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Comment

Diagramming Interpretation

James Durling

Sentence diagramming—a method of showing the relationship between different parts of a sentence—has long been used by judges to interpret legal texts. This Comment documents how judges employ sentence diagrams in constitutional, statutory, and contract cases. It finds that diagramming plays an important role in constitutional and statutory cases, complementing traditional canons of legal interpretation, but that diagramming is less often used in contract cases for fear of disadvantaging grammatically unsophisticated parties. In addition, this Comment defends the practice of judicial diagramming as a way of improving textualist interpretation and promoting broader values of judicial opinion writing.

Introduction

Sentence diagramming—a method of showing the relationship between different parts of a sentence—may now have its most influential proponent. As

† Yale Law School, J.D. Candidate, 2018. Thanks to Megan McGlynn and the editors of the Yale Journal on Regulation for their thoughtful feedback. Special thanks to my former English teacher, Carrie Berman, who taught a grammatically challenged sixth grader how to diagram sentences. All errors are my own.
a number of commentators have recently noted, the newest member of the Supreme Court, Justice Neil Gorsuch, is a fan of diagramming sentences.  

In *United States v. Rentz*, then-Judge Gorsuch used a sentence diagram to interpret 18 U.S.C. § 924(c)(1)(A).  

The “enigmatic” provision states:

[A]ny person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—he sentenced to a term of imprisonment of not less than 5 years.

The defendant in *Rentz* “use[d]” a firearm only once (he fired a single shot) but he did so “during and in relation to” two separate “crimes of violence” (he hit two individuals with that shot).  

The appeal concerned whether the government had to prove a separate act of using a firearm for each charge or whether a single act could give rise to multiple charges.  

To answer this question, Judge Gorsuch included a simplified diagram of the provision in his opinion:

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2. 777 F.3d 1105 (10th Cir. 2015) (en banc).  

3. *Id.* at 1106.  


5. *Rentz*, 777 F.3d at 1107.  

6. *Id.*
Referencing this visual aid, he concluded that “during and in relation to . . . a qualifying crime [of violence]” modified “an act of using, carrying, or possessing [a firearm]” and that, therefore, each charge required both a distinct act of using a firearm and a resulting crime of violence.\(^8\)

Significantly, Justice Gorsuch is not alone among judges in his diagramming ways. Indeed, judges have used sentence diagrams for over a century\(^9\) and have publically acknowledged their value in resolving cases.\(^{10}\) But scholars, by contrast, have largely overlooked how courts use this simple interpretive tool.\(^{11}\)

It should come as no surprise that judges diagram legal texts, as diagrams can offer important insights into the meaning of a sentence. Judges have long turned to dictionaries as an outside resource for understanding semantic meaning—the meaning of individual words or phrases.\(^{12}\) And more recently,

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\(^7\) See id. at 1109.

\(^8\) Id. at 1110-11.

\(^9\) See infra note 28 and accompanying text.

\(^{10}\) See Maura D. Corrigan, Textualism in Action: Judicial Restraint on the Michigan Supreme Court, 8 TEX. REV. L. & POL. 261, 266 (2004) (“For those of you who think that diagramming sentences in grade school was a waste of time, it has been used often by our Court to make sure we have the correct reading of a sentence.”).


\(^{12}\) See, e.g., James J. Brudney & Lawrence Baum, Oasis or Mirage: The Supreme Court’s Thirst for Dictionaries in the Rehnquist and Roberts Eras, 55 WM. & MARY L. REV. 483 (2013).
some courts have also begun to use new digital technologies, such as Corpus Linguistics, for the same purpose. But judges have fewer outside resources for understanding syntactic meaning—the meaning of words and phrases within the broader context of a sentence. And because courts lack tools for understanding syntactic meaning, they may sometimes discount the importance of this context. Although the traditional grammar canons of statutory construction may address some of these questions, sentence diagramming offers courts a more flexible interpretive resource for understanding syntax.

