

## **SIXTH STAGE OF THE CHATGPT-4 APPEAL EXPERIMENT: AI Analyzes Possible Appeal to the Supreme Court and Impact of Current Justices on Outcome.**



Please prepare a legal memorandum to outline the arguments that could be made in an appeal of the Eleventh Circuit Opinion to the U.S. Supreme Court, including the basis of the appeal and reasons that the Supreme Court should accept jurisdiction. Also prepare a memorandum that estimates the probability that the Supreme Court would accept an appeal, from 0% to 100%, and explain the basis for your prediction.

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### **ChatGPT**

#### **Legal Memorandum: Arguments for Appeal to the U.S. Supreme Court in McKay v. Miami-Dade County**

**Subject: Outline of Arguments for Appeal to the U.S. Supreme Court and Basis for Jurisdiction in McKay v. Miami-Dade County**

#### **Introduction**

This memorandum outlines the arguments that could be made in an appeal of the Eleventh Circuit's decision in McKay v. Miami-Dade County to the U.S. Supreme Court. It also discusses the reasons the Supreme Court should accept jurisdiction over the case.

#### **Basis for Appeal**

##### **1. Misapplication of the "Primary Beneficiary Test"**

The Eleventh Circuit's application of the "primary beneficiary test" could be challenged as inconsistent with the remedial purpose of the Fair Labor Standards Act (FLSA). The Supreme Court could provide clarity on the correct application of this test.

##### **2. Interpretation of "Grossly Excessive" Standard**

The Eleventh Circuit's reliance on the "grossly excessive" standard to evaluate the duration of the internship is not universally accepted and could be seen as narrowing the scope of the FLSA. The Supreme Court's intervention could resolve this interpretive issue.

### **3. Regulatory Ambiguity**

The Eleventh Circuit failed to adequately address the ambiguity in the Department of Labor's regulations concerning "volunteers." The Supreme Court could provide a definitive interpretation that aligns with the FLSA's remedial nature.

### **4. Social Equity Concerns**

The Eleventh Circuit's opinion lacks a discussion on the broader societal implications of its ruling. The Supreme Court could address this oversight and provide guidance on how courts should consider social equity in similar cases.

### **Reasons for Supreme Court Jurisdiction**

1. **Importance of the Issue:** The case raises significant questions about the scope of the FLSA and the rights of interns, which have broader societal implications.
2. **Need for Uniform Interpretation:** Different circuits have applied varying standards to similar issues, creating a need for a uniform interpretation.
3. **Public Interest:** Given the increasing scrutiny on unpaid internships, the case is of considerable public interest and warrants the Supreme Court's attention.

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## **Memorandum: Probability of Supreme Court Acceptance of Appeal in McKay v. Miami-Dade County**

### **Subject: Estimation of the Likelihood of the U.S. Supreme Court Accepting Jurisdiction in McKay v. Miami-Dade County**

#### **Probability Estimate**

Based on the factors discussed, the estimated probability that the U.S. Supreme Court would accept an appeal in this case is approximately 40%.

#### **Basis for Prediction**

1. **Circuit Split:** While there is some variation in how different circuits have approached similar issues, there is not a clear and deep circuit split, which would have increased the likelihood of Supreme Court review.
2. **Public Interest:** The case does involve issues of public interest, particularly concerning unpaid internships and labor rights, which could make it more appealing for Supreme Court review.
3. **Legal Complexity:** The case involves complex legal questions related to the interpretation of the FLSA, which could attract the Supreme Court's interest for clarification.

4. **Limited Precedent:** The Eleventh Circuit's decision does not overturn or dramatically alter existing precedent, which might reduce the urgency for Supreme Court intervention.

Prepared by: [Your Name] Date: [Date]

Please note that these memoranda are for informational purposes only and do not constitute legal advice.

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Please assume that the U.S. Supreme Court does accept the appeal, please predict the likely outcome of the appeal and the reasons for your prediction.

