

LEH355/PHI370 – LEGAL REASONING – FALL 2017 – ASGN. #2 – DUE OCT 2

Your assignment should be written clearly, concisely and precisely.

Hand in a paper copy in class and submit an electronic copy on the course website.

Argument reconstruction Watch 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.