



## LANDMARK SUPREME COURT CASES

2014-2015 BRADY'S AP GOVERNMENT CLASSES



**Abington School District V. Schempp (1963)**

FACTS: Pennsylvania law required that each public school day was started with the reading of at least 10 verses from the Holy Bible. Students could only be dismissed from the Bible reading with a written request of their parent or guardian. At Abington City Schools, the verses were broadcast over the intercom system and then followed by a reciting of the Lord's Prayer, and the students were asked to stand and join in on the prayer in unison. Participation in the morning opening was optional and the student leading the prayer could recite verses from any Bible version of their choosing. Edward Schempp argued that the readings were controversial to his family's religious beliefs, and removing his children from the ritual would lead to adversary effects on the children's relationship with their classmates and teachers.

ISSUE: Does the Pennsylvania law and Abington's policy violate the religious freedoms of students that were protected by the fourteenth and first amendments?

ARGUMENTS: The religious exercises violate the Establishment Clause of the first amendment that states, "Congress shall make no law respecting an establishment of a religion." This is made applicable to the states through the fourteenth amendment's Due Process Clause. It followed the precedent set by the *Ebgle v. Vitale* case, and the government, while protecting all religions, must remain neutral and show no preference towards any religion.

DECISION: In a 8-1 vote, the Justices ruled in favor of Schempp. Church and State are to remain separate, and a parental excuse doesn't excuse the state from violating this.

IMPLICATIONS: The issue remained controversial and set forth precedents in *Lemon vs. Kurtzman*, and other cases involving religious activities in public schools.



Alabama Legislative Black Caucus vs. Alabama

FACTS: The Alabama Constitution of 1901 requires the Alabama Legislature redistrict itself every 10 years based on the national census. After the *Reynolds v. Sims*, the Supreme Court required Alabama to create equipopulous state legislative districts, based on “one person, one vote.” Alabama still found it hard to comply with this. It was only after the 2000 census that Alabama redistricted without federal or judicial interference, which led to an increase representation of African American voters and candidates. However, the 2010 census revealed malapportionment in most electoral districts, so it became the legislature’s priority to fix this problem in its new district lines in 2012. This plan requires that every district’s population be within a 2% deviation of constitutional requirements of equal apportionment. However, under the Voting Rights Act, the state tried to maintain at least the same number of majority-minority districts and percentage of minority votes in new districts at levels of the 2001 plan. The 2012 plan reallocated large numbers of minority voters to majority black districts. Therefore, this plan roughly maintained the same percentage of black voters in majority-minority districts as the 2001 plan did. The 2012 plan was passed in both houses, approved largely along party lines, but all black legislatures opposed it. The Alabama Legislative Black Caucus and Alabama Democratic Conference both challenged this plan and the cases were consolidated both into one lawsuit.

ISSUE: Does a state violate Section Two of the Voting Rights Act and the Equal Protection Clause of the Fourteenth amendment by a state legislative redistricting plan that results in large and unnecessary population deviations, and diluting minority vote strength? Does Alabama’s legislative redistricting plans unconstitutionally classify black votes by race by intentionally packing in districts designed to maintain supermajority? Does Alabama violate the principle of one person, one vote?

ARGUMENTS: The ALBC and ADC argue that drafters of Alabama’s 2012 legislative redistricting plans violated the Equal Protection Clause of the Fourteenth Amendment and also the Fifteenth Amendment because they had the intention of maintaining the supermajority percentages yielded when the 2010 census data were overlaid on the 2001 majority-black districts and ignored the county boundaries in pursuit of black population and to the advantage of incumbents. The 2012 plan also violated the Voting Rights Act by diluting the black vote according to the ALBC and ADC. The counter argument from Alabama is that the state had to use race as a way to avoid retrogression. Alabama argues that they used the considerations and advice from black legislators, such as maintaining 60-65 percent black population in majority-black districts, thus proving that this plan was not in a discriminatory manner. Alabama also argues that the ADC lacks standing because the plan does not have a traceable particularized harm on the organization.

DECISION: The District court dismissed the claims and ruled in favor of the state. Oral arguments were on Nov. 12, 2014, but the Supreme Court has not made a decision.

IMPLICATIONS: The ruling of this case could determine what extent legislatures are allowed to take race when districting and whether the court can intervene and has role in policing redistricting plans in individual states. This case also allows the Court to clarify how the Fourteenth Amendment applies to state redistricting that try to comply with Voting Rights Act. It will also clarify what states should or should not do when trying to comply with standards in regards to redistricting.



Alden v. Maine (1999) – State Immunity in Federal Courts

FACTS: In Maine, a group of probation officers sued the state, claiming that the state was in violation of the rules concerning overtime written in the 1939 Fair Labor Standards Act. Shortly after this event, the Seminole Tribe v. Florida case of 1996 held the notion which declares that states cannot be sued in state court for the violation of a federal law without their consent, and Congress is unable to prevent the use of this right, which is known as sovereign immunity. As a result of the Court's decision in the 1996 case, Alden and the other probation officers' case was dismissed in Federal district court. Following this dismissal, the probation officers took the suit to the state, where both the state trial court and the state supreme court determined that Maine had sovereign immunity.

ISSUE: This Supreme Court Case raises the question, should Congress be able to apply its powers in Article I of the U.S. Constitution to end a state's sovereign immunity? Allowing Congress to do so would mean that state courts would be forced to handle private suits for the violation of federal laws whenever Congress believes it is necessary.

ARGUMENTS: In reaching a decision, two clear opinions began to appear. A popular opinion stated that a general understating of the structure of the Constitution and the wording of Amendments 10 and 11 supports the concept of state sovereign immunity and opposes the proposed Congressional power. Differing from this opinion, in reaching a decision, some Supreme Court Justices argued that no basis of state sovereign immunity exists in the Constitution.

DECISION: After a 5-4 vote, the Supreme Court held that Congress does not have the power to override state sovereign immunity. Through the use of Amendment 11 and a slight interpretation of the Framers' original intent, the Supreme Court determined that state sovereign immunity is a right granted to the states in the Constitution. The Supreme Court Justices decided that Article 11 uses terms which support state immunity from suits in their own courts. In addition, the Court used the Framers' original intent to determine that state power is important to maintain, despite the accepted dominant power of the federal government.

IMPLICATIONS: As a result of this decision, it is more officially decided that state sovereign immunity is an important aspect of the judicial system. Since Congress cannot intervene when a state does not agree to hear a private suit against itself and the involvement of the violation of a federal crime, state sovereign immunity is preserved. In total, this allows states to exercise their rights more freely, which could be both a positive and negative quality of the federal system. With this freedom, states can focus on the important aspects of governing, such as the practice of establishing and following new state laws. However, such freedom could enable the states to abuse federal laws, since they are not required to handle suits which concern the violation of federal laws.





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## Arizona Christian School Tuition vs. Winn

FACTS: Arizona Christian School Tuition vs. Winn was a case in 2010 based around establishment clause. Arizona taxpayers claimed their tax money was being funneled to private religious schools. Initially the district court dismissed the case. But, on an appeal the Court of Appeals said that the taxpayers have a justified claim to sue

ISSUE: The question at hand was if the plaintiff can prove that the Arizona tax money was being transferred to these private schools. The Constitutional rights being argued was that the plaintiff argued that tax credit violated Establishment Clause in the First Amendment.

ARGUMENTS: The defendants argued that the tax money can be used for the religious private schools. While the plaintiff said that the money belongs to the states and cannot be used for private schools.

DECISION: 5 votes for Arizona Christian School Tuition Organization, 4 votes against. The Supreme Court believed that the challenger's opinion was not supported by Article III of the constitution and they could not prove it violated Establishment Clause.

IMPLICATIONS: The only effect I believe this case might have is that more cases will involving more arguments over Establishment Clause.



Baker V. Carr (1962)

FACTS: Charles Baker and other people living in Tennessee created a suite against Joe Carr the secretary of state saying that Tennessee's reapportionment efforts ignored large economic growth and population shifts within the state, Baker said this violated the state constitution because it required redistricting every 10 years based off the federal census.

ARGUMENTS:The main argument in this case is whether the supreme court has jurisdiction to hear a case revolving around political legislation. Also what is the test on deciding if an issue is strictly political and not consitunal.

DECISION:On a majority of 6-2 the supreme court ruled that that federal courts have the power to determine the constitutionality of State's voting districts. Based off the 14th amendment it wasn't a political question, it was a constitutional one that gave the courts full rights to hear the case. Brennan stated that Bakers right was violated under the equal protection clause and when the law fails to protect his right to an equal vote the court must protect it.

IMPLICATIONS:This decision expanded and gave more power to the Supreme Court, also opened the door for other political cases in the Supreme court such as Gray V. Sanders that lead to the court ruling of "One Man One Vote"



Baker V. Nelson

FACTS:

The case took place in Minneapolis, Minnesota. A gay couple, Richard Baker and James McConnell, wished to receive a marriage license. The couple applied for one to Gerald Nelson, a court clerk. When they applied, Nelson turned the couple away because the state law limited marriage to the opposite sex.

ISSUE:

The Court was asked to decide whether or not the limitations of marriage to strictly heterosexual couples violated any provisions in the U.S. Constitution.

ARGUMENTS:

The United States Supreme Court never granted certiorari on the case; the case came to the Court through a mandatory appellate review. There are no written briefs or oral arguments for the case because it did not occur at this level. The United States Supreme Court believed that Baker didn't raise a substantial federal question.

DECISION:

The case was dismissed by the United States Supreme Court and the original ruling of the Minnesota Supreme Court was upheld; the Constitution does not protect a fundamental right for same sex marriage.

IMPLICATIONS:

Much controversy arose over the fact that the decision was only a summary decision. The case was utilized in later cases as a controlling precedent.



Barron v. Baltimore

FACTS: John Barron was co-owner of a profitable wharf in the harbor of Baltimore. As the city developed and expanded, large amounts of sand accumulated in the harbor, depriving Barron of the deep waters which had been the key to his successful business. He sued the city to recover a portion of his financial losses.

ISSUE: The Supreme Court is asked to decide if the Fifth Amendment denies the states as well as the national government the right to take private property for public use without justly compensating the property's owner

ARGUMENTS: The Constitution was designed for the federal government and not the states. The States each have their own Constitution with their own powers. Amendments were enacted to guard against the encroachments of the federal government and not the states. Also, the amendments do not have any language indicating that they apply to the states.

DECISION: No. Justice Marshall observed that the framers intended the Amendments of the Constitution to apply only to the federal justice and not the states

IMPLICATIONS: State courts still interpreted the Bill of Rights as applying to their own governments. The Supreme Court's ruling in Barron prevailed in federal courts, however, until passage of the Fourteenth Amendment after the Civil War. Gradually since then, the Supreme Court has interpreted the Fourteenth Amendment, which bans states from depriving citizens of life, liberty, or property without "due process of law". Modern constitutional law prohibits state governments from taking private property without just compensation.





**FACTS:** On April 26, 1986, at a high school assembly for student office nominations. Matthew Fraser, a Pierce County Washington high school senior, was suspended for two days for promoting the election of a friend for Associated Student Body Vice President by use of a speech filled with sexual innuendos. With Fraser's dad as guardian ad litem and help from the ACLU, the respondent filed suit in Federal District Court claiming that the school's disruptive conduct rule violated his constitutional rights. The school district's vague disciplinary action rules was deemed to violate Fraser's First Amendment right [Free of Speech] and also, removing Fraser's name from the graduation's speaker's list was deemed to violate Fraser's Fourteenth Amendment right [Due Process Clause]. After the District Court and the US Ninth Circuit Court of Appeals ruled in Fraser's favor, Bethel School District asked the Supreme Court to consider the case.

**ISSUE:** Does the First Amendment, the right to free speech, extend to high school students using lewd speech at a high school assembly? Did the Bethel School District have a right to punish Fraser?

**ARGUMENTS:**

**BURGER, C. J., delivered the opinion of the Court, in which WHITE, POWELL, REHNQUIST, and O'CONNOR, JJ., joined.**

Since Public Education must prepare pupils for citizenship in the Republic, this means that students must learn the shared values of a civilized social order, students should demonstrate the appropriate form of civil discourse and political expression by their conduct and deportment in and out of class. The same rights given to adults in other settings do not extend to the constitutional rights of students for offensive forms of expressions that is devoid of political points. Referencing back to the 1969 Tinker v. Des Moines decision (wearing protest armbands), students are allowed to express themselves when their words are non-disruptive and not connected to the school. Fraser's speech was offensive to students and the First Amendment does not prevent school officials from determining that a vulgar speech is against the school's educational mission and that the person who delivers the speech should be punished.

