

## Defeasibility in judicial opinion: Logical or procedural?

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### ABSTRACT

While defeasibility in legal reasoning has been the subject of recent scholarship, it has yet to be studied in the context of judicial opinion. Yet, being subject to appeal, judicial decisions can default for a variety of reasons. Prakken (2001) argued that the defeasibility affecting reasoning involved in adversarial legal argumentation is best analysed as procedural rather than logical. In this paper we argue that the defeasibility of *ratio decendi* is similarly best explained and modeled in a procedural and dialectical framework. We propose that appeals are best understood as meta-dialogues about the reasoned dialogue occurring in the initial trial.

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