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Successful Themes and Theories of CPS Cases

Case Strategy: Developing the Why and How to Win the Case

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Theme vs. Theory

- Theme is why you should prevail
 - It has moral force
 - It is a moral that you can believe in
 - It is universal
 - It is what your story is about
 - It is the story which you want the trier-of-fact to remember
- Theory is how you prevail
 - It is logical
 - It is built on facts
 - Undisputed facts
 - Provable facts
 - It satisfies the legal elements or disproves the legal elements

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Developing the Theme

- What is your client's case about
- What is the opposing parties' case about
- How do these polar positions interact
- Why does your client prevail
 - Because your position is just
 - It creates a persuasive force
 - It leads to one conclusion
- Summarize your theme to a single sentence
- Consider utilizing universal themes:
 - Redemption
 - Justice
 - Family
 - Government overreach

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Developing the Theory

- More than the theme, because "love conquers all" is not enough
- Applicability of the law
- How does your client prevail
- Know the legal elements
- Identify the evidence that proves or disproves an element
- Reduce your theory to one paragraph
 - You should be able to state your theme in one sentence

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Theme vs. Theory

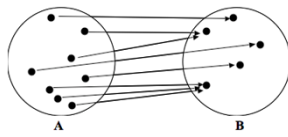


Theme Applies to Moral Force

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Theme vs. Theory

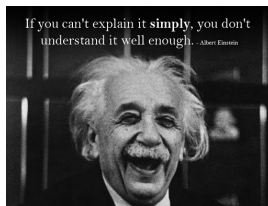


Theory Applies to Logic

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Theme vs. Theory



Keep It Simple; Make It Understandable

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Theme and Theory – Why does this matter?

- Defines the heart of your case
- Defines how your case will be presented
- Assists in mapping out case
 - Pretrial Motions and Discovery
 - Trial Presentation
- Assists in jury selection
- Assists in crafting an engaging opening statement
- Assists in crafting a powerful closing argument

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