In this way, this Comment bucks the recent academic trend toward promoting new technologies in legal interpretation. Instead, it argues that, when trying to understand the syntax of a sentence, courts may be well served by the old standby of grade-school English teachers. Part I provides a brief overview on the practice and history of sentence diagramming. Part II then examines the actual and rhetorical use of sentence diagrams in judicial opinions. Although rhetorical references to diagramming may not directly inform judicial interpretation, they do indicate a broader awareness of sentence diagrams among the judiciary and may also suggest some undisclosed judicial diagramming. Part II also contrasts how courts diagram statutes and constitutions with how they diagram contracts and other less formal legal documents. Finally, Part III offers a normative defense of diagramming interpretation. Like other interpretive tools, sentence diagrams may have their limitations. But, overall, sentence diagramming can help judges interpret legal texts and improve the communicative value of their opinions.

14. But see id. at 26 (noting that some corpora can be used to identify syntactic relationships).
15. See Craig Hoffman, Parse the Sentence First: Curbing the Urge To Resort to the Dictionary When Interpreting Legal Texts, 6 N.Y.U. J. LEGIS. & PUB. POL’Y 401, 401 (2003) (“Recently, dictionaries have seemed like a good idea to judges. Acting on an instinct that determining the meaning of a sentence requires no more than defining the individual words that comprise it, judges habitually turn to dictionaries when faced with indeterminacy in interpreting statutory sentences . . . . [But] [d]ictionaries simply are not capable of explaining complex linguistic phenomena . . . .”).
18. This study examined judicial opinions discussing sentence diagrams found through the following searches on WestLaw: (sentence /s (diagram OR grammar)) and ((grammar OR syntax) /s (diagram OR graphic OR figure OR visual)).
I. A Primer on Sentence Diagramming

Sentence diagrams illustrate the grammatical relationship between different parts of a sentence. Or as one commentator put it, sentence diagrams are “a picture of what language looks like.”

Diagramming a sentence involves two basic steps. First, a reader must distinguish the various parts of the sentence—for example, the subject(s), verb(s), object(s), etc. And second, she must identify the relationship between the various parts of the sentence—that is, which words modify or refer to other words. The theory is that by “cutting a sentence up into its component parts,” sentence diagramming “require[s] [a reader] to think about what words are and how they work together” and, therefore, makes her “more likely to use [language] correctly.”

To illustrate, consider the simple sentence: “Ronnie handed the dog the treat.” The subject of the sentence is “Ronnie,” so it is placed at the beginning of the diagram. The verb is “handed,” so it follows “Ronnie” but is separated by a vertical line that goes through the base of the diagram. The direct object is “treat,” so it follows “handed” but is separated by a vertical line that does not cut through the base. The indirect object is “dog,” so it is written on a line under the verb. Finally, both “treat” and “dog” are modified by the articles “the,” which is shown by drawing a diagonal line under each term. The resulting diagram looks like the following:

Figure 2

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22. *Id.*
Sentence diagramming is an American tradition.\textsuperscript{23} It first arose in the mid-nineteenth century, but came into vogue in 1877, when Alonzo Reed and Brainerd Kellogg developed the Reed-Kellogg diagram.\textsuperscript{24} Justice Gorsuch’s diagram in \textit{Rentz}, as well as many other diagrams included in judicial opinions and briefs, are of the Reed-Kellogg variety.\textsuperscript{25} For decades, English teachers used the Reed-Kellogg diagram to teach grammar, but beginning in the 1960s, sentence diagramming fell out of favor among educational theorists.\textsuperscript{26} Yet, as the next part will show, diagramming has retained adherents among the federal and state judiciary.

II. Diagramming Judicial Interpretation

Perhaps not surprisingly, judges—like the general public\textsuperscript{27}—have mixed feelings about sentence diagrams. Some enthusiastically support diagramming; others find it to be a tedious exercise in grade-school grammar. But beyond personal preferences, one important factor that affects whether judges use diagrams in their opinions is the type of text being interpreted. Courts appear the most open to diagramming statutes and constitutions, while they are more skeptical of diagramming contracts and other less formal legal documents.

A. Diagramming Statutes and Constitutions

In both state and federal cases, courts use sentence diagrams as an aid in interpreting statutes and constitutions. In a few decisions, such as \textit{Rentz}, judges even include the actual diagram in their written opinions.

Over 150 years ago, for example, an Ohio judge used a primitive sentence diagram to show that the phrase “whether called as a witness” modified each of the three indirect objects in a statute:

\begin{itemize}
\item \textsuperscript{23} See Summers, \textit{supra} note 19.
\item \textsuperscript{24} See \textit{Kitty Burns Florey, Sister Bernadette’s Barking Dog} 29-43 (2006).
\item \textsuperscript{25} See Eichhorn, \textit{supra} note 11 (showing examples of Reed-Kellogg diagrams used in briefs).
\item \textsuperscript{26} See Summers, \textit{supra} note 19. Linguists have continued to diagram sentences, but they more commonly use other types of diagrams, such as the tree diagram. See \textit{Steve Pinker, The Sense of Style} 78-82 (2014). Choice of diagram is beyond the scope of this Comment. For a discussion of different types of diagrams, see Eicchorn, \textit{supra} note 11, at 84.
\end{itemize}
Likewise, the California Court of Appeals recently included a sentence diagram to show that the state constitution imposed numerous limitations on the governor’s authority to negotiate compacts:

Figure 4

And most recently, the Texas Court of Appeals used an unconventional sentence diagram “to provide a visual explanation” of a medical malpractice statute’s ambiguity:

Figure 5

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But more commonly, when judges use sentence diagrams to interpret legal texts, they simply reference the diagrams without including the actual figures in their opinions. In these cases, sentence diagrams serve a number of interpretive purposes. Courts have, for instance, used diagrams to identify words “clearly implied” by the text and to understand “the meaning of the word arrangement of the statute.” Judges may also use diagrams to identify the various parts of a sentence. In criminal cases, for example, Texas courts use the “eighth-grade grammar test” to determine which parts of a statute create an element of the offense. They “diagram[] the statutory text according to the rules of grammar” to identify the criminal elements: “(1) the subject (the defendant); (2) the main verb; (3) the direct object if the main verb requires a direct object (i.e., the offense is a result-oriented crime); [(4)] the specific occasion; and [(5)] the requisite mental state.”

Judges most commonly reference sentence diagram when attempting to show a provision’s clarity or ambiguity. In establishing the former, courts sometimes refer to what a diagram actually shows, but may also simply mention sentence diagramming as a rhetorical device for dismissing a party’s weak interpretive claim. As one judge dramatically put it, if he accepted the party’s strained interpretation of the statute, “not only were the efforts of [the judge’s] past English teachers (who in that distant past forced diagramming and parsing of sentences ad infinitum, ad nauseum) wasted, but their earthly remains would take on gyroscopic manifestations.”

31. Cleveland Tel. Co. v. City of Cleveland, 121 N.E. 701, 714 (Ohio 1918).
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Judges also use the difficulty of diagramming a sentence to suggest textual ambiguities.39 After establishing a text’s ambiguity, courts feel liberated to look beyond the statute’s plain meaning to its purpose or the drafter’s intent.40 Given these various uses, it makes sense that judges have described sentence diagramming as a “trick of the trade in statutory construction”41 and a “lost art.”42

But diagramming also has a complicated relationship with legal interpretation. In some cases, a sentence diagram can support one of the grammatical canons of construction that courts apply in everyday cases.43 But in others, a sentence diagram may conflict with an interpretive canon.44 In State v. Unterseher, for example, the North Dakota Supreme Court included in its opinion a diagram submitted by the defendant:

Figure 645

42. Evoy, 429 F. Supp. 2d at 995 n.2.
43. See Columbia Gulf Transmission Co. v. Barr, 194 So. 2d 890, 894 (Miss. 1967); State v. Navaro, 26 P.2d 955, 959 (Utah 1933).
45. 289 N.W.2d 201, 202 (N.D. 1980).
Although the court “intend[ed] no criticism” of the diagram “prepared by Rita A. Johnson, an English instructor at Bismarck High School,” it quickly dismissed the defendant’s diagrammed interpretation by citing a number of the state’s codified interpretive canons. Whether because of the law-like nature of interpretive canons or because many judges “never really understood” sentence diagramming in the first place, courts consistently preference canons over diagrams.

In particular, there are a number of interpretive rules that take precedence over sentence diagrams. First and most importantly, courts follow the “plain meaning rule.” In short, they will prioritize a sentence’s clear meaning over a diagrammatically correct (but perhaps less natural) reading. Second, courts consider the broader statutory context of the sentence. Then-Judge Gorsuch, for example, once noted that courts must “take account of surrounding text, structure, and context” and should not “interpret isolated statutory phrases solely according to grammatical diagrams.” Finally, in the face of ambiguity, courts will look to a statute’s purpose. In other words, courts will not allow “bad grammar . . . to defeat the operation of a statute” and will accordingly interpret the law according to its purpose or the legislature’s intent rather than strict grammatical rules.

B. Diagramming Contracts

Although judges also use sentence diagrams to interpret contracts, they generally take a more flexible approach to syntactic meaning in contract cases. Put another way, courts have often refused to allow technical rules of grammar

46. Id. at 202-03. A codified canon is an interpretive rule prescribed by the legislature in a statute rather than one just announced by courts in judicial opinions. See Scott, supra note 16.


50. See William Baude & Ryan D. Doerfler, The (Not So) Plain Meaning Rule, 84 U. CHI. L. REV. 539, 545 (2017) (“[T]he plain meaning rule uses the phrase . . . to denote obvious meaning—that is, the meaning that is clear.”).


52. See Scalia & Garner, supra note 16, at 167-244 (describing “contextual canons”).


to defeat what appears to have been the shared understanding of the parties to the contract.\(^{57}\)

In some ways, judges diagram contracts just as they diagram statutes and constitutions. Courts may, for instance, diagram a contractual provision to establish a contract’s plain meaning\(^{58}\) or to show its ambiguity. Some unwieldy sentences just seem to “def[y] diagramming”\(^{59}\); others “require[ ] [such] extensive diagramming” that it is evident that they are “vague and unintelligible.”\(^{60}\) Also, like in statutory cases, courts may reference sentence diagrams rhetorically to dismiss “strained” interpretations of a contract.\(^{61}\) In one case, for example, an appellate court specifically mentioned the lower court judge’s admission “that he never understood how to diagram sentences” before reversing his interpretation of the contract.\(^{62}\)

But despite these similarities between public law and private law cases, courts are in general more likely to disregard sentence diagrams when interpreting contracts. For example, in *Niven v. Smith*, the diagramming Ohio judge—mentioned already—received a sentence diagram from one of the parties in a contract dispute:

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58. See Howell v. Union Producing Co., 392 F.2d 95, 101 n.7 (5th Cir. 1968); Md. Cas. Co. v. Scharlack, 31 F. Supp. 931, 934 (S.D. Tex. 1939), aff’d, 115 F.2d 719 (5th Cir. 1940); Hosp. Serv. Corp. of Ala. v. Fubanks, 55 So. 2d 755, 756-57 (Ala. Ct. App. 1951); Sea v. Acousti Eng’g Co. of Fla., 352 So. 2d 1250, 1252 (Fla. Dist. Ct. App. 1977); In re Chambers’s Will, 4 N.Y.S.2d 875, 878 (Sur.), adhered to on reargument, 7 N.Y.S.2d 250 (Sur. 1938); In re Kenny’s Will, 220 N.Y.S. 188, 195 (Sur. 1926), aff’d, 166 N.E. 337 (N.Y. 1929).

59. See supra note 28 and accompanying text.
But unlike in his prior ruling—decided just a year before—the judge in Niven concluded that “the grammatical construction” of the contract “must yield to the obvious purpose of the parties.”65

Niven reflects the broader view among courts that neither “grammatical rules”66 nor “‘diagramed’ meaning[s]” should defeat the “reasonably clear” purpose of a contract.67 In other words, judges typically find that contracts “should be construed in a manner ‘which makes sense to an intelligent layman familiar only with the basics of English language.’”68 Courts reason that a private individual “should not have to resort to retaining an ‘expert in sentence diagraming’ in order to properly interpret his or her” contract.69 As one judge noted, “the kind of pettifoggery and hairsplitting which would have undoubtedly delighted Miss Snow, my seventh grade English teacher, who taught us how to

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64. 2 Ohio Dec. Reprint 337, 1860 WL 3940, at *3 n.1 (Ohio Com. Pl. July 1, 1860). For the original diagram, see 2 REPRINT OF OHIO PUBLISHED CASES IN WESTERN LAW MONTHLY 340 (1896).

65. Niven, 1860 WL 3940, at *3 n.1.


68. Pursue Energy Corp. v. Perkins, 558 So. 2d 349, 352 (Miss. 1990) (quoting Thornhill, 523 So.2d at 1007 (Robertson, J., concurring in denial of petition for reh’g)); see also Rotenberry v. Hooker, 864 So. 2d 266, 275 (Miss. 2003) (same).

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rip sentences into unrecognizable (but diagrammable) shreds . . . is completely contrary to the way insurance contracts are supposed to be construed.\(^7^0\)

In summary, although courts are willing to follow strict rules of grammar when interpreting the carefully drafted language of constitutions and statutes,\(^7^1\) they take a more purposivist approach when interpreting legal documents that may have not been the product of precise drafting.\(^7^2\)

III. Diagramming as Interpretive Principle

Sentence diagramming is not simply a matter of judicial practice; it may also advance deeper normative principles of legal interpretation and judicial opinion writing. As dictionaries have done for semantic meaning, sentence diagrams may provide judges with a helpful external resource for deciphering syntactic meaning. In addition, the visual nature of sentence diagrams may make judicial opinions more accessible to the public.

Still, we should also recognize the limitations of sentence diagramming. Specifically, diagrams are less useful when the case raises an interpretive question that does not implicate syntactic meaning, when the document at issue may not have been the result of careful drafting, or when the text is already clear.

A. Why Diagram?

Sentence diagramming serves at least two key purposes in legal interpretation. First, it can assist judges in determining the plain meaning of the text. And second, it can increase the communicative value of legal opinions.

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72. Courts treat other less formal legal texts in a similar way. For example, judges often ignore diagrammed meaning of search warrants, see United States v. Otero, 563 F.3d 1127, 1132 (10th Cir. 2009) (noting that “[a] warrant need not necessarily survive a hyper-technical sentence diagramming and comply with the best practices of Strunk & White”); United States v. Burke, 633 F.3d 984, 992 (10th Cir. 2011); United States v. Alston, No. 15 CR. 435 (CM), 2016 WL 2609521, at *4 (S.D.N.Y. Apr. 29, 2016), or jury instructions, see United States v. McDougal, 137 F.3d 547, 558 (8th Cir. 1998); Coe v. Bell, 161 F.3d 320, 357 (6th Cir. 1998) (Moore, J., dissenting); Garrett v. Campbell, 360 F.2d 382, 386 (5th Cir. 1966); Jones v. McCully, 285 N.W. 551, 553–54 (1939). This is not to say that judges only diagram statutes and constitutions. See TiVo Inc. v. EchoStar Corp., 646 F.3d 869, 885 (Fed. Cir. 2011) (rejecting a party’s claim that contempt order was unclear just because it required “detailed ‘sentence diagramming’ to arrive at the district court’s reading”); Harris v. Quadracci, 48 F.3d 247, 254 (7th Cir. 1995) (accepting the lower court’s “methodology of diagramming and parsing” defendant’s allegedly defamatory statements). Rather, it simply appears that diagramming has a narrower purpose when the underlying legal text is not the product of careful drafting.
1. Diagramming as Textualism

To the extent that “we’re all textualists now,” judges should sometimes use sentence diagrams as a tool for improving textualist interpretation. As an initial matter, sentence diagrams immerse a reader in the text. If we believe that judges should focus first and foremost on text rather than on statutory purpose or legislative intent, diagrams can help ground and discipline judicial interpretation. Moreover, textualism requires that a judge do more than just look at the words in the document. We would ideally want courts to have a more rigorous interpretive methodology than the judge “who never understood how to diagram sentences” but “looked at the language several times and concluded that a reasonable person could read the sentence” in a certain way. The appellate court that reversed the judge presumably agreed.

In the past, judges have turned to dictionaries to improve their understanding of semantic meaning. The Supreme Court, in particular, has “invoke[d] dictionary definitions as an objective and relatively authoritative resource for discerning . . . ordinary meaning.” Admittedly, some scholars have criticized the Court’s use of dictionaries as subjective. But although it may be easy to identify examples of subjective interpretation, it is much harder to provide an affirmative account of neutral interpretation. Moreover, recent scholarship has suggested that, at least in theory, more interpretive resources need not increase judicial discretion. As a result, it seems more productive to debate how—not whether—courts use outside interpretive tools.


74. See supra note 20 and accompanying text.

75. See Abbe R. Gluck, The States as Laboratories of Statutory Interpretation: Methodological Consensus and the New Modified Textualism, 119 YALE L.J. 1750, 1829-46 (2010) (proposing that courts should always first consider whether the text has a plain meaning, even if they ultimately may turn to other resources in the face of textual ambiguity).


77. See id.

78. Brudney & Baum, supra note 12, at 486-87.

79. See, e.g., id. at 489.


81. See, e.g., Antonin Scalia & Bryan Garner, A Note on the Use of Dictionaries, 16 GREEN BAG 2D 419, 422-23 (2013) (listing rules for using dictionaries); Phillip A. Rubin, Note, War of
The deeper problem with dictionaries may be that they only provide courts with one form of textual meaning. As a number of commentators have noted, legal texts “cannot be understood merely by understanding the words in [the document].” 82 Rather they “can be interpreted accurately only in a fairly comprehensive context.” 83 Dictionaries can therefore be a misleading interpretive source to the extent that they “do not provide [this] context.” 84

Sentence diagrams can help courts correct this interpretive problem by providing judges with a tool for deciphering syntactic meaning. 85 In this regard, sentence diagrams are not fundamentally different from the grammar canons. But whereas the grammar canons identify a few specific syntactical rules, sentence diagramming provides an adaptable framework for dissecting sentences. Admittedly, this feature can also be a flaw as diagrams may be susceptible to judicial manipulation. As others have noted, how one diagrams a sentence may, at times, be a subjective exercise. 86 But as with dictionaries and even well-accepted canons of interpretation, 87 our debate should be about how to diagram correctly and in a more consistent way, not whether to diagram in the first place.

2. Diagramming as Legal Imagery

Sentence diagrams may also improve the communicative value of judicial opinions. In our legal system, judges do not simply answer questions; they also show their work. One purpose of written opinions is in disciplining judicial

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83. Randolph, supra note 82, at 74.
84. Id.; see also Hoffman, supra note 15, at 401 (“Dictionaries simply are not capable of explaining complex linguistic phenomena . . . .”).
85. I say “begin” because contextual meaning may extend beyond a single sentence or even the statute. See Randolph, supra note 82, at 74-78 (arguing that courts may sometimes need to look to legislative history to understand statutory text).
reasoning, and as discussed above, sentence diagrams can add rigor to judicial interpretation. But written opinions also provide an important “law announcing function”: they explain the court’s reasoning so that future litigants and courts need not inductively determine “legal rules, principles, standards, and policies” by combing through individual cases. Instead, the opinion itself offers broader legal guidance.

Sentence diagrams can help promote this communicative function. For example, a long and convoluted statutory provision, like § 924(c)(1)(A), raises many interpretive questions. In an ordinary opinion, a court would only decide the narrowest grammatical relationship in the statute, which leaves the meaning of the rest of the provision shrouded in syntactic mystery. In contrast, by diagramming even a part of the provision, the court lays out an interpretive framework for future courts and private parties. Admittedly, parts of the diagram that do not directly address the question at issue would likely be treated as non-binding diagrammatic dicta. But dicta may itself be a valuable source of information in future cases.

Despite their reputation for complexity, sentence diagrams may also make some judicial opinions more accessible. Scholars have already argued that including visual images in briefs can help litigants better communicate their arguments to courts, and some judges have specifically called for parties to use more visual aids. In addition, courts have long used images in their opinions to communicate important facts about a case. It would be a simple and logical next step for judges to include actual sentence diagrams in their opinions to help future courts and litigants understand the rationale of their decisions.

89. See supra notes 74 and 77 and accompanying text.
90. Leflar, supra note 88, at 810-11.
91. See, e.g., Pierre N. Leval, Judging Under the Constitution: Dicta About Dicta, 81 N.Y.U. L. REV. 1249, 1253 & n.17 (2006) (arguing that dicta “can help clarify a complicated subject[,] ... can assist future courts to reach sensible, well-reasoned results[, and] ... can help lawyers and society to predict the future course of the court’s rulings.”). Alternatively, we might view the structure of the entire sentence as relevant to the court’s reasoning and, thus, the entire diagram as a part of its holding. See Michael C. Dorf, Dicta and Article III, 142 U. PA. L. REV. 1997 (1994) (arguing that a holding should include a court’s rationale for its decision).
93. See Eichhorn, supra note 11, at 86-87.
B. When to Diagram?

In deciding when to diagram a sentence, judges should consider three factors. First, courts should recognize that diagrams add little to debates about semantic meaning. As Lawrence Solan has noted, “battles over statutory meaning are nearly always about the ‘wordlike’ aspects of the statute’s language rather than the syntactic, rulelike aspects of the statute,” and diagrams shed little light on the meaning of the individual words in a sentence.

Second, as this Comment has shown, courts are more likely to diagram texts that are the product of careful legal drafting, such as statutes or constitutions, as compared to less formal legal documents, like contracts. In these latter cases, courts seem particularly focused on protecting grammatically unsophisticated parties. Without addressing broader questions about the correct method of interpreting contracts, this Comment agrees that courts should be more careful about diagramming legal texts that may not have been precisely drafted.

Finally, even in statutory and constitutional cases, courts should not allow sentence diagramming to trump a text’s plain meaning or other canons of interpretation. As a result, diagrams may be most helpful for long and convoluted statutory provisions like § 924(c)(a)(A)—or what one court has called “super-sentence[s].” In these cases, a diagram may simply help a judge wrap her head around the text. Unfortunately for both judges and litigants, these convoluted sentences are becoming a more and more common part of our legal system. But, fortunately, sentence diagrams are ideally suited for addressing the problem of super-sentences.

Conclusion

Whether or not Justice Gorsuch becomes the first Justice to include a sentence diagram in a Supreme Court opinion, we should recognize that sentence diagrams already play an important role in our legal system. For over a century, judges have used diagrams to help them interpret legal texts, and there are good reasons for them to continue the practice. Of course, judges for whom sentence diagramming brings up traumatic grade-school memories need not...
engage in the exercise. But for those of us who enjoy parsing sentences—or at least do not mind it—diagramming can be an important tool for understanding syntactic meaning.

101. See supra notes 38 and 71 and accompanying text.