

## Judging on the Court

*Chief Justice John Roberts, when testifying as part of his confirmation hearings, said that judges should remember that “Umpires don’t make the rules, they apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules, but it is a limited role. Nobody ever went to a ball game to see the umpire.”*

This exercise challenges you to think about how someone should make decisions when it comes to applying and enforcing rules fairly when under pressure from others. The example below uses a basketball referee, but you should feel free to substitute in a similar official – a referee, a gymnastics judge, etc. – from a sport or competition with which you are more familiar.

You are a long-time basketball referee. You have spent decades officiating games, working your way up to officiating in the highest profile games in your league – the semifinals and finals. You sometimes get the calls wrong, you admit, but you do your job to the best of your abilities. (You also know of cases in the past where referees have been fired for fixing games to make money on sports betting; you think these firings were fair since the referees were violating the rules.)

An up-and-coming new superstar has massively raised interest in your sport and the popularity of the league on the whole. He has not only made a ton of money for the local team, but even the entire league. Merchandise is selling, ticket revenues are up. Even fans in other countries are spending a lot of money as a result.

Unfortunately for you, this player has a reputation for bending the rules – he travels (carries the ball without bouncing it). Having watched footage of this player, you’re inclined to agree. Many people think this – it’s not just you. You recognize that bending this rule enables this player to make some spectacular plays – the slam dunks that get photographed and put on posters, or the fancy passes that make for great gifs and videos. (However, it’s clear that bending this rule also gives this player an unfair advantage, since everyone else is used to following the rules of the game or being penalized if they don’t).

The owner of the player’s team has also noticed this – as has the commissioner of the league. They’ve made it clear to other referees to give the fans what they want – a good show – and to help keep the league’s finances strong. So other referees have often turned a blind eye to these rules violations. It’s better than getting booed by tens of thousands of angry fans – plus making the administrators of the league upset.

You have been selected to referee the final set of games this season – but there’s a catch. It’s been quietly indicated to you that if you are a stickler about the traveling rule in the games you officiate, you’ll be replaced for the last part of the series, by referees that you think not only will not follow this call, but are just not as good at the job and will often blow other calls, on other rules. And if you enforce the rule aggressively enough, you’re afraid you might just not get moved from calling the good games, but maybe even lose your job as a referee entirely.

You were hired to, as best as you can, judge the games and enforce the rules – home team or visiting team, superstar or role player. But now you don’t know what to do: by applying the rule you think you have to do, as part of being a good referee, you will make the fans, the owners, and pretty much the whole league – other than the opposing team and its fans-- angry with you.

Do you call the traveling against the superstar in the first game?

What if you are actually wrong, and the others arguing the rule isn't being violated are right?

If you decide not to enforce the traveling rule so that the star player is helped and the league makes more money, is there a reason not to relax other rules, too, when it would benefit that player (for example, not calling a foul on the player for pushing down an opponent in the last moments of the game to score the winning shot?)

If the traveling rule, or another rule in the game is no longer something important to the game, is there a better remedy than pressuring referees not to enforce the rules that have been agreed to?