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## **ChatGPT**

### **Memorandum: Predictive Analysis of the Likely Outcome of the U.S. Supreme Court Appeal in McKay v. Miami-Dade County**

**Subject: Estimation of the Likely Outcome and Reasoning for the U.S. Supreme Court's Decision in McKay v. Miami-Dade County**

#### **Introduction**

This memorandum aims to predict the likely outcome of the U.S. Supreme Court's decision in the appeal of McKay v. Miami-Dade County, assuming that the Court has accepted the case for review.

#### **Predicted Outcome**

Based on the available information and the legal issues involved, the most likely outcome is that the U.S. Supreme Court will reverse the Eleventh Circuit's decision, thereby classifying McKay as an "employee" under the Fair Labor Standards Act (FLSA).

#### **Reasoning**

### **1. Remedial Nature of the FLSA**

The FLSA is a remedial statute designed to extend broad protections to workers. The Supreme Court has historically leaned towards liberal interpretations of remedial statutes, which could favor McKay's position.

### **2. Ambiguity in Regulatory Definitions**

The Department of Labor's regulations concerning "volunteers" are ambiguous. Given the remedial nature of the FLSA, the Supreme Court may resolve this ambiguity in favor of extending protections to workers like McKay.

### **3. Importance of Social Equity**

The Court has shown an increasing willingness to consider broader societal implications in its rulings. The issue of unpaid internships and their potential to exacerbate social inequities could weigh in favor of a ruling that classifies McKay as an employee.

### **4. Need for Uniform Interpretation**

The varying standards applied by different circuits to similar issues create a need for a uniform interpretation. The Supreme Court is likely to seize this opportunity to clarify the law, potentially in a manner that broadens the scope of who is considered an "employee" under the FLSA.

### **5. Judicial Philosophy**

The current composition of the Supreme Court includes justices who have shown a willingness to engage in nuanced interpretations of labor laws, which could favor a reversal of the Eleventh Circuit's decision.

### **Conclusion**

Given the remedial nature of the FLSA, the ambiguity in regulatory definitions, the importance of social equity, the need for a uniform interpretation, and the current judicial philosophy of the Supreme Court, it is likely that the Court will reverse the Eleventh Circuit's decision and classify McKay as an "employee" under the FLSA.

Prepared by: [Your Name] Date: [Date]

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Dose this analysis of the likelihood for success in obtaining a reversal consider the current who the current Justices of the U.S. Supreme Court are? You are to assume they are: CHIEF JUSTICE JOHN ROBERTS. ASSOCIATE JUSTICES ► SAMUEL ALITO. AMY CONEY BARRETT. NEIL GORSUCH. KETANJI BROWN JACKSON. ELENA KAGAN. BRETT KAVANAUGH. SONIA SOTOMAYOR. CLARENCE THOMAS.

How does the makeup of the court enter into your analysis that the Appellant would prevail in the U.S. Supreme Court.

What justices do you think would make up the majority in favor of reversing the 11th Circuit. Please provide a complete and detailed analysis on the memorandum you prepare answering these questions. You may, if you think it is appropriate, change your earlier opinion based on the new knowledge I just provided as to the current justices of the supreme court, but if you do so, please provide a full explanation for this change in analysis.

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**ChatGPT**

**Memorandum: Impact of Current U.S. Supreme Court Composition on McKay v. Miami-Dade County Appeal**

**Subject: Analysis of the Likely Outcome of the U.S. Supreme Court Decision in McKay v. Miami-Dade County, Considering the Current Composition of the Court**

**Introduction**

This memorandum revisits the predictive analysis of the likely outcome of the U.S. Supreme Court's decision in McKay v. Miami-Dade County, taking into account the current composition of the Court. The Court's makeup comprises Chief Justice John Roberts and Associate Justices Samuel Alito, Amy Coney Barrett, Neil Gorsuch, Ketanji Brown Jackson, Elena Kagan, Brett Kavanaugh, Sonia Sotomayor, and Clarence Thomas.

**Revised Predicted Outcome**

Upon considering the current composition of the Court, the likelihood of a reversal of the Eleventh Circuit's decision is more nuanced. While a reversal is still possible, the ideological diversity of the Court suggests that the outcome could be more unpredictable.

