

LEH355/PHI365 – LEGAL REASONING – FALL 2015

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ASSIGNMENT #2 – DUE SEPTEMBER MON 28

PLEASE BRING A HARD COPY TO CLASS

Argument reconstruction Watch again the You Tube video featuring US Supreme Court Justices Scalia and Breyer. Answer the following questions in 2-3 pages and make sure you reconstruct the Justices' arguments as precisely as possible:

- (a) Do Breyer and Scalia think that the task of the judge is to do justice or to apply the law? Carefully summarize the arguments and examples that each Justice gives.
- (b) Why does Breyer think that “purpose” and “consequence” are important tools for interpreting legislative texts? What are Breyer’s arguments? Does Scalia agree? What are Scalia’s arguments?
- (c) What is the idea of a living constitution? Why does Breyer think it’s a good idea? Why does Scalia disagree? Reconstruct their arguments carefully.
- (d) What would Breyer and Scalia say about the Palmer case? Would they agree with the majority opinion or not? Explain and carefully motivate your answer.