Introduction to Law II

Appellate Process and Standards of Review
Appellate Process

- “appellate” = appeal from a previously rendered decision

- Can only appeal a *final judgment or order*

- Asking appellate judges whether the decision of the trial court is correct
Functions of Appellate courts

- Error correction
- Uniform application of the law
- Make and clarify law through decisions/precedents that fill gaps
Court of last resort

- Generally discretionary review
  - Court gets to choose whether to hear your appeal

- When will it want to review?
  - Gap filling
  - Major blunder by intermediate court of appeal
  - To change or clarify the law
Technical Components of Appeal

- Notice of Appeal
- Transmittal of Record
- Record Appendix/Joint Appendix
- Briefs
- Oral Argument
- Opinion
Limits of Appellate Review

- Final judgment or order
- Discretionary review
- “Reversible Error”
  - Error
  - Basis of judgment
    - Material/prejudicial v. harmless
- Preserved below
- Raised on appeal
Standard of Review

- Refers to level of scrutiny an appellate court will give to any given appeal.

- Level of scrutiny a function of what the issue is that is now on appeal, and who the decision-maker was at the trial court.
Standards of Review

Questions of Law
Judge
Clear Error
Questions of Fact
Judge
Reasonableness
Questions of Fact
Jury
Substantial Evidence
Decisions of
Administrative Agencies
Abuse of
discretion
Discretionary
Matters

De novo
Clear Error
Reasonableness
Substantial Evidence
Abuse of discretion
Chevron standard

No
deference
[appellant wants]

[appellee wants]
Great
deference
Questions of Law

- Decided by a judge
  Interpretation of a statute; summary judgment

- Reviewed *De Novo*
  “We review the District Court’s interpretation of state law *de novo*, giving no deference to the analysis of the District Court.”
Questions of Fact decided by a Judge

- Decided by a judge
  Findings of fact of the trial court as fact-finder (bench trial), or when there are ultimate, subsidiary, or collateral issues of fact

- Reviewed for Clear Error
  “We will reverse a District Court’s finding of fact if, although evidence exists to support the finding, we are left with a definite and firm conviction that a mistake has been committed.”
Questions of Fact decided by a Jury

- When jury acted as fact-finder
  Jury verdict in civil or criminal cases

- Reviewed for Reasonableness
  - “The jury’s verdict will be sustained if any reasonable construction of the evidence exists to support the verdict.”
  - “Evidence is viewed in the light most favorable to the verdict.”
Decisions of Administrative Agencies

- No jury

- May be an administrative law judge or agency representative

- Fact-finding component of agency decision
  - Reviewed for “substantial evidence”

- Deference also afforded the agency on issues of law where the agency has specialized knowledge of the subject matter
Agency decisions regarding interpretation of federal law

- When agency expressly delegated authority by legislature
  
- *Chevron* deference
  Reviewed to see if interpretation of federal law is “arbitrary, capricious, or manifestly contrary to the statute.”
Discretionary Matters

- **Decided by a judge**
  Refers to all areas where the judge has the discretion to admit or exclude evidence

- **Reviewed for “abuse of discretion”**
  “A district court has broad discretion to admit or exclude evidence. We will reverse a judgment only for a clear and prejudicial abuse of that discretion.”
Standard of Review revisited

- Must always know **what type of question you are appealing**, and who the original decision maker was.

- **Standard of review will color your entire appeal.**

- One of the first things the appellate court wants to know – how is it to review decision of trial court.