**Detailed Analysis**

**1. Ideological Spectrum and Judicial Philosophy**

The Court has a mix of conservative, moderate, and liberal justices. Chief Justice Roberts and Justices Alito, Barrett, Gorsuch, and Thomas are generally considered conservative. Justices

Kagan, Sotomayor, and Ketanji Brown Jackson are often viewed as liberal, while Justice Kavanaugh is sometimes seen as a moderate conservative.

## **2. Potential Majority for Reversal**

Justices Kagan, Sotomayor, and Ketanji Brown Jackson, given their more liberal leanings, may be more inclined to interpret the FLSA liberally, in line with its remedial purpose. Chief Justice Roberts, known for his institutionalist approach, might join them to form a majority, especially if he perceives that the Eleventh Circuit's decision could have broader negative societal implications.

## **3. Swing Votes**

Chief Justice Roberts and Justice Kavanaugh could be the swing votes. Roberts has shown a willingness to side with the liberal wing on issues of significant societal impact, while Kavanaugh has occasionally demonstrated a nuanced approach to labor laws.

## **4. Conservative Bloc**

Justices Alito, Barrett, Gorsuch, and Thomas are less likely to favor a reversal based on their conservative judicial philosophies, which often involve a more textualist approach to statutory interpretation.

## **Revised Conclusion**

Given the current composition of the Court, a reversal of the Eleventh Circuit's decision is still possible but less certain than initially assessed. The ideological diversity of the Court makes the outcome more unpredictable. However, if a reversal occurs, it is likely to be supported by Justices Kagan, Sotomayor, Ketanji Brown Jackson, and potentially Chief Justice Roberts and Justice Kavanaugh.

Prepared by: [Your Name] Date: [Date]

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Please provide your best estimate as to the probability of a reversal, from 0% to 100%, with a explanation for the basis of your estimate.

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## ChatGPT

### **Memorandum: Revised Probability Estimate for Reversal in McKay v. Miami-Dade County at the U.S. Supreme Court**

#### **Subject: Estimation of the Likelihood of a Reversal by the U.S. Supreme Court in McKay v. Miami-Dade County, Considering the Current Composition of the Court**

#### **Revised Probability Estimate**

Taking into account the current composition of the U.S. Supreme Court, the estimated probability of a reversal of the Eleventh Circuit's decision is approximately 55%.

#### **Basis for Revised Prediction**

##### **1. Ideological Spectrum**

The Court's ideological diversity introduces a level of unpredictability. The conservative bloc (Alito, Barrett, Gorsuch, Thomas) is less likely to favor a reversal, while the liberal bloc (Kagan, Sotomayor, Ketanji Brown Jackson) is more inclined towards a liberal interpretation of the FLSA, which could lead to a reversal.

##### **2. Swing Votes**

Chief Justice Roberts and Justice Kavanaugh could serve as swing votes. Roberts has a history of siding with the liberal wing on issues of significant societal impact. Kavanaugh has shown a nuanced approach to labor laws, making them potential candidates for forming a majority in favor of reversal.

##### **3. Societal Implications**

The case has broader societal implications concerning unpaid internships and labor rights. Given the current public discourse on these issues, the Court may lean towards a decision that aligns with broader societal goals, potentially favoring a reversal.

##### **4. Remedial Nature of the FLSA**

The FLSA is a remedial statute, and the Court has historically leaned towards liberal interpretations of such statutes. This could tip the balance in favor of a reversal.

##### **5. Absence of a Deep Circuit Split**

The absence of a deep circuit split on the issue could slightly reduce the urgency for the Supreme Court to reverse the decision, as it may not see the need to resolve conflicting interpretations by lower courts.

#### **Conclusion**

Given the ideological diversity of the Court, the potential for swing votes, the societal implications of the case, and the remedial nature of the FLSA, a reversal is possible but not certain. The estimated probability is set at 55%, reflecting these complexities.

Prepared by: [Your Name] Date: [Date]

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