**BRENNAN, J., filed an opinion concurring in the judgment. BLACKMUN, J., concurred in the result.**

The Majority Opinion exaggerates the vulgarness of the speech but the school district did have the right to punish Fraser.

**MARSHALL, J., and STEVENS, J., filed dissenting opinions.**

The school's ambiguous disciplinary rule and teachers he pitched the speech to did not properly warn Fraser that he was liable to be punished and he should not be punished if he had no reason to anticipate punitive consequences. The speech was hardly disruptive of

the education process, none of the evidence brought forth suggests that the speech interfered with school activities. The reaction of the student body was not atypical to a high school auditorium assembly, vulgar language may be acceptable in some contexts and intolerable in others.

**DECISION:** The court found that the Bethel School District did have the power to prohibit the use of vulgar and offensive language and Bethel School District did have a right to punish Matthew Fraser.

**IMPLICATIONS:** Citizens of the United States of America do have a right to say whatever they want but that does not mean your utterances will come without any consequences. The extent of the constitutional rights of minors in school is different and less broad than the constitutional rights of adults within public society. Students do not shed their freedom to speech at the school gate and school officials do not have absolute authority over students. Students do possess fundamental rights but must respect the standards of their environment. Anything that materially or substantially interrupts school activities is forbidden and the power to restrict student speech is still consist to the right to free speech of the First Amendment.

Betts v. Brady (1942) – Right to counsel

**FACTS:** What happened in the case?

Betts was indicted for robbery in Maryland. He was unable to afford counsel and asked for one to be appointed to him but the judge denied the request. Betts pled not guilty while arguing his own defense and saying he had the right to counsel.

**ISSUE:** What is the Court asked to decide? What is the constitutional question?

The Court was asked to decide whether or not denying a request for an indigent defendant violates the due process clause of the 14<sup>th</sup> amendment.

**ARGUMENTS:** What are primary arguments advanced by the supreme court to reach its decision?

The right to counsel merely prevented the state from interfering in a defendant's request for representation rather than requiring a state to offer counsel.

**DECISION:** What did the Court decide? The decision must be related to the issue above.

The Court decided that the 14<sup>th</sup> amendment does not compel states to provide counsel to any defendant.

**IMPLICATIONS:** What were, are, or might be the effects of the decision?

The ruling in this case caused many people, some who might have been not guilty, to be convicted because they could not competently represent themselves. Later the ruling was overturned in 1963 in the Gideon v. Wainwright case. The Court ruled you have a right to counsel and that counsel must be provided by the government if the defendant cannot afford to pay an attorney. It was ruled this is required by 14<sup>th</sup> amendment.



*Bowers v. Hardwick* (1986)

FACTS: A Georgia police officer observed a homosexual man, Michael Hardwick, engaging in the act of consensual sodomy with another male adult in the bedroom of his home. Following the charge of violating a Georgia statute that criminalized sodomy, and after Hardwick failed to state a claim when challenging the constitutionality of the statute in Federal District Court, the case proceeded to the Court of Appeals. Georgia's statute was deemed unconstitutional by the court, leading the state's Attorney General to appeal to the Supreme Court and be granted certiorari.

ISSUE: Does the Constitution bestow a fundamental right upon homosexuals to engage in consensual sodomy, therefore rendering the laws of several states that make such conduct illegal null and void?

ARGUMENTS: Firstly, in Justice Byron R. White's opinion for the majority, the Court argued that the essential "right to privacy," as protected by the Constitution's Due Process Clause against the states, does not bestow upon homosexuals the right to engage in sodomy. Although the "right to privacy" protects certain personal aspects of marriage, family relationships, and child rearing, among other things, from state interference, it does not protect homosexual sodomy because "no connection between family, marriage, or procreation on the one hand and homosexual activity on the other has been demonstrated." Secondly, the Court argued that the right to commit homosexual sodomy was not in itself a "fundamental right" protected by the Due Process Clause, as the clause protects only activities that are labeled as fundamental rights from state interference. Lastly, the Court argued that Georgia's law was rational even if its purpose was to "legislate" morality, therefore rejecting Hardwick's argument that homosexual sodomy must be protected from "irrational state regulations."

DECISION: With 5 votes for and 4 votes against Bowers, the divided Supreme Court ruled that there was no constitutional protection for acts of sodomy and that states could make such practices illegal. The Court also ruled that the right to commit sodomy did not fit within either of the following standards that allow the Court to protect rights not easily identifiable within the Constitution, as argued by Justice Byron White: the standards of those rights being "implicit in the concept of ordered liberty" (*Palko v. Connecticut*, 1937) or "deeply rooted in the Nation's history and tradition" (*Griswold v. Connecticut*, 1965).

IMPLICATIONS: In the next several years, lower courts relied on the case to dismiss claims of unconstitutional discrimination against gays and lesbians, reasoning that a group that is constitutionally subject to criminal penalties for its behavior could justifiably be treated differently from other groups. Although a serious legal blow to the gay community, the decision was not long lived. In *Lawrence v. Texas* (2003), the Court declared a Texas anti-sodomy statute unconstitutional, ruling that homosexual sodomy is part of the fundamental right of adults to engage in private sexual activity.



## BRANDENBURG V. OHIO

**Facts:** 1968 in Hamilton County, Ohio. Clarence Brandenburg, a KKK leader in rural Ohio is arrested under Ohio's Criminal Syndicalism law for advocating for violence during a rally and statements from a speech. He was making giving a speech about African Americans, Jews, those who supported those groups as well as how our own government was suppressing the white men. He was fined and sentenced to prison.

**Issue:** Was the Ohio Criminal Syndicalism prohibiting any public speech in which advocates for something illegal, go against the first and fourteenth amendment rights of citizens?

**Arguments:** Brandenburg claimed that the Ohio law was not granting him his first and fourteenth amendment right and such should have the sentence reversed as is was against his 1st and 14th right to free speech and he has the right to say such things.. The opposition had claimed that the statements that Brandenburg said was not protected by his 1st and fourteenth amendment rights as he was advocating for violence by stating very racist things such as " Bury the Niggers" as well as it not being a peaceful protest as there were guns present at the rally and how it was being filmed by a network on television.

**Decision:** The Supreme Court ruled in favor in Brandenburg in an 8 to 0 ruling and reversed the sentence placed on him by the state of Ohio. The court's Per Curiam opinion felt that the Ohio did indeed restrict Brandenburg of his right to free speech. The court used a test to make the ruling which was based on 2 ways to evaluate speech as constitutional or unconstitutional . One is if it is directed at inciting or producing imminent lawless action and the other is if it is likely to incite or produce such action. They believed the law was too broad and was not clear enough so it violated the constitution.

**Implications:** This court case led to the establishment of the Brandenburg Test which is a test used to judge the legality of seditious speech. This test uses three elements which are intent, imminence, and likelihood and this is used to determine if the speech used was legal or not. This test is also known as the imminent lawless action test. The Case also overturned the Ohio syndicalism law as well as overturning Whitney V. California.





Brown vs. Plata

FACTS:

A prison in California held roughly 160000 inmates when it was only suppose to hold about 80000 inmates. Several inmates, including Marciano Plata, sued the institution for cruel and unusual punishment. They wanted the prison to release enough inmates so that the prison was not longer crowded. The prison had ignored a previous instruction to remedy the over crowding

ISSUE:

Does the mandated release of inmates in order to eliminate unconstitutional conditions violate the Prison Litigation Reform Act?

ARGUMENTS:

Plaintiff: Since the inmates were being denied basic care because of the overcrowding, then it does not violate the PLRA for the court to order the release of inmates. It is a reasonable measure for the court to mandate the release of inmates and is not intrusive because of the 8th amendment violation.

Defense: The plaintiff cannot prove that the prison was still overcrowded at the time of the lawsuit and since that cannot be proven, then the court mandated release violates the PLRA

DECISION:

The court mandated the release of 137.5 of its total design capacity. Over 38,000 inmates were released. The court ruled that a 3 judge district court did have the jurisdiction to mandate the release of inmates because of the severe violation of constitutional rights.

IMPLICATIONS:

This ruling increased the reach of the federal judges. It has given them the authority to step in on institutions that are run by the states. Any increase in federal power has its risks, but it also has its benefits. It now gave the courts the power to intervene when dealing with the the violation of basic rights.



## Supreme Court landmark cases

- What happened in the case? On May 17, 1954 the United States Supreme Court handed down its ruling in the landmark case of Brown v. Board of Education of Topeka, Kansas. The Court's unanimous decision overturned provisions of the 1896 Plessy v. Ferguson decision, which had allowed for "separate but equal" public facilities, including public schools in the United States. Declaring that "separate educational facilities are inherently unequal," the Brown v. Board decision helped break the back of state-sponsored segregation.
- What is the Supreme Court asked to decide? What is the constitutional question? NAACP chief counsel Thurgood Marshall argued the case of Brown v. Board of Education before the Supreme Court for the plaintiffs. Marshall was himself named to the Court in 1967. Even the great US constitution was quiet on slavery and it was time to do something about it. What they asked the Supreme Court is to rule out separate but equal because it didn't feel equal. They were hosed, bitten by dogs and brutally beaten by police officers.
- What are the primary argument advanced by the Supreme Court to reach its decisions? Officials of some states already are on record as saying they will close the schools rather than permit them to be operated with Negro and white pupils in the same classrooms. In the end, Officials of some states already are on record said that they will close the schools rather than permit them to be operated with Negro and white pupils in the same classrooms. However the court struck down the term separate but equal and issued that all public and private building and facilities will be open to both whites and the blacks. Court justices were influenced by many factors and one major one was when Marshall explained about the life of young African American girl who was denied the right to go to school in a nearby area just because she was black.
- What did the Supreme Court decide? The Supreme Court decided that separate but equal is unconstitutional and it was struck down to a 9 to 0 votes. A unanimous decision.
- What were, are, or might be the effects of the decisions. Before the court came up with the decision, America was divided into two categories African Americans and whites. Even the bathrooms were segregated then came along Marshall. Bathrooms, public schools, public institutes and many more things were desegregated and the notion separate but equal was out of question.



#10 Buckley v. Valeo

FACTS: After Watergate, Congress attempted to remove corruption in public campaigns by restricting financial contributions to any candidates. The FEC (Federal Election Commission) was instituted to regulate the funds going towards these candidates. The amount of money a single person could contribute was limited and any donations over a certain amount was required to be reported to them.

ISSUE: A James L. Buckley filed for a lawsuit against Francis R. Valeo, the Secretary of the State who represented the federal government. The Supreme Court was asked to look into the constitutionality of the Federal Election Campaign Act. Specifically, whether the limiting of contributions was a violation of the First Amendment or if it was required to ensure fair elections.

ARGUMENTS: Justice Burger had a dissenting opinion that it was unconstitutional to have constitutional limits, governmental financing, or reports of any contributions. However, the other 7 justices (Justice Stevens abstained) decided that it was generally constitutional with several special concurring opinions. The First Amendment was cited to “assure the unfettered interchange of ideas for the bringing about of political and social changes desired by the people.” This idea tied free speech to the personal use of money by people who wished to contribute to certain campaigns and programs. The justices also stated that while limiting the amount that one could contribute is not nearly as limiting as any restrictions placed on how much the campaign can spend. Therefore, the majority of the justices agreed that there should be a limit on how much one can contribute, reports of large dollar amounts contributed, but no limit on how much a candidate can spend on their campaign.

DECISION: The Court upheld limits on contributions to candidates. It struck down limits on expenditures by candidates. The Court struck down limits on independent expenditures (expenditures by other groups). They upheld mandatory disclosure and reporting provisions, after narrowing the types of speech to which they could apply. The Court also struck down the system where members of Congress could directly nominate and elect members to the FEC, an executive agency.

IMPLICATIONS: These decisions limited the supply of money, but did nothing to mitigate the demand for money. Candidates focus heavily on fundraising from more and more sources to fund their campaign. From this, “dark money” emerges, as there were required reports on expenditures on campaigning - but not necessarily on the income from fundraising, so the money could be used for other purposes differing from campaigning. The equality of campaign contributions, but not campaign spending, shows a divide between wealthy candidates and non-wealthy candidates. Candidates who already have money are able to spend their own money more so than other candidates. A “Millionaires Amendment” that allowed candidates to accept larger contributions if their opponent was spending money from their pocket. This is shown by the lack of recognition for campaign expenditure equality.



Burwell vs. Hobby Lobby Stores

FACTS: The Greens, representing Hobby Lobby Stores, Inc., sued Kathleen Sebelius, the Secretary of the Department of Health and Human Services, challenging the FDA-approved contraception requirement put in place under the Affordable Care Act.

