

Book Note: Ordinary Meaning, A Theory Of The Most Fundamental Principle Of Legal Interpretation, by Brian G. Slocum

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Abstract

ORDINARY MEANING IS A COMPREHENSIVE LOOK at the “ordinary meaning doctrine” used by courts to interpret language. The ordinary meaning doctrine is the “judicial commitment to interpreting language in legal texts according to its ‘ordinary meaning.’”² This interpretation is based on an objective standard: the meaning of a word can exist independently of differing opinions of that meaning.³ This book argues that the current system used by judges in the United States fails to attain the goal of deciphering the ordinary meaning of words.⁴ Slocum argues that the ordinary meaning doctrine has not been examined in great depth,⁵ and offers a framework for how legal interpretation of ordinary meaning should be established.⁶

Book Note

***Ordinary Meaning, A Theory Of The Most Fundamental Principle Of Legal Interpretation*, by Brian G. Slocum¹**

MADELINE BOYCE

ORDINARY MEANING IS A COMPREHENSIVE LOOK at the “ordinary meaning doctrine” used by courts to interpret language. The ordinary meaning doctrine is the “judicial commitment to interpreting language in legal texts according to its ‘ordinary meaning.’”² This interpretation is based on an objective standard: the meaning of a word can exist independently of differing opinions of that meaning.³ This book argues that the current system used by judges in the United States fails to attain the goal of deciphering the ordinary meaning of words.⁴ Slocum argues that the ordinary meaning doctrine has not been examined in great depth,⁵ and offers a framework for how legal interpretation of ordinary meaning should be established.⁶

In chapter one, Slocum introduces the ordinary meaning doctrine, giving examples of interpretations of this doctrine from various U.S. Supreme Court justices throughout history. He discusses the widespread reference to the ordinary meaning doctrine in legal decisions,⁷ as well as some of the reasoning for this

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1. (Chicago: University of Chicago Press, 2015).
 2. *Ibid* at 2.
 3. *Ibid* at 4.
 4. *Ibid* at 27.
 5. *Ibid* at 28.
 6. *Ibid* at 27.
 7. *Ibid* at 5.

influence.⁸ In this chapter, counter arguments to the use of the ordinary meaning doctrine are introduced which are discussed in more detail in later chapters.

Chapter two situates the discussion of the proper approach to interpreting ordinary meaning within the broader context of principles of legal interpretation and the communicative meaning of words.⁹ It discusses several determinants of communicative meaning.

Chapter three discuss the inherent tension between creating an objective standard of ordinary meaning (given that it must be somewhat constant between contexts) and the fact that the meaning of words is contextual in nature.¹⁰ This chapter also assesses the justifications for the ordinary meaning doctrine in order to show that legal interpretation of the meaning of words should include both an exploration of communicative as well as ordinary meaning.¹¹ This chapter goes on to outline François Recanatì's hierarchy which breaks meaning into three levels: "sentence meaning," "what is said," and "what is communicated."¹²

In chapter four, Slocum discusses quantifiers¹³ as an example of an area where contextual information needs to be assessed in order to determine ordinary meaning, and criticizes courts' failure to take quantifying information into account when interpreting ordinary meaning.¹⁴ By discussing the theory behind quantifiers, Slocum's objective is to show that semantic theories can be of assistance in creating structure for determining ordinary meaning. The chapter ends with a discussion of the place of substantive and textual canons within ordinary meaning interpretations.¹⁵

Chapter five addresses the use of dictionary definitions in the interpretation of ordinary meaning. Slocum argues that dictionary definitions are too broad and can convey "possible" rather than ordinary meaning.¹⁶ He stresses the importance

8. *Ibid* at 8.

9. The communicative meaning of a word being defined here as "the linguistic meaning communicated by the text considering all the sources of meaning relevant to the message the author was trying to convey" *Ibid* at 5.

10. *Ibid* at 93-95.

11. *Ibid* at 95-98.

12. *Ibid* at 125.

13. "[A]n expression that modifies a referring expression in terms of amount." *Ibid* at 32.

14. *Ibid* at 153.

15. "Substantive canons are normatively based presumptions about statutory meaning that are derived from the common law, other statutes, or the Constitution. Textual canons are presumptions that are drawn from the drafter's choice of words, their grammatical placement in sentences, and their relationship to other parts of the "whole" statute." *Ibid* at 33.

16. *Ibid* at 215.

of assessing word use on the sentence level, rather than acontextually.¹⁷ He then uses case law to illustrate the difference between classical and contextual analyses in judgments utilizing the ordinary meaning doctrine.¹⁸

Chapter six is the concluding chapter. Slocum summarizes the arguments made throughout the book, and offers suggestions for further research.¹⁹ He also discusses broad patterns of the use of the ordinary meaning doctrine, how it has changed over time, and continues to change.²⁰

17. *Ibid* at 216.

18. *Ibid* at 217.

19. *Ibid* at 281.

20. *Ibid* at 283.