit precedent "can and should be*

*changed" to say that a favorable termination occurs so long as the prosecution ends without a conviction. The Courts of Appeals have split over how to apply the favorable termination requirement of the Fourth Amendment claim under §1983 for malicious prosecution. In addition to the Second Circuit, some other Courts of Appeals have held that a favorable termination requires some affirmative indication of innocence."*

The pragmatic strategies that are identified in this extract are as follows:

**The Type of Reasoning: Deductive reasoning,** the truthfulness of the premises and the conclusion in this extract start from the malicious prosecution without any cause and charges. The trial and the judge dismissed the case even without any cause, therefore Thompson sued the officers according to the Fourth Amendment claim because of the violations of his rights. There are rules applied by the Second Circuit precedent and the District Court. The following reasoning is:

**Major premise:** The claim of the Second Circuit precedent required Thompson to show his case ended with innocence and not only without a conviction.

**Minor premise:** Thompson could not provide any evidence indicated his innocence.

**Conclusion:** Therefore, the District Court ruled that Thompson's case had not ended in a way that indicated his innocence.

**The Structure of Inference: Argument from an Established rule,** when the court of appeals disagreed on how to interpret the 1983 decision, that terminated the Fourth Amendment claim which was the federal statute known as Section 1983 (42 U.S.C. 1983). Civil rights law enables individuals to bring civil rights lawsuits

against specific governmental entities and their employees. While Section 1983 establishes a procedure for requesting compensation when a federally protected right has been violated, it does not establish any new rights. Therefore, a Section 1983 claim cannot be established by merely alleging a violation of federal law. Instead, the claimant must assert that a specific right arising under federal law (whether statutory or constitutional) has been violated. Section 1983 is often used in cases involving police misconduct, such as excessive force or false arrest. However, it can also be applied to other government officials and agencies, such as prisons or schools.

**Extract 3**

*"In 1871, Congress passed and President Grant signed the Civil Rights Act of 1871. Section 1 of that Act, now codified at 42 U. S. C. §1983, created a species of federal tort liability for individuals to sue state and local officers for deprivations of constitutional rights. In this case, Thompson sued several police officers under §1983, alleging that he was "maliciously prosecuted" without probable cause and that he was seized as a result.*

*The narrow dispute in this case concerns one element of the Fourth Amendment claim under §1983 for malicious prosecution. To determine the elements of a constitutional claim under §1983, this Court's practice is to first look to the elements of the most analogous tort as of 1871 when §1983 was enacted, so long as doing so is consistent with "the values and purposes of the constitutional right at issue. As most of the Courts of Appeals to consider the question have determined, the most analogous tort to this Fourth Amendment claim is malicious prosecution*. That is because

*the gravamen of the Fourth Amendment claim for malicious prosecution, as this Court has recognized it, is the wrongful initiation of charges without probable cause."*

The pragmatic strategies that are identified in this extract as follows:

**The type of Reasoning: Deductive reasoning**, this type has two true general premises and a specific conclusion. The courts of appeals recognized that the most analogous tort to the Fourth Amendment claim was malicious prosecution as it is the wrongful initiation of charges without probable cause**,** as in the following:

**Major Premise**: The court examined the most analogous tort of 1871 when 1983 was enacted.

**Minor Premise**: The court of appeals looked at the analogous tort as malicious prosecution.

**Conclusion**: Therefore, the analogous element was malicious prosecution.

**The Structure of Inference: The Argument from Analogy**, as it is clear in this extract, the Court, the Court examined the most analogous rule as of 1871 and the elements of 1983. The parties, in this case, disagreed about what a favorable termination entailed. Therefore, to resolve that disagreement the court looked to the American malicious prosecution law as of 1871.

The court concluded that the most analogous rule to Thompson's claim was the common –law for malicious prosecution. The Court examined the law of that time and concluded that there did not need to be an affirmative indication of actual innocence. Instead, it was sufficient that the case was resolved without a conviction.

## 5.   Results and Discussion

The statistical findings of reasoning and structures of

inference in the data under scrutiny are presented in this section of the study and can be calculated by using the following mathematical equation:

**Percentage = occurrence of each strategy × 100 / the total number**

**Table 1**
*Reasoning Types in the Selected Data*

| No. | Reasoning Types | Fr. | Pr. |
|-----|-----------------|-----|-----|
| 1 | Deductive | 5 | 62.5% |
| 2 | Inductive | 2 | 25% |
| 3 | Disjunctive | 1 | 12.5% |
| Total | | 8 | 100% |

**Table 2**
*Structure of Inference in the Selected Data*

| No. | Structure of Inference | Fr. | Pr. |
|-----|------------------------|-----|-----|
| 1 | Argument from Analogy | 1 | 5.27% |
| 2 | Verbal Classification | 1 | 5.27% |
| 3 | Argument from Sign | 2 | 10.52% |
| 4 | An Established Rule | 12 | 63.15% |
| 5 | Position to Know | 2 | 10.52% |
| 6 | Expert Opinion | 0 | 0.00% |
| 7 | Practical Reasoning | 1 | 5.27% |
| Total | | 19 | 100% |

As shown in Table 1, in terms of the strategy of reasoning, the judge utilizes deductive reasoning as the most prominent one as it records 5 times in the data with a percentage of 62%. The second type is inductive reasoning used 2 times with 25% while the third one disjunctive reasoning has been found only once with a percentage of 12%. The reason behind the dominance of deductive reasoning is that the claims begin with general premises that describe different events that happened throughout the case when the petitioner was charged with sexually abusing the daughter; the petitioner has the right to sue the officers.

Regarding the structure of inference, the argument from an established rule, as it is shown in Table 2, is the most prominent structure of inference that is utilized by the judge. It is used 12 times which represents 66% of the whole case. This structure of inference is used many times because the judge in his decision uses the rule of the Fourth Amendment claim of 1983 to explain the false arrest of the officers so that the individual can defend his right. Regarding this case, individuals can bring civil rights lawsuits against specific governmental entities.

The second rank is equally occupied by both the argument from the sign and argument from position to know because they are utilized 2 times with the percentage 11% of the slip opinion. The third rank is similarly achieved by both the argument from analogy and argument from verbal classification which are used 1 time with 5% percentage. The last two types, expert opinion and practical reasoning have not been found in the case.

## Conclusions

On the basis of what has been investigated, this study

has come up with the following conclusion.

1- Regarding the pragmatic strategy of reasoning, deductive reasoning is employed more than other types in this case by the judge to justify his decision and that verifies the first hypothesis of the research. This verifies hypothesis number one of this study.

2- Concerning the structure of inference, the argument from an established rule is employed more than any other arguments in the judicial decision and this is due to its structure which is very common to be applied. That provides the rules and elements of the law that are to be followed in each case. This conclusion verifies the second research hypothesis.

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