ISSUE: The Court was asked to decide if corporations should be required to cover contraception to its female employees, according to the Religious Freedoms Act.

ARGUMENTS: The primary argument for Hobby Lobby was that the regulations put in place under the Affordable Care Act violated the Religious Freedom Restoration Act for closely-held corporations. The argument against Hobby Lobby was that ruling in favor of Hobby Lobby would be morally wrong, and it would go against precedent set in the Planned Parenthood Case in 1992 for women's reproductive rights.

DECISION: The Court ruled in favor of Hobby Lobby, allowing closely-held corporations to not be forced to provide contraception for its female employees, allowing religious freedom for corporations.

IMPLICATIONS: This decision allows corporations to claim religious exemptions from federal laws that apply to the general public. A corporation could claim that they waived their right to be shielded from responsibility for financial liabilities. It could be dangerous and could set way for even more cases for corporate freedoms from the laws. It also imposes religious beliefs onto others, which can harm other people's lives severely. It is not fair to tell an employee that their contraception will not be covered because of what the corporate boss decides. That in itself violates the freedom of religion and practices for a company's employees, which is many more people than the corporate CEO.





Bush v. Gore: The decision to end the recount

**Facts:** On election night of 2000 many people believed that Gore had won. But when they had awoke the next day they found out Bush had won. The race was so close it came down to one state which is Florida. It was too close to call.

**Issue:** The Supreme court was asked to decide if they should continue with a recount in the state of Florida. They had to decide if this was constitutional or unconstitutional and if it was unconstitutional then what would the remedy be.

**Arguments:** Bush argued that the recounts in Florida went against the Equal protection clause in the Fourteenth amendment and that there was no standard for the recount in each county. Gore argued the opposite that there was a standard. He also argued that if the ruling went unconstitutional then all the states votes would be considered unconstitutional.

**Decision:** The Supreme Court Ruled that the Fourteenth Amendment under the Equal Protection Clause had been violated when the Florida supreme court ordered a statewide recount.

**Implications:** From this case the Equal Protection Clause has been extended so that no votes would be counted for different counties that have different standards for counting votes.



## Citizens United v. Federal Elections Commission

### FACTS

Citizens United, a conservative lobbying group, created a political film about Hillary Clinton. The film was advertised and aired within 60 days of the 2008 Democratic Primaries, which apparently violated the 2002 Bipartisan Campaign Reform Act designed to limit the effect of big money on campaigns.

The Federal Elections Commission took issue with the promotion of the film which was to be aired on DirecTV. Citizens United expected the law to not apply to their film and took the FEC to court. The lower courts ruled in the favor of the FEC and found the film to be political charged and in violation of the law.

### ISSUE

The issue was whether or not free speech includes campaign speech as it does political speech when it comes to corporations. Additionally, whether the treatment of campaign films should differ in regards to campaign commercials, along with the importance of a definitive plea to vote for or against a candidate.

### ARGUMENTS

The majority opinion of Thomas, Roberts, Alito, Kennedy, and Scalia found that Hillary was not an "electroneering communication" therefore it did not violate the Campaign Reform Act. Sotomeyer, Ginsburg, Stevens and Breyer disagreed and argued against political spending as a form of free speech.

### DECISION

The Supreme Court overruled *Austin v. Michigan Chamber of Commerce* by ruling that the 1<sup>st</sup> Amendment protects the ability of nonprofit corporations to use their money in political expenditures unrelated to campaigns.

### IMPLICATIONS

Several states with laws restricting independent expenditures by corporations had to adjust their laws, and many states have now called for a constitutional amendment to reserve the Supreme Court's decision.

The same protection has been extended to all corporations along with associations and labor unions. This extends the influence that these groups carry over the election process and undermines the role of the average citizen. However, these groups are still unable to directly contribute to a political campaign.



### Communist Party vs Subversive Activities Control Board (1961)

**Facts:** After legislation was passed requiring Communist affiliated organizations to register with the general attorney, an organization known as the Subversive Activities Control Board (SACB) was formed to aid in this process. After the American Communist party would not comply, they went to court. The courts found the piece of legislation to be constitutional and upheld its registration provisions. The case was later appealed based on certiorari.

**Issue:** In this case, the Supreme Court has been asked to determine whether the American Communist party is a communist action organization and whether they must register with SACB and the attorney general. Later, under certiorari, the question was whether or not the Subversive Activities Control Board violated the Constitution and whether the Court of Appeals should have remanded the case to the Board based upon new evidence.

**Arguments:** The American Communist party argued that while affiliated with the communist party, they took no threatening actions as a "Communist action organization" in a time in which communist action in the United States was viewed as dangerously life-threatening. The SACB on the other hand, along with the attorney general, argued that based on this affiliation and past occurrences of the Communist party, they must register based on the provisions laid out by the Subversive Activities Control Act.

**Decision:** The Supreme Court made the decision to uphold the law in question by a 5-4 vote, affirming the Act's constitutionality. This decision was orally argued and generally believed to be conservative in nature.

**Implications:** Any communist party or organization must register with the attorney general and SACB.



**Facts:** The Baton Rouge police arrested 23 members in the Congress of Racial Equality (CORE) on account of illegal picketing. Cox organized marches through Baton Rouge and LA. They ended these marches with a demonstration in front of the courthouse. About 3,300 people were marching with Cox. While they were doing their demonstration, the Police Lieutenant in Baton Rouge made them confine to a small area for a limited time. They accepted these terms and did what he said. But while they were doing the demonstration a random group of officers forcibly dispersed the demonstrators and arrested a few, one was Cox. They arrested him on account of picketing near the courthouse. A \$5000 fine and up to one year in jail sentence was issued to Cox. The Supreme Court ruled that "near" is not too vague.

**Issue:** The question proposed was did Louisiana officials violate the Fourteenth Amendment for Cox picketing about 101 feet from the courthouse? Does this violate free speech in the First and Fourteenth Amendments?

**Arguments:** Arthur Goldberg wrote and said that Louisiana's use of the law was unconstitutional because Cox was given permission by the chief lutenist before they began to protest at the courthouse, but also that the police officers were right in trying to protect the judiciary from the protestors. These were the two arguments they had for either side. Another of the arguments was over the term "near". They discussed what they meant and how it was put into effect.

**Decision:** They voted 9-0 for Cox. The decision took about three months and was said to be a very Liberal decision. It was decided by Warren Court.

**Implications:** Some affects were that picketing was used a lot more since then, but more importantly that they have to be able to find the definition of "near". They worked to figure out what should be the definition. This sparked the fire that picketing is not against the law as long as it's got its limits. In the end of the 60's and the 70's many anti-war protests occurred. This is not directly related, but it sure helped those protestors to know that it's not illegal to protest.





Davis vs Beason (1890) – Polygamy

FACTS:

An Idaho Territory statute required voters swear an oath stating that they were neither a polygamist nor were they a member of any organization that promoted polygamy. In April 1889, Samuel D. Davis, a member of the Church of Jesus Christ of Latter-Day Saints, whose members often practiced and advocated polygamy, was indicted for falsely swearing the oath prior to the 1888 election. Davis was convicted and sentenced to pay a fine of \$500 and serve 250 days in county jail. On the same day as his conviction, Davis obtained a writ of *habeas corpus*, accusing the county sheriff of imprisoning him illegally. Davis claimed that requiring the oath violated his right to free exercise of religion under the First Amendment. The federal territorial court denied Davis' claim.

ISSUE:

Did requiring Davis to swear an oath that he was not a member of an organization that promoted polygamy violate Davis' rights under the Free Exercise Clause of the First Amendment?

ARGUMENTS:

Justice Field condemned the practices of polygamy and bigamy, saying, "To extend exemption from punishment for such crimes would be to shock the moral judgment of the community. To call their advocacy a tenet of religion is to offend the common sense of mankind." The opinion goes on to note that "religion," in the context of the First Amendment, refers primarily to "one's views of his relations to his Creator" and "modes of worship" and is not intended to be "invoked as a protection against legislation for the punishment of acts inimical to the peace, good order, and morals of society."

DECISION:

No. In a unanimous decision authored by Justice Stephen J. Field, the Court rejected the notion that polygamy was a meaningful tenet of a religion, and thus rejected Davis' claim to First Amendment protections.

IMPLICATIONS:

The decision led to a conflict regarding a case involving homosexuals. A Colorado initiative prevented any jurisdiction protecting homosexual citizens from discrimination. The Supreme Court ruled this unconstitutional. Current Justice, Antonin Scalia argued against this ruling referencing the Davis vs. Beason case claiming that the issues of polygamy and homosexuality are intertwined and should be reviewed similarly.



## **Davis Vs. U.S**

FACTS: At a routine traffic stop, Officer Curtis Miller arrested Willie Davis for using a false name. Officer Miller searched the car and found a gun, accusing Davis of being a convicted felon with a firearm. In court, Davis requested the firearm be removed from evidence due to his 4<sup>th</sup> amendment rights. The district court denied his request, so he sent his appeal to the court of appeal, later it got sent to the Supreme Court.

ISSUE: Should the results of a search be allowed into evidence as a good faith exception to the exclusionary rule where Supreme Court decision is already applied to invalidate a search?

ARGUMENTS: The good-faith exception to the exclusionary rule should not apply to a search authorized by precedent at the time of the search that is ruled unconstitutional.

DECISION: Searches conducted in reasonable reliance on binding appellate precedent are not subject to the exclusionary rule.

IMPLICATIONS: Even if evidence is present, and perhaps even known about, it is disregarded and protected under the 4<sup>th</sup> amendment rights. This could be pivotal in court cases relying on evidence unlawfully gathered.



Department of Homeland Security vs. McClean

FACTS McClean blew the whistle on the TSA for cutting air marshals from long distance flights to save on cost. After McClean had revealed this to the media he was terminated from his job.

ISSUE The issue is whether or not the federal whistleblower statute protects the Whistleblower from having their job terminated when regulations state they can not reveal information but no laws exist prohibiting the revealing of that information.

ARGUMENTS The Majority argument was the exemption from the Whistleblower Protection Act for disclosures "specifically prohibited by law" does not apply to disclosures prohibited solely by TSA regulations; and the Aviation and Transportation Security Act of 2001 did not itself prohibit MacLean's disclosure of lapses in post-9/11 aviation security to a reporter. The Dissenting argument by Justice Sotomayor "Congress has required agency action that would preclude the release of information 'detrimental to the security of transportation.' In so doing, Congress has expressed its clear intent to prohibit such disclosures."

DECISION The Court ruled 7-2 in favor of the whistleblower. The decision being that according to WPA unless it is specifically prohibited by law the whistleblower is protected. In this case the Aviation and Transportation Security Act of 2001 did not prohibit McLean's disclosure of lapses in aviation security.

IMPLICATIONS The Ruling clarified and expanded the protection of whistleblowers by specifying that WPA applies to everything but what is specifically prohibited by law. This expansion may lead to more whistleblowers, but the ruling could be ignored by federal branches.



## Dickerson v. United States

Kelsey Cox

FACTS-Charles Dickerson was apprehended by the police concerning bank robberies that had taken place and made a statement incriminating himself as the getaway driver before receiving and waiving his Miranda rights. He was subsequently arrested and convicted based on this statement, although he contested that it was ineligible in court because it had been obtained prior to being read his Miranda rights. In the Court of Appeals, the court ruled that it didn't matter whether or not he had been read his rights, since all confessions given voluntarily are admissible under current congressional law, 18 USC section 3501.

ISSUE-The Court must decide whether the legislative branch has the right to overrule the current standards set in place by the Miranda v. Arizona case.

ARGUMENTS-The majority opinion was that Congress did overstep its constitutional boundaries in passing a law to make it possible to ignore the precedents set forth by the court in the Miranda case. It must be up to the Court to overrule the decision made regarding Miranda rights, and since they decline doing that for the time being, the mandates still hold and section 3501 is constitutionally invalid. Justice Scalia had the dissenting opinion that not allowing any voluntary confessions gave needless protection to foolish individuals and would only serve to make achieving justice a more difficult task. He was joined by one other justice.

DECISION-The Court decided 7-2 that it was not within the legislative branch's authority to overrule a decision of the court and that the Miranda standards are to remain in place while the section 3501 law is void due to unconstitutionality.

IMPLICATIONS-The decision furthered the stigma that Miranda rights are an expected normalcy in American culture and one that will continue in the foreseeable future. Additionally, it reminded the Congress that the Court does have ultimate authority on issues of constitutionality and can not be ignored or overruled by the other branches.





District of Columbia vs. Heller (2007)

**FACTS:** The District of Columbia passed legislation barring the registration of handguns, the requirement of licenses for all pistols, and that all legal firearms be kept unloaded and either disassembled or trigger locked. A group of private gun-owners brought suit to claim that the laws passed violated their Second Amendment rights, the right to bear arms. The deferral trial court in Washington D.C. refused to grant the plaintiffs relief because the Second Amendment only applies to militias, not to private gun owners. The U.S. Court of Appeals for the District of Columbia Circuit disagreed; they voted that the Second Amendment does in fact apply to private gun owners. It was urged that the Court reviews the case to clearly define the relationship of federal gun control laws and the Second Amendment.

**ISSUE:** The Court was asked to decide whether legislation passed clause of the D.C. Code barring the registration of handguns, prohibiting carrying a pistol without a license, and requiring all lawful firearms to be kept unloaded and disassembled or trigger locked violate the Second Amendment rights of private gun owners who are not associated with state-regulated militia and wish to keep handguns and other firearms for their own use in their homes.

**ARGUMENTS:** Those on the side of keeping the legislation involving stricter gun control agreed with the federal trial court and further argued: the Second Amendment should not apply to D.C. because it is a federal enclave not a state, and that the D.C. legislation merely regulates gun control, not prohibits. The Plaintiffs disagreed with federal trial court, arguing that gun control laws have important and significant public health and safety benefits. Along with the NRA, the plaintiffs also presented how law enforcement groups claim that the knowledge a home might contain firearms protects lives because it discourages many criminals from entering homes when the owners are present.

**DECISION:** The D.C. Court of Appeals ruled that the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, and to use that firearm for traditionally lawful purposes, such as self- defense within the home. The ruling of the court was based on the text of the Second Amendment. Also, the court determined that the Constitution and Bill of Rights are fully in effect in the District (D.C.)

**IMPLICATIONS:** Since the court ruled in favor of the Plaintiff (less restrictive legislation on guns), this may provide future reference for other cases on the scope of the Second Amendment. With that, the ruling would suggest that the Second Amendment provides an individual right to bear arms for personal use, causing a few questions pertaining the legality of gun prohibitions and restrictions, what level of scrutiny applies to restrictions and regulations and if the right itself is fundamental. It is the first case involving the Second Amendment in seventy years and it will certainly be a big reference point for future cases to come.

Sources: <https://www.law.cornell.edu/supct/cert/07-290>

[http://www.oyez.org/cases/2000-2009/2007/2007\\_07\\_290](http://www.oyez.org/cases/2000-2009/2007/2007_07_290)



Dred Scott v. Sanford

FACTS: Dred Scott sued for his freedom after his owner, John Emerson, had died. They had resided in Illinois and territory where slavery was against the law. John Emerson's wife passed him on to her brother John Sanford who lived in New York. Scott then sued in the Federal Court with the same claim; he had lived in the free territory of Missouri. When Scott and his lawyers did not get the result they wanted they pushed on to the Supreme Court.

ISSUE: The Supreme Court had many facts to consider during this case. Was it possible for a slave to be set free if they entered a free state? Was the Missouri Compromise unconstitutional? Each of these was questions that the Supreme Court had to decide. The nation was split in half of how they felt about slavery and either decision pushed the nation closer to the Civil war.

ARGUMENTS: Dred Scott claimed that since he was living in states that abolished slavery therefore made him a free man. While Sanford would claim the Fifth Amendment which says, "No person shall be... deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." He claimed that the Fifth would take his property rights away from him which no law had the power to do.

DECISION: The final ruling was 7-2 giving the victory to John Stanford. Supreme Court Justice Taney stated that African Americans were not citizens and had no right to sue in the Federal Courts. Along with this decision the Justices said that the Missouri compromise was unconstitutional and that congress held no power to ban slavery throughout the nation.

IMPLICATIONS: The aftermath of the ruling made it clear on where the government was on the argument of slavery. The decision heightened the tensions between everyone in the nation and was the case that many think is what pushed the country closer to a civil war. Even though this case was just over 150 years ago, the same types of cases still happen to this day. There are many critics say that the decision of the Citizens United v. FEC in 2010 to Dred Scott v. Sanford in 1857.



Edwards V. Aguillard

FACTS:

- Louisiana passed the “Balance Treatment for Creation-Science and Evolution Science in Public School Instruction Act”
- This Act prohibited the teaching of evolution UNLESS accompanied by instruction in the theory of creation science

ISSUE:

- Did the Louisiana Law violate the Establishment Clause of the First Amendment

ARGUMENTS:

- Parents and teachers challenged the Act’s constitutionality, they claimed any requirement of teaching creationism is an impermissible advancement of religion
- State claimed the law was entitled to protect academic freedom by giving students a balance of both theories

DECISION:

- Supreme Court ruled the law violated the Establishment Clause of the First Amendment because it failed on all 3 prongs
- The law was not enacted to further a clear secular purpose
- The law was made to advance the viewpoint that a super-natural being created humankind
- It entangled the interests of church and state by seeking financial and symbolic support from the government to achieve a religious purpose

IMPLICATIONS:

- Only affects state schools, they are free to teach whatever theory they want
- Does not affect private schools, homeschooling, Christian schools or Sunday schools



77. Elk Grove Unified School District v. Newdow (2004) - The "Pledge" Case

**Facts: What happened in the case?**

Everyday at Elk Grove Unified School, the teachers lead the students (including Newdow's daughter) in saying the Pledge of Allegiance. Newdow felt the "under God" clause in the Pledge presses a religion that he personally does not agree with, being atheist himself, on his daughter. While Newdow claimed to sue as a 'next friend', the child's mother, who had full custody, wanted her daughter taken out and not wrapped up in the case.

**Issue: What is the Supreme Court asked to decide? What is the Constitutional question?**

In this case, the Court was not only asked to decide if Newdow had legal standing to sue as a 'next friend', but they are asked to decide if the clause "under God" in the pledge violates the Establishment Clause in the First Amendment.

**Arguments: What are the primary arguments advanced by the Supreme Court to reach its decision?**

The Court notices in the beginning that the school is not in the wrong and is simply following a State law. The Court had many arguments thus after. The first, Newdow's ability to teach his daughter his religious views is not obstructed, he is attempting to shield his daughter from outside influence. The next argument is that "under God" is no prayer or endorsement, simply a recognition of the fundamental belief in God our nation was founded on. Another identifies this problem as a "heckler's veto" and uses the example that though some man not agree with the clause "with liberty and justice for all", they do not attempt to remove it from the pledge. One thing the Court points out is that this is not a majority problem the country has. Citizens have never before been afraid to challenge "religious" government practices though this has only been challenged 3 times in its history. Justice O'Connor points out "The clearest command...is that one religious denomination cannot be officially preferred over another. It does not refer to a nation 'under Jesus' or 'under Vishnu', but acknowledges religion in a general way under a simple reference to a generic God." This clause is meant to protect state rights from the federal government, but does not protect any individual rights.

**Decision: What did the Supreme Court decide? The decision must be related to the issue above**

The Supreme Court's final decision in the Opinion of the Court delivered by Justice Stevens was that Newdow lacked the standing in this case. They also came to the conclusion that the "under God" does not violate the Establishment Clause in the First Amendment.

**Implications: What were, are or might be the effects of the decision?**

This decision sets a precedent for later decisions. Such decisions could include the national motto "In God we Trust" and on our coins, religious references in patriotic songs, and the Marshall opening every court with, "God save the United States and this honorable court."





Engle V. Vitale (1962)

FACTS:

The Board of Regents of the State of New York authorized a voluntary prayer to be recited at the beginning of each school day, which was nondenominational. Doing this was an effort to resolve the politically compelling issue which had bothered many communities. The prayer was very vague and bland: "Almighty God, we acknowledge our dependence upon Thee, and beg Thy blessings upon us, our teachers, and our country."

ISSUE:

The reading of a nondenominational prayer to begin the day at school was argued to violate the "establishment of religion" clause of the First Amendment

ARGUMENTS:

For Engel: The separation of church and state requires that government stay out of the business of suggesting religious activities of any kind. The Regents' prayer simply and clearly violated the 1st Amendment and should, therefore, be banned from the schools.

For the Regents of the State of New York: The New York Regents did not establish a religion by providing a prayer for those who wanted to say it. Countless religious elements are associated with governments and officials, reflecting the religious heritage of the nation. New York acted properly and constitutionally in providing an optional, nonsectarian prayer. It would be an disturbance into State matters for the Supreme Court to diminish the right of the Regents to compose the prayer and encourage its recitation.

DECISION:

6 votes for Engel, 1 vote against

Even if the prayer was nondenominational or voluntary it does not save it from being unconstitutional. Just by providing prayer, this meant that New York officially approved religion. This case was the first in a series of cases in which the Court used the establishment clause to banish all religious activities of all sorts, which had traditionally been a part of public ceremonies. This decision is still unpopular with a majority of Americans.

IMPLICATIONS

This case affirmed the separation of church and state.



## Escobedo v. Illinois

FACTS: A 22-year-old man in Illinois was detained for questioning following the death of his brother-in-law but was released when the police could not get any meaningful information. Eleven days later, they detained him again for questioning, and he was held overnight. Escobedo repeatedly requested to see his attorney, but, although his attorney was present and attempting to stop the interrogation, he was denied access. After hours of questioning without access to his attorney, Escobedo made a damaging confession which led to his conviction for the murder of his brother-in-law.

ISSUE: The Supreme Court was asked to decide whether an accused person has the right to counsel during questioning and if the authorities have the right to continue questioning the accused when he has asked to consult with his attorney. This is a 6th amendment issue as it deals with the right to counsel, and asks the Supreme Court to decide *when* the accused has the right to attorney. Formerly, precedent only required the accused access to his attorney during legal proceedings.

ARGUMENTS: The Court based their decision in this case on the arguments set forth in several preceding Supreme Court cases. The chief among them was *Gideon v. Wainwright*, which established that the accused has the right to an attorney during all criminal *legal* proceedings. The precedent set forth in *Gideon* does not mention the right to counsel during interrogation or any other time before trial. In the opinion of the court, Justice Goldberg said, "The rule sought by the State here... would make the trial no more than an appeal from the interrogation, and the right to use counsel at the formal trial [would be] a very hollow thing [if], for all practical purposes, the conviction is already assured by pretrial examination." In this argument, the Court is essentially saying the *Gideon* must be carried further if it is to have any bearing on proceedings at all, because it still allows authorities to essentially indefinitely question suspects without allowing them access to counsel.

DECISION: The US Supreme Court reversed and remanded the Illinois Supreme Court decision. They established that, based on precedent from *Gideon v. Wainwright*, *Bram v. United States*, and *Massiah v. United States*, the accused has the right to counsel in all stages of criminal proceedings, including interrogation. Any information obtained by authorities after the accused requests his attorney is inadmissible in trial. In its ruling, the Supreme Court made void the Illinois Supreme Court decision and remanded the case to Illinois for retrial complying with their decision (retrial without the confession.)

IMPLICATIONS: The implications of *Escobedo v. Illinois* reached far beyond simply ensuring Danny Escobedo a new trial. It secured retrials for numerous other convicted criminals in Illinois and other states. It also ensured that all future interrogations would follow the ruling of the Court. The implications of *Escobedo* continue still today, as every accused person is allowed access to his attorney upon request, regardless of in what stage of the proceedings the request is made.



### Everson v. Board of Education

**FACTS** The Everson v. Board of Education case was about the validity of a New Jersey law applying to public and Catholic schools that reimbursed parents who sent their children to school via the public transportation system. The case was brought up by a New Jersey district taxpayer who believed that the reimbursement given to the parents of children attending private/religious schools violated the constitutional prohibition against state support of religion.

**ISSUE** Furthermore, the Supreme Court was faced with issue of deciding whether the New Jersey statute violated the Establishment Clause within the First Amendment of the Constitution, as it was made applicable to the states through the Fourteenth Amendment. The Establishment Clause states that the U.S. Congress cannot make a law “respecting an establishment of religion” or “prohibiting the exercise of [any religion].”

**ARGUMENT** The judges of the Supreme Court took two very different stances upon this case. Some argued that the New Jersey statute was constitutional because they believed that bussing is a service separate from the religious teachings within school, and therefore the law didn't violate the Establishment Clause. Justice Hugo Black sums this argument up when he states, “[Services such as bussing are] separate and so indisputably marked off from the religious function, that for the state to provide them would not violate the First Amendment.” However, the other opinion of the judges was that parents who sent their children to school via the public transportation system were being reimbursed with public funds, which were raised through taxation. Therefore, since the government was reimbursing parents using money gained from taxes, the government was “supporting” such private/religious schools.” Justice Wiley Rutledge states this when he states, “This not only helps the children to get to school and the parents to send them. It aids them in a substantial way to get the very thing which they are sent to the particular school to secure, namely, religious training and teaching.”

**DECISION** In a 5-4 decision, the Supreme Court held that the New Jersey statute did not violate the Establishment Clause of the First Amendment, and that the use of tax-raised funds did not violate the due-process clause of the Fourteenth amendment, because the money was used for a public purpose. The law didn't pay money to parochial schools or support them directly in any form; it was simply a general program to help parents of all religions, and therefore didn't violate the Constitution.

**IMPLICATIONS** The Everson v. Board of Education case was the first of its kind, in addressing the Establishment Clause of the First Amendment with respect to schooling. After this case, many more cases have risen and attempted to separate the “church” from public schools. Additionally, many other First Amendment cases have inundated the courts in the years following this case, because the courts have struggled in addressing the “non-establishment clause” and “free-exercise clause” that have resulted due to the ambiguity within the First Amendment.



## **Fisher v. Texas (2012) University of Texas Admissions Case**

### **By: The Tristan Justice**

**Facts:** Fisher v. Texas is a case concerning affirmative action. The petitioner – Abigail Fisher – was a white Texan, was denied admission to the University of Austin Texas for the fall of 2008. She sued the university in violation of the fourteenth amendment under the Equal Protection Clause.

The University of Texas is a public institution that reviews applications regularly. It is chartered by the Texas state constitution and provided with state and federal funding.

Applicants to the University who do not graduate in the top 10% of their high school class, may still obtain admission by having high scores in a process that evaluate the applicant's talent, leadership qualities, family circumstances, and notably, their race. The applicant in this case, Fisher, held a GPA of 3.59 on a 4.0 scale and was only in the top 12% of her class. She scored 1180 on the SAT test. In addition, she participated in activities such as orchestra, math competitions, and Habitat for Humanity.

**Issue:** In this case, the court was faced with the issue of the constitutionality of Affirmative Action. The court had to decide whether a public university violates the Equal Protection Clause of the Fourteenth Amendment when it considers race as a factor in admissions decisions.

**Arguments:** In arguing the case, the case of Grutter v. Bollinger was used from 2003 where the court held in a 5-4 decision that “student body diversity is a compelling state interest that can justify the use of race in university admissions.” However pure quota systems of admissions are unconstitutional, universities may consider race to be a factor only if it is one of many factors in individualized admissions decisions. The Defendant University of Texas, used the Grutter v. Bollinger case as a legal precedent justifying its rejection of Abigail Fisher, arguing that it has a holistic interest in pursuing a diverse student-body.

The petitioner of the case Abigail Fisher argued that the University lacked a compelling interest to have a race-conscious admissions policy. The petitioner argued that the Grutter case should be clarified or overruled.

**Decision:** The court ruled in a 7-1 decision with Justice Kennedy writing the majority opinion. Justice Ginsburg dissented and Justice Kagan recused herself from the case. In his opinion, Justice Kennedy vacated the lower fifth circuit court ruling and upheld the University's admission policy. Justices Scalia and Thomas both wrote concurring opinions. The court ruled that the University's admissions process was constitutional as the fifth circuit court did not apply strict scrutiny in the decision to affirm the university's admission policy, and the supreme court upheld the Grutter case.

**Implications:** Public universities may now use race to be a factor in determining an applicant's admission to the university.





## Florida V. Harris

**Facts:** On June 24<sup>th</sup>, 2006, in Liberty County, Florida Clayton Harris was pulled over by a police officer who had saw his tags had expired. While talking to Harris the police officer thought he looked nervous, was breathing quickly and was frustrated during the exchange and thought he smelled an open alcohol container. So he brought out a canine officer to do a “free air sniff” the dog keyed in on the car’s driver side door handle which there was nothing in and soon 200 pseudoephedrine pills were found under his seat and he was arrested after more extensive searching later he had several key components used in the making of methamphetamine and was charged with possession of the listed chemical pseudoephedrine with intent to use it to manufacture methamphetamine. After 2 months he was pulled over by the same officer again the dog was deployed and this time alerted to the handle again nothing was found except an open alcohol beverage. With this in mind Harris motioned the court to suppress the evidence on the grounds that both times the dog had alerted to something that wasn’t actually there. This motion was denied he appealed to the supreme court of Florida who noted that because of the officer’s incomplete record keeping of his dog’s alerts. The State of Florida petitioned the United States Supreme Court for a writ of certiorari.

**Issue:** The issue being that it is against 4<sup>th</sup> amendment rights for a police officer to be able to search something based on a dog’s alert which were shown to be wrong 80% of the time.

**Arguments:** Two questions were asked whether officers may search a vehicle based solely on an alert by a drug dog? And what is required to establish that a drug dog is well-trained?

**Decision:** The court held with all its previous rulings on the matter with the court noting that the dog’s training and certification were enough for a search to be committed given the “totality-of-the-circumstances” provided probable cause for search.

**Implications:** This case was only the most recent in complaints about this but the Supreme court holds firm on it’s decision which will set precedence for the next time this case is brought up and generally speaking the supreme court is careful in which cases it chooses so some justice’s might not want to rule on it again anytime soon because of their busy schedule.



FURMAN V. GEORGIA (1972)

FACTS:

There were three cases (one for murder and two for rape) involved with this landmark case where the death penalty was imposed. The first of which, the defendant, Furman, claimed to have killed his victim on accident when caught robbing the victim's home. One of the defendants convicted of rape, committed armed robbery on the same occasion. And the final defendant was convicted of solely rape. In each case, it was a trial by jury. Each case was petitioning for certiorari in relation to the imposition and execution of the death penalty.

ISSUE:

The three cases that this court decision involved all resulted in the imposition of the death penalty. The issue that the court must deal with is whether or not this imposition is considered "cruel and unusual punishment" and whether or not it violates the Constitution of the United States (amendments number 8 and 14).

ARGUMENTS:

Those who argued in favor of Furman stood by the reasoning that the death penalty has been arbitrarily imposed in many situations, frequently pointing towards racial prejudices. Two Justices believed the death penalty to be unconstitutional in all instances (Brennan and Marshall). However, those who argued against Furman believed that capital punishment always been seen as appropriate for serious criminal offenses. Dissenting arguments discussed the Constitutional authorization of the death penalty in the fourteenth amendment.

DECISION:

Five Justices voted in favor of Furman and four Justices voted against. Therefore, Furman was not sentenced to the death penalty.

IMPLICATIONS:

This decision forced Congress to reconsider laws regarding capital punishment and ensure that capital punishment is not imposed in a discriminatory fashion. Also, the majority of states made new laws regarding the death penalty in hopes of diminishing the unpredictable sentencing of the death penalty. Also, many states put forth standards that their courts must follow in order to impose the death penalty.



Gibbons v. Ogden

FACTS: There was a law in New York State during the early 1800s in which it required that all boats in New York water ways must have a license to operate. Soon after laws like it began popping up all over the United States. These laws made it difficult for out of state water craft to use New York and states like it so Gibbons, a steamboat trader who dealt with interstate commerce, challenged New York license commission that the law was not valid.

ISSUE: The Supreme Court was asked to decide if the New York law that enforced the increased prices for licenses for out of state boats was in conflict with the Constitution.

ARGUMENTS: The Supreme Court brought the National Supremacy Clause of the Constitution into thought. The National Supremacy Clause states that if a Federal law and a State law are conflicting, then the Federal law trumps the state law. This meant that any Congressional law passed that prevented this type of regulation would mean that New York's law is unconstitutional and therefore invalid. And there was a federal law passed that was about the federal government regulating costal trade that was opposed the New York law.

DECISION: Supreme Court rules in favor of Gibbons 6-0.

IMPLICATIONS: Not only did this turn over the New York licensing law, it also enforced the idea of National Supremacy over state laws. This allocates all regulations to interstate commerce to the federal government and makes it unconstitutional for states to pass laws that restricts interstate commerce.



Gideon v. Wainwright (1963) - Right to Counsel

FACTS: Clarence Earl Gideon was charged with a felony in a Florida state court. The accused felony was that Mr. Gideon broke into and entered a poolroom with the intent to commit a misdemeanor offence. He appeared in court without a lawyer because he could not afford one and he requested to have a lawyer appointed to him. His request was denied-according to Florida state law, an attorney may only be appointed to a defendant in capital cases. Gideon represented himself and was found guilty where he was sentenced to five years in prison. While in prison, he wrote a letter to the Florida Supreme Court and argued that the trial's court decision violated his constitutional rights.

ISSUE: The defendant asked for representation to be appointed and his request was denied which in Gideon's opinion violated the sixth amendment rights which guarantee the right to counsel for those who cannot afford a lawyer themselves. The court had been asked to decide whether Gideon's case should be allowed to have an amended trial with a lawyer present.

ARGUMENTS: The constitution places high value on the right to counsel and courts need to respect that in all cases, not just capital cases.

DECISION: The court ruled that the sixth amendment should apply to all cases, not just capital cases, and that Gideon would have a new trial with a lawyer present.

IMPLICATIONS: The sixth amendment of right to counsel only pertained to capital cases or federal prosecutions. In 1963 when the case of Gideon v. Wainwright occurred, the sixth amendment was changed to include right to counsel for state prosecutions as well as federal prosecutions. The right to counsel is now present in all cases.





### **Gitlow v. New York (1925)**

**FACTS:** Gitlow, who was a socialist, was arrested for giving out copies of a “left-wing manifesto”. By giving these out, he was calling for people to establish socialism through strikes and class actions. He was arrested for trying to overthrow the government by force.

**ISSUE:** Is the New York law violating the First Amendment of free speech by punishing Gitlow and saying that he’s trying to overthrow the government?

**ARGUMENTS:** There was no resulting action to the manifestos publication, so they were arresting him for attempting to overthrow the government, when that was not his actual intent of the published manifestos.

**DECISION:** The First Amendment does apply to this situation because the state may deny freedom of speech and publication if the action is dangerous to the public. Although this act by Gitlow did not create no clear danger, there was still the possibility of something happening.

**IMPLICATIONS:** This case clarified to the people that the freedom of speech is not absolute. While the First Amendment states that freedom of speech can happen, there are certain circumstances that can occur that go against what the First Amendment says, such as posing a threat to the public.



## Gratz v Bollinger (2002)

### Facts:

- Petitioners Gratz and Hamacher were both Caucasian Michigan residents who applied to the University of Michigan's school of Literature, Science, and the Arts (LSA).
- Both men were considered by the LSA to be qualified, but both were denied admission.
- For the sake of consistency in their decisions, the University's Office of Undergraduate Admissions uses written guidelines for each academic year to base their admissions decisions off of.
- The university had always considered African-Americans, Hispanics, and Native Americans to be "underrepresented minorities." It is undisputed that the university admits virtually every qualified applicant from these groups.
- The selection method for admission requires 100 points (based on criteria) and every applicant from an underrepresented racial or ethnic minority is automatically awarded 20 points.

### Issue:

- Filed as a class action case
- The university's use of racial preferences in undergraduate admissions violated the Equal Protection Clause of the Fourteenth Amendment, Title VI of the Civil Rights Act of 1964, and 42 U.S.C. § 1981.

### Arguments:

- Relied on Justice Powell's principal opinion in Regents of Univ. of Cal. v Bakke, 438 U.S. 265, 317, which expressed the view that the consideration of race as a factor in admissions might in some cases serve a "compelling government interest."
- Court found that the LSA's admissions guidelines for 1995-1998 operated as the "functional equivalent" of a quota.

### Decision:

- The court struck down the undergraduate admissions system, but upheld the law school system.
- Schools may take race into account in order to achieve "educational benefits of diversity", but they may not award "mechanical preferences" to certain applicants solely on account of their race.
- Ultimately, the court refused to end the use of racial preferences altogether; instead, they would create a 25 year window for schools to continue to use racial preferences if only on a case-by-case basis

### Implications:

Schools are supposed to be gradually moving toward a unitary admissions standard that achieves racial diversity without any special consideration of race.



Gregg v. Georgia

- Facts: Troy Leon Gregg was found guilty of armed robbery and murder. During his sentencing, the jury was told that Gregg could either spend the rest of his life in prison or be given the death penalty. Gregg was given the death penalty. Gregg appealed to the Supreme Court, claiming his punishment was “cruel and unusual”, and that his Eighth and Fourteenth Amendment rights had been violated. In its final decision, the Supreme Court upheld Gregg’s sentence, claiming his rights had not been violated.
- Issue: The Supreme Court was asked to verify whether or not Gregg’s sentence of capital punishment was in violation of his rights or not. The more general issue was if the sentencing of the death penalty violated a person’s rights defined in the Eighth and Fourteenth Amendments.
- Arguments: The man representing Gregg, G. Hughel Harrison, made the argument (in reference to Gregg’s sentencing) that Gregg claimed he had gotten in a fight and was forced to use self-defense. He maintained that this was what actually happened but refused to sign an official statement, and thus the only concrete proof of the crime was the disappearance of the money. Harrison claims that “we do not have to go to the ultimate question of the death penalty under Eight Amendment, even though we say that even there we question the sufficiency of proof to justify the taking of human life”. The Supreme Court, in its decision, made the argument that the state of Georgia had narrowed down the “class of murderers” that were given the death penalty, letting the jury look at the convicted based upon their situation. Their argument overall was that Gregg, based on the circumstances surrounding his crime (robbery and murder) was punished accordingly, and that his capital punishment was not cruel or unusual.
- Decision: In a vote of 7-2, the state of Georgia’s opinion was upheld. As previously mentioned, the Court’s argument was that Gregg, according to his circumstances, was punished accordingly and that his rights were not being violated.
- Implications: The ruling of Gregg v. Georgia set major legal precedent about the death penalty. The general overview of it was that the death penalty was constitutional so long as a person’s constitutional rights were not violated. The ruling of this case allowed states to continue to execute criminals that were convicted of horrible crimes, so long as their punishment was not “cruel and unusual”.



Gregory v. Chicago (1969)

FACTS: In Chicago, Dick Gregory and other peaceful protesters were arrested for disorderly conduct. They were marching and singing. As they were supposed to, they stopped singing at 8:30. They continued on their march, and the police told them to disperse. They did not disperse, and were arrested as previously mentioned. The petitioners were denied due process because they didn't have enough evidence according to the court. This case was then sent up to the Supreme Court where the convictions were overturned because the protest was fully within the lines of the law and specifically the Citizens' first amendment rights.

ISSUE: The issue incorporated with this case was due process. The Supreme Court followed the ideal that everyone has the same rights and due process must be carried out.

ARGUMENTS: The court addressed the Fifth Amendment, which says that no one will be "Deprived of life, liberty, or property without the due process of law". This Amendment provided the main idea that influenced the Supreme Court's decision.

DECISION: The Supreme Court ruled that the protestors were wrongly arrested, as they did not act in a way to violate any laws. They overturned the charges against the protesters on the grounds that they didn't receive due process.

IMPLICATIONS: This decision could set precedent that any person charged with a crime that is not given due process could overturn the given charges. Due process is a promise of the amendments to the constitution.





## Griswold v Connecticut

### Facts

Griswold was the Executive Director of the Planned Parenthood league of Connecticut. She helped give information and medical advice to married couples about birth control. Griswold was convicted under a Connecticut statute criminalized giving counsel and treatment to married persons for preventing conception.

### Issue

Does the Constitution protect the right of marital privacy against the state restrictions placed on contraceptives. Can Penumbras be used in a court decision.

### Arguments

Does the constitution include a broad privacy protection. Controlling the contraceptives would violate this privacy. The provisions in the constitution may have hidden meanings outside what is directly stated, like a right to privacy.

### Decision

7 for, 2 against Griswold. The Bill of Rights contains penumbras that guarantees zones of privacy. The Connecticut statute violates this privacy and is therefore null and void. Not all judges agreed on the validity of ruling using the penumbras.

### Implications

Allows the courts to rule with penumbras, or hidden meanings and, the first, third, fourth, and ninth amendments work together to create a right to privacy that is not directly stated in the constitution. A victory for judicial activism



Grutter V. Bollinger(2002)  
Race Basis for Michigan's Law School

FACTS: In 1997, Barbara Grutter, a white michigan resident, applied for admission to the University of Michigan Law school, with a high GPA of 3.8, and an LSAT score of 161, but nevertheless, was denied. The Law school willingly admits, that one of the factors in decided who gets admitted into their law school is race. The district court concluded that the laws school interest in achieving racial diversity in their school was not a compelling one. The Court of Appeals contradicted this conclusion, stating “ establishing diversity as a compelling governmental interest sufficient under strict scrutiny review to justify the use of racial preferences in admissions.”

ISSUE: The Supreme Court was asked to decide “Does the University of Michigan Law School's use of racial preferences in student admissions violate the Equal Protection Clause of the Fourteenth Amendment or Title VI of the Civil Rights Act of 1964?”

ARGUMENTS: Justice Kennedy argues with the rhetorical question” Suppose you have a LAW School with two to three percents of Hispanic and Black students... is that a legitimate concern for the University and for the state officials”, and continues with the belief the minorities are underrepresented. Mr. Kolbo, petitioner Grutters attorney, counter argues that this underrepresentation does not justify racial preference. Justice Scalia uses sex discrimination as an example for an unfair plus factor in admitting applicants into schools, and asks how race discrimination is any different.

DECISION: The final decision was 5 for Bollinger, 4 against. In an opinion delivered by Justice Sandra Day O'Connor, the court held that “the Equal Protection Clause does not prohibit the Law School's narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body”.

IMPLICATIONS: Some effects of the decision include the court reasoning that the Law school reviews every aspiring law students application individually, and no decision of acceptance or rejection is solely based on one's race.



## Good News Club V. Milford Central School

### Religious use of school facility

FACTS: The Good News club is a private organization for Christian children and use eligible for the use of Milford for their meetings. But when they submitted their request forms so that they could use the school they were denied on the grounds that religious worship, such as singing songs and prayers, was prohibited in the school by the community. The Good News club then filed a law suit saying that their freedom of speech under the first and fourth amendment had been violated. This case was appealed and later use moved to the Supreme Court for a hearing.

ISSUE: In this case the Supreme Court was tasked with deciding if the first and fourth amendment rights of the Good News club had actually been violated or if the Milford Central School was able to deny them based on a violation of the establishment clause.

ARGUMENTS: The Good News club argued that by them using the school as a meeting place after school hours they weren't affecting the establishment clause of the school and because they were not affecting this clause they had their first amendment right taken from them. On the other end the Milford Central School said that they were not allowed to have religious activities on school grounds whether in was during or after school hours because it violated the establishment clause. Also the school felt that by this being a religious event that they were denying, they weren't taking the first amendment right away because the religious activities fell outside of the moral and character development of the school.

DECISION: The Supreme Court in a six to three vote decided for the Good News Club. They court decided that the first amendment rights of the club had been violated and that the school argument of a breach in the establishment clause was incorrect. They also added that there was discrimination between the school and the Good News Club because it was a religiously centered club.

IMPLICATIONS: A major effect of this court case was now there was no argument as to whether a religious group could meet after school hours because if they were told no it would be a violation of their first amendment rights. This also could have led to a large amount of clubs such as FCA to be both accepted and to grow around the country.



FACTS: The Keaton-Owen Child Labor Act prohibited the interstate commerce of goods produced through child labor. A man whose son named Reuben Dagenhart sued on behalf of his freedom to allow his fourteen year old son to work in a cotton mill that is located in Charlotte, North Carolina. Reuben Dagenhart's father first filed a bill to the district court in western North Carolina and the court found the Keaton-Owen Child Labor Act to be unconstitutional on the grounds that it is not a regulation of interstate and foreign commerce, it infringes the Tenth Amendment to the Constitution, and it violates the Fifth Amendment to the Constitution.

ISSUE: Does the Keaton-Owen Child Labor Act issued by Congress violate the Commerce Clause, the Tenth Amendment, or the Fifth Amendment? The Supreme Court was asked to decide whether the act violated any of the amendments or provisions made to the Constitution.

ARGUMENTS: First, Congress had no regulatory authority over production that was in fact not commerce. Second, the regulatory authority over commerce was reserved to the states by the Tenth Amendment.

DECISION: The court found the Keaton-Owen Child Labor Act to be unconstitutional with the vote being five to four in Dagenhart's favor.

IMPLICATIONS: It led to the continuance of child labor and further reduced Congresses ability to federally regulate such activities. This led to more state power and further enhanced state's rights, while at the price of young children.





### Hazelwood School District v. Kuhlmer (1988)

FACTS: Hazelwood East High School had a school newspaper, The Spectrum, and in May of 1983 the students were working on publishing a may issue of the paper. Before the students published the paper they gave their principal, Robert E. Reynold, proofs of the issues articles for him to look over. During this time he found that two of the students articles were "inappropriate" and he withheld them from publication. This lead to for former students to bring a first amendment case to court against the school district. The first court that saw the case ruled in favor of the Hazelwood School District, leading the students to appeal that courts decision. An appeal court then ruled against the original ruling and voted in favor of the students. That lead to this case being brought to the supreme court.

ISSUE: The main question in this case was whether or not the school had the right to not publish student articles, and if the withholding of the articles violated the students first amendment right.

ARGUMENTS: The defense in this case was the Hazelwood School District, and they argued that they had not violated any of the students first amendment rights. The tried to prove that they were doing what was best for the school and its reputation. While the students were the plaintiff in this case. They tried to prove that the principle had encroached on their freedom of speech right by not allowing their articles to be published in the school newspaper.

DECISION: The Supreme Court voted, 5-3, in favor of the school district. There was five votes for the Hazelwood School District, and three votes for the students. The court found that the school had not violated any of the students first amendment rights by withholding the articles. They said that the first amendment does not make school promotee certain types of speech, and a school should have high standards for publications that it releases. It was also stated that schools can choose to not publish a students work as long as the have a reasonable excuses for preventing the informations publication.

IMPLICATIONS: This case set a precedent on what types of student speech schools are allowed to monitor. Many cases since the late 80s have used this ruling to defend schools and school districts. It showed what public schools can and can't do when it comes to free speech and students rights.



## Jones v. Mayer

**Facts:** Joseph Lee Jones argues that the Alfred C. Mayer Realty Company refused to sell him a home solely based on his race. The Court of Appeals ruled that the section in the U.S. Code that states that all citizens “shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property” only applied to state activities, and thus had no power in this private issue.

**Issue:** Does the Thirteenth Amendment give the government the power to regulate racial equality in the private sector?

**Decision:** The Supreme Court ruled 7-2 in favor of Jones and equal housing.

**Arguments:** The Supreme Court argued that the thirteenth amendment was not simply a prohibition of slavery, but also gave Congress the power to “rationally to determine what are the badges and the incidents of slavery and the authority to translate that determination into effective legislation.” This interpretation of the Constitution gives Congress the power to create such legislation as that which is quoted above, and the jurisdiction to make that legislation relevant and enforceable in the private sector.

**Implications:** This Supreme Court decision established the government’s ability to regulate racial equality in the private sector, even in issues with which it is not involved, such as the exchange of private property between a citizen and a realtor, as seen in the case.



Katz V. United States

Katz was accused of transferring wagering information illegally to people across the country using a pay phone. The FBI placed a recording device on the outside of the phone booth to record conversations and when they heard Katz talking about illegal gambling over the phone, they arrested him. Katz filed a petition with the Supreme Court and argued that the recording of his conversations using the phone booth was an illegal search and seizure because the Fourth Amendment guarantees his right to privacy. The Court of Appeals said that there was no violation of the fourth amendment because there was no physical intrusion of privacy.

The Supreme Court granted certiorari and they were asked to answer two questions: Whether a public telephone booth is a constitutionally protected area so that evidence obtained by attaching an electronic listening recording device to the top of such a booth is obtained in violation of the right to privacy of the user of the booth, and Whether physical penetration of a constitutionally protected area is necessary before a search and seizure can be said to be violative of the Fourth Amendment to the United States Constitution. They were asked to decide whether or not recording of Katz's conversations in a public telephone booth was a violation of the fourth amendment or not.

One of the main arguments in this case was whether or not the phone booth was a constitutionally protected place or not. Katz argued that it was but the government said that it was not. According to the Supreme Court, the phone booth itself is not protected, but what a person wants to be private, is. In this case Katz walked into the phone booth expecting that his conversations be private, which is protected under the fourth amendment. Another argument presented was the fact that when Katz stepped into the phone booth he could be seen by others; but the fact is that when Katz stepped into the phone booth he wasn't expecting privacy from eyes, but he was protecting himself from the unwanted ear.

The Supreme Court came to the decision that a fourth amendment right was violated because when someone is in the public domain, they still have things that they want to be private. That then leads to the lasting implications of Katz. What the Supreme Court ruled means that even when someone is in the public, if they want something to be private, then it shall remain private under the fourth amendment.



Kelo V. City of New London

FACTS:

New London, Connecticut used its eminent authority to seize private property to sell to the private developers. The city believe that in doing this that in doing this it would create jobs and increased tax revenues. Kilo Susette and others whose property was seized sued New London state court. They argued the city violated the Fifth amendment takings clause which guaranteed government will not take private property for public use without just compensation. The property owners argued that taking private property to sell to private developers was not public use.

ISSUE:

The Constitutional question is does a city violate the fifth amendment's clause if the city takes private property and sells it for private development with the hopes that will help the cities bad economy ?

ARGUMENTS:

The primary argument for the Supreme Court would be if it is or is not public use for taking private property to sell to private developers.

DECISION:

The Connecticut Supreme Court ruled for New London. They believe that the city was not taking the land simply to benefit the certain group for private individuals but was following an economic development plan. They argued that the fifth amendment not require a literal public use, but the broader and more natural interpretation of public use purpose.

IMPLICATIONS:

The effects of this decision is that while still referring to the the fifth amendment, if the city is taking land for an economic development plan then it is not found unconstitutional.





Korematsu vs. The United States

FACTS: During WWII, FDR signed Presidential Executive Order 9066 and Congress passed statutes authorizing the military to exclude citizens of Japanese ancestry from areas deemed critical to national security and potentially vulnerable to espionage. At first the orders came with a curfew, then it led to the actual evacuation. Fred Korematsu remained in San Leonardo, California violating the Civilian Exclusion Order #34 of the US Army.

ISSUE: Does Executive Order 9066 and other statutes excluding citizens of Japanese descent violate the 5th Amendment right of the citizens to due process?

ARGUMENTS:

Opinion of the Court: There is a certain number of disloyal Japanese people and for security reasons all of the Japanese must evacuate major areas in the United States in order to ensure security. This action is not a matter of race but of the US vs the Empire of Japan.

Dissent: The instructions of the curfew and then evacuation to the detention centers was confusing and hard for some citizens to follow. Also the decision to evacuate citizens of Japanese ancestry was inherently racist and obstructed their due process and other constitutional rights.

DECISION: With a 6-3 vote. The Supreme Court ruled in favor of the government's decision, despite its questionable constitutional handling the court decided that the government's actions were justified in times of desperation.

IMPLICATIONS: In a state of national emergency the government is allowed to do almost anything, including things that are unconstitutional, to preserve national security.



Lee v. Weisman (1992)

**FACTS:** At the graduation ceremony held at Nathan Bishop Middle School, Principal Robert E. Lee asked a rabbi to speak and recite prayers. Weisman, the father of a graduating student, filed for permanent injunction (a final court order that assures the ceasing of a certain activity,) because prayers were recited after the ceremony, and Weisman strongly opposed to the typical actions of inviting clergy to participate in school ceremonies.

**ISSUE:** the Supreme Court was asked to decide whether or not the appearance of clergy at school ceremonies violates the First Amendment's establishment clause, which clearly does not allow for the making of an official religion. In this case it was thought that religion was being favored.

**ARGUMENTS:** Some argued that if the rabbi had not mentioned God in the invocation, it would not be an issue up for debate. Others argued that the events imply a state-set religion.

**DECISION:** The vote was 5 to 4, 5 in favor of Weisman, meaning that they found the inviting of clergy to school ceremonies violated the Establishment Clause of the First Amendment because it suggests a "state sponsored" religion.

**IMPLICATIONS:** The effects of this decision were that it was no longer allowed to invite clergy to recite prayers in ceremonies for school functions because an unhealthy relationship between church and state was happening.



**Lemon v. Kurtzman**

Argued March 3, 1971, Decided June 28, 1971

FACTS: The Pennsylvania legislature had a statute which reimbursed nonpublic religious schools for certain secular educational services, such as teachers' salaries, textbooks, and instructional materials. Rhode Island's Salary Supplement Act allowed the state to pay private school teachers a 15% salary supplement.

ISSUE: The question was whether the statutes violated the Establishment Clause of the First Amendment by giving money to these religious institutions. The Establishment Clause forbids the government from establishing an official religion and prohibits government actions that may favor one religion over another.

ARGUMENTS: One argument was that the religious values do not necessarily affect the content of secular subjects. However, in reply to this argument was that the parochial school system was an integral part of the religious mission of the Catholic Church or any other religious school. Justice Douglas stated that although these schools teach secular subjects, their very existence is to propagate for their own religion. If taxpayers with different religious beliefs were forced to pay money to these schools it would infringe on the Free Exercise Clause.

DECISION: The statutes were found unconstitutional for it violated The Establishment Clause. The Court found that the subsidization of these nonpublic religious schools furthered a process of religious inculcation. Furthering this act would lead to a mix church and state.

IMPLICATIONS: The court recognized that taking these funds away would have serious financial consequences on private schools which relied on the statute and the funds allocated for the 1970-1971 school year. The case was remanded back to the district court and an order was passed would reimburse these schools for services provided before it was declared unconstitutional.



Louisville Bank v. Radford

FACTS: Radford and his wife mortgaged a farm in 1924 to the Louisville Joint Stock Land Bank. In 1933 they defaulted on their promise to pay their installments. The bank then ordered them to foreclose on the property. In 1934 the Frazier-Lemke Emergency Farm Mortgage Act was passed, which was suppose to give aid to in debt farmers. The Radfords thereafter petitioned for relief under the act. The bank then said that the Act was unconstitutional and that they should proceed with foreclosure on the farm.

ISSUE: Did the Frazier-Lemke Act deprive the bank of compensation for the property, and thus violate the fifth amendment?

ARGUMENTS: The court should rule in favor of the Bank finding the Frazier-Lemke Act unconstitutional. This would allow in turn allow give the right for the bank to foreclose on the property.

The court should rule in favor of Radford and his Wife and allow them to buy the property for the approved appraised price found in court.

DECISION: The court decided in this case that turning the mortgage into an investment that is against the desires of the mortgagee is oppression of the government. The Frazier-Lemke Act was then found unconstitutional and that it violated the fifth amendment.

IMPLICATIONS: This case was one example of where the supreme court ruled against Roosevelt's New Deal Legislation. Roosevelt was unhappy that this among other cases were decided unanimously. This of course then led to his attempt to pack the courts with more liberal justices that would further support the New Deal.





## Mapp V. Ohio

FACTS: Dollree Mapp was convicted of possessing obscene materials after police illegally forced themselves into her home to look for a fugitive. Mapp appealed her conviction on the basis freedom of expression.

ISSUE: The question the Supreme Court is asked to decide if illegally seized evidenced can be used in court cases. The main constitutional question goes to the Fourth Amendment which prohibits unreasonable searches and seizures and the Fourteenth Amendment which addresses citizenship rights and equal protection. The issue Mapp appealed on however is if the confiscated materials protected by the First Amendment.

ARGUMENTS: The police had no warrant to search Mapp's property and by doing so acted improperly. Therefore, any incriminating evidence in the illegal search should be thrown out of court and Mapp's conviction should be overturned. If the Fourth Amendment didn't limit police in a state and local level, they'll be able to search whenever they pleased without a warrant.

DECISION: In a 6-3 decision the Court overturned Mapp's conviction on the basis that Mapp's Fourth Amendment rights which are granted to all persons by the Fourteenth Amendment were violated by the illegal search by authorities thus any evidence obtained in an illegal way cannot be used in Court. (The court brushed aside the First Amendment issue.)

IMPLICATIONS: The huge effect is that any illegally seized evidence cannot be used in court at all due to the violation of the Fourth Amendment. The decision also left an effect on when and how to apply the exclusionary rule.



## Marbury v. Madison (1803)

FACTS: In the last days of John Adams presidency he attempted to keep the Federalist's in power and appointed William Marbury a Justice of Peace and several others to various positions by the Judiciary Act of 1789. However these appointments were never fully finalized. When Jefferson became president he refused to honor the commission's. Marbury appealed to the Supreme Court for a writ of mandamus to compel Secretary of State James Madison to deliver the commission.

ISSUE: Whether Marbury should receive a commission and if the Supreme Court has the authority to review acts of Congress. Also asks if congress can expand the Court's original jurisdiction and does the Supreme Court have the jurisdiction to issue of writ of mandamus.

ARGUMENTS: When an act of Congress was in conflict with the Constitution then it was up to the Supreme Court to be the final judge because ruled based on the Constitution. Marbury argued the Judiciary Act of 1789 gave the Court the power to issue the writ of mandamus but John Marshall believed it went against the Court's original jurisdiction and established judicial review.

DECISION: Chief Justice John Marshall refused to issue the writ of mandamus on the grounds that the Supreme Court did not have the authority granted in the Constitution although he did believe Marbury should receive the commission the Court could not issue the writ. Furthermore Congress could not expand the original jurisdiction of the Court to give them the power to issue the writ but the Court could review acts of Congress and decide on their constitutionality.

IMPLICATIONS: Increased the power of the Supreme Court by establishing that it has the power to ultimately decide what the law is setting forth an important precedent. Therefore it can review acts of Congress and the President if they believe them unconstitutional, also known as judicial review.



Maryland v. King

FACTS: Following his 2009 arrest on both first- and second- degree assault charges, the accused King was processed through a Wicomico County, Maryland facility. Booking personnel then used a cheek swab to draw a DNA sample in according to the Maryland DNA Collection Act. The swab matched to a unsolved rape case from 2003 and King was charged with that as well. He moved to suppress the DNA match saying that the Act had violated the Fourth Amendment, but the Court Judge in charge found the law constitutional. The respondent King was shortly convicted of that rape. Maryland Court of Appeals pushed the conviction aside, finding parts of the Act authorizing DNA collection from felony arrestees unconstitutional.

ISSUE: In this specific case the Supreme Court was asked to decide if searching a person for evidence of a crime without cause is against the Fourth Amendment. The constitutional question for Maryland v. King was, “does the Fourth Amendment allow states to collect and analyze DNA from people arrested, but not convicted, of serious crimes?”

ARGUMENT: Primary arguments in this court case were as follows: conducting DNA swab tests as a part of the arrest procedure does not violate the Fourth Amendment because the test serves a legitimate state interest and is not so invasive so as to require a warrant. Supreme Court Justice Scalia went as far as to write a dissenting opinion in which he said that the Fourth Amendment categorically prevents searching a person for evidence of a crime without cause. Another important argument was that obtaining an arrestee’s identity and criminal history is a crucial part of the arrest procedure and that a DNA test is just as valid and informative as fingerprinting.

DECISION: Justice Kennedy delivered the opinion of the 5-4 majority, voting in favor of Maryland over King. They determined that an arrestee’s criminal history could also serve the legitimate state interest of determining what level of risk the individual poses to the public and what conditions should be set on his/her release from custody, in other words they legitimized warrantless DNA samples from felony arrestees as a booking procedure.

IMPLICATIONS: One major effect of the decision that the Supreme Court made is that it makes us more aware of who or what is really around us. Alonzo King was guilty of his 2009 first- and second- degree assault charges but supposedly had no relation to the unsolved rape case from 2003. The problem with the case was that it, in a sense, distorts our sense of judgment of the values at stake.



*McConnell v. Federal Election Committee*

FACTS: McConnell believed the Bipartisan Campaign Finance Reform Act of 2002 was unconstitutional in many parts. The law banned soft money, increased hard money limits, regulated elections more, limited ads in the 60 days preceding elections, and restricted federal party funds for specific candidates. The law served to better allow the enforcement of election rules such as the Federal Election Campaign Act. The DC district court ruled on it in 2002.

ISSUE: McConnell and others believed the law infringed on the First Amendment rights of federal parties by limiting advertising and sources of funding for federal parties. He also thought Congress overstepped its Constitutional bounds. It was also believed that the law was too broad in its wording and would allow for potentially unconstitutional enforcement of the law.

ARGUMENTS: The Court believed the ban on soft money while limiting funds for parties was preventing “corruption threatened by large financial contributions.” Also, the soft money interdict was used for increasing voter turnouts and did not unduly restrict freedom of speech. Congress only dealt with elections with federal candidates allowing other election rules for state and local candidates therefore did not overstep its bounds. In addition, it found the law was needed to be broad to prevent loopholes regarding election rules and communications.

DECISION: The Supreme Court upheld the law except for the ban on contributions from minors and the obligation of election committees to choose coordinated or independent expenditures. These provisions were reversed because they restricted those people’s First Amendment rights.

IMPLICATIONS: It made stricter election rules but was partly overruled by *Citizens United v. FEC*. The new case overruled the limit on committees advertising on specific candidates as long as it did not contribute money directly. The soft money ban continues to influence us today.





FACTS: 2 years after the second bank of the United States was chartered by Congress in 1816, Maryland attempted to pass a legislation imposing taxes on the bank. The cashier of the bank, James W. McCulloch refused to pay the tax to Maryland and the state of Maryland attempted to sue him for collection of the due payments.

ISSUE: Did Congress have the authority and right to establish the bank? Did Maryland have the right to impose the taxes?

ARGUMENTS: The argument for McCulloch was that the bank did not simply appear. It was created on a 20-year charter with framers voting for it to be established. It brought up the issue of "is the bank necessary?". This was the main argument from Maryland. McCulloch also argued that states have no power by taxation. Maryland believed they could establish a large tax on any unchartered bank, and the second bank of the United States was not.

DECISIONS: Chief Justice John Marshall announced the court's unanimous decision. They ruled in favor of McCulloch. They decided that Congress had the right to create the bank and that the Maryland tax on the bank was not constitutional. It was determined that Congress was executing their constitutional powers to do whatever was both necessary and proper because the bank was directly related to Congress's power to tax and to regulate interstate commerce.

IMPLICATIONS: This case looked at how Congress determines the broadness of its powers. It has had an effect on many cases and it is looked towards for other later cases relating to what is deemed necessary and proper in the eyes of Congress.



McCutcheon vs. FEC (2013)

**Facts:** In 2002 congress passed the bipartisan campaign act which established two sets of limits on campaign contributions. The base limits set regulations on how much money a contributor defined as individuals partnerships and other organizations can give to specific categories. The aggregate limit restricted how much money an individual may donate in a two year election cycle. Shaun McCutcheon is an Alabama resident. In the 2011-2012 he donated to the Republican National Committee, other Republican committees, as well as individual candidates. He wanted to donate more but that would have violated the aggregate limit. McCutcheon and other plaintiffs proceeded to sue the FEC based on first amendment rights.

**Issue:** Is the two year aggregate campaign contribution limit constitutional under the first amendment?

**Arguments:**The appellants argue that the 2002 bipartisan campaign act violates first amendment rights by failing to serve a cognizable government interest. The appellant argues brickers aggregate contributions discourages individuals to participate in the political process and engaging in first amendment activity. They say these limits cannot be justified and are an act of corruption in the political process. The appellee however says that these limits combat corruption by blocking circumvention of individual contributions. They state the aggregate limits stop corruption by limiting massive contributions by individuals.

**Decision:** McCutcheon won the case the court decided 5 to 4 that the bipartisan campaign reform limited participation in the democratic process because the aggregate limit fails to meet the objective of preventing corruption. It does not stand up with the review laid out by previous precedent of campaign contributions from the perspective of the first amendment thus being unconstitutional. Also prevents a donor from contributing beyond a specific amount to more than a certain number of candidates which technically combats freedom of speech.

**Implications:**This decision could indeed cause corruption because it allows individuals to give candidates huge sums of money that could drastically help campaigns. But it also could help find other ways to stop corruption within the realm of campaign financing..



### **McDonald Vs. City of Chicago**

FACTS: The oral arguments claimed the the Second Amendment of the U.S. Constitution was incorporated into protections portrayed under the Fourteenth Amendment. Chicago, previous to the 2010 Supreme Court decision, had ruled it illegal to possess, purchase, or sell any and ALL firearms.

ISSUES: The Supreme Court had to deal with the constitutional question of the Second Amendment applying to individual states, and that if a total ban of firearms was illegal or infringement on a person's rights.

ARGUMENTS: McDonald argued the the Fourteenth Amendment DOES incorporate the Bill of Rights, making individual states being unable to infringe on any of them, contrary to the *Slaughter-House* cases that said the Fourteenth Amendment does not extend to the Bill of Rights. The opposition (Chicago) argued on these precedents and decisions set by the *Slaughter-House* cases.

DECISION: The Supreme Court ruled that the total gun ban was unconstitutional, overturning the *Slaughter-House* cases and ruling that states cannot infringe on any rights guaranteed federally by the Bill of Rights under the provisions of the Fourteenth Amendment.

IMPLICATIONS: This case goes far beyond gun rights. The Supreme Court's landmark decision provides another layer of defense for ALL citizen's rights guaranteed in the Bill of Rights. States will no longer be able to stand behind Post-Civil War reconstruction rulings, and most provide unalienable rights to all people via the Fourteenth Amendment.



### Landmark Supreme Court Case: Michigan vs. Bay Mills Indian Community

**FACTS**-According to an act titled “The Indian Gaming Regulatory Act”, it states that if all specific requirements are met between the state and the tribe that the Indian tribe is permitted and able to build and operate a casino if they wish to. It is also stated that under the Michigan Indian Land Claims Settlement Act, that lands bought with this fund are owned by the Indian tribes themselves. In 2010, the Bay Mills Indian Tribe operated a casino in Vanderbilt, Michigan on land that was purchased by the state of Michigan from the trust fund. The state of Michigan took action and sued the tribe under the provisions of Tribal-State Compact. A district court told the tribe they were not to run the casino anymore. The court of appeals vacated an injunction made by the district court and stated the court did not have jurisdiction over some of the plaintiff claims and the tribe of Bay Mills has sovereign immunity which protects them.

**ISSUE**-The main problem in this case, is whether it is legal for the federal court to have jurisdiction over the activity that violates the IGRA, even though it takes place outside of Indian land. The federal court wanted the Supreme Court to rule in favor of them and making it illegal for the Indians to operate the casino, while the Bay Mills Community wanted the opposite of it. Tribal Sovereign Immunity was also a big thing regarding the case as far as if the state was allowed to sue in federal court if the tribe had it.

**ARGUMENT**-The Supreme Court and Justice Elena Kagan used previous case rulings in the decision of the Michigan vs. Bay Mills Community case. The Supreme court also stated to the state that they could use different tactics to prevent casinos being operated outside of the granted land. Things such as denying the right to a gambling license. The Tribal Sovereign Immunity helped the case of the Bay Mills Community, because different legal provisions during the ruling of this case favored them and restricted the power of the state government. Commercial activity was not illegal under the provisions in this case

**DECISION**-The Supreme Court ruled in favor of the Bay Mills Community in a 5 to 4 vote. Tribal Sovereign Immunity was granted to them and can only be revoked by congress themselves. The federal or state government has no authority or jurisdiction in the decisions of restricting the Indian tribe

**Implications**-The courts may still continue to act against the tribes if they feel necessary. Commercial activity among the tribes is not illegal and will continue to be encouraged, because in this case the tribes will not have to rely on federal funds for money. Other situations involving Indian tribes may fight back against the government after the events of this case.





Miller vs. Alabama (2011)

FACTS:

A boy named Evan Miller, only 14 years old, was accused of “aggravated murder” after he beat his neighbor, Cole Cannon, to death with his “co-defendant” Colby Smith, and proceeded to rob Cannon and set his trailer on fire with his body still inside. Miller explained that he had robbed Cannon, but denied the claims of arson. Miller was sentenced to life in prison without parole after the jury found him guilty of capital murder through arson. Immediately after the sentence, Miller demanded a new trial, stating that his eighth and fourteenth amendment rights were violated. The Alabama Court of Criminal Appeals, however, decided that due to the savagery of the crime, the sentence was constitutional. Though his applications for a rehearing and certiorari to the Alabama Supreme Court, the Supreme Court decided to grant certiorari alongside the case of Jackson vs. Hobbs.

ISSUE:

The issue for this case had to do with whether it was considered “cruel and unusual punishment” to sentence a 14 year old minor for life in prison without parole due to the eighth and fourteenth amendments.

ARGUMENTS:

Miller used the APA (American Psychological Association) to argue that as a youth, he did not have the full capabilities to understand the severity of his actions, as well as his claims that his sentence was violating his eighth and fourteenth amendment rights. Alabama stated that there is no clear and evident research that truly provides evidence toward the “lesser capacity” of a 14 year old compared to 15 years and older. The state also argued that with the NOVJL (National Organization of Victims of Juvenile Lifers) the sentence was fitting for the crime and for the “peace of mind for the victim’s families,” (Cornell.edu).

DECISION:

The Supreme Court came to the decision that it was unconstitutional to convict life without parole to juveniles (anyone under 18) due to the eighth and fourteenth amendments, although they decided it was still a possibility if the circumstances agreed for future cases

IMPLICATIONS:

This decision will affect many under age offenders in the future as it could forbid judges to give life without parole depending on his age and severity of the crime. Many states found that their rulings for other cases were to be invalid while California, Delaware and Wyoming created laws forbidding juveniles to be sentenced for life without parole.



## Minersville School District vs Board of Education (Gobitis)

**Facts of the case:** Two children, Lillian and William Gobitis, were expelled from the public schools of Minersville, Pennsylvania, for refusing to salute the flag as part of a daily school exercise. The Gobitis children were recently converted Jehovah's Witnesses. They believed that such a gesture of respect for the flag was forbidden by Biblical commands.

**Issue:** Did the mandatory flag salute infringe upon liberties protected by the First and Fourteenth Amendments?

**Arguments:** The Court did not want to make itself "the school board for the country" and upheld the mandatory flag salute. The Court held that the state's interest in "national cohesion" was "inferior to none in the hierarchy of legal values" and that national unity was "the basis of national security." The flag, the Court found, was an important symbol of national unity and could be a part of legislative initiatives designed "to promote in the minds of children who attend the common schools an attachment to the institutions of their country."

**Decision:** No. In an 8-to-1 decision.

**Implications:** The court's decision was only upheld for a short period of time (3 years) so the implications of the case do not effect anyone today. However at the time the decision was made the court was stating that it did not want to decide issues that can handled within schools. It did not want to make every rule for every school. The court also stated in this decision that patriotism toward the country was more important than religious values. It put the country before people's religious freedoms. In my opinion it is a good thing this ruling was overturned in a short amount of time.



## Miranda V Arizona

Tanner Jefferies

**Facts:** The Supreme Court's decision comes from four separate cases. The four cases are Miranda V. Arizona, Vignera V. New York, Westover V. United States, and California V. Stewart. All these cases involved signed confessions that the defendants signed during interrogations. These signed confessions were used in court and all defendants were convicted. The sentences ranged from 15-30 years per count of the crime. In one case there was the death sentence but the decision got reversed.

**Issues:** The issue was whether "confessions" obtained from an individual from interrogations are allowed to be used against them in a criminal trial. The other issue is are the procedures being followed to make sure the individual's fifth amendment privileges aren't being violated that they are incriminating themselves.

**Arguments:** The issues were argued on Feb. 28<sup>th</sup>, and March 1<sup>st</sup> & 2<sup>nd</sup> in 1966.

For Miranda: Miranda's 5<sup>th</sup> and 6<sup>th</sup> amendment rights were violated and The Gideon Rule and Escobedo Rule were both violated. Miranda's confession was illegally used in court and he deserved a new trial.

For Arizona: Miranda signed the confession willingly and was no stranger to police procedures. The prosecution was proper and the conviction was based on Arizona law. The Supreme Court should not overturn the case and further cripple police work.

**Decision:** On June 13th, 1966 the Supreme Court came to a ruling of 5-4 in Miranda's favor. From that decision a defendant must be warned prior to any questioning that, "He has the right to remain silent, that anything he or she says can be used against them in a court of law, also they have the right to an attorney, if they cannot afford an attorney then one will be provided for them".

**Implications:** After the Miranda case was overturned by the Supreme Court the state of Arizona retried him. At the second trial Miranda's confession was thrown out of the evidence. Once again Miranda was convicted and received a sentence of 20-30 years in prison.



FACTS: In the Education Consolidation and Improvement Act of 1981, Chapter 2 allows funds to be given to educational materials and equipment to public and private elementary schools and secondary schools. Most of these private schools are Catholic or some sort of religious affiliation. In Jefferson Parish, Louisiana, about 30% of the Chapter 2 funds were given to Catholic schools. A mother of a student attending a public school in the area, Mary Helms, along with a few other parents filed a suit saying that the way Chapter 2 was used in Jefferson Parish went against the First Amendment's Establishment Clause. The District Court initially agreed saying that Chapter 2 was advancing religion. However, the original judge retired and when the case was reviewed by a different judge, the decision was reversed. With this reverse, the Court of Appeals found Chapter 2 to be unconstitutional.

ISSUES: Does Chapter 2 of the Education Consolidation and Improvement Act of 1981 violate the Establishment Clause of the First Amendment?

ARGUMENTS: The Court should agree with the parents of the public schools because the government was allegedly trying to promote religion by providing funds to religious based private schools which would make Chapter 2 unconstitutional.

The Court should side in favor of keeping Chapter 2 because it had nothing to do with religion. Chapter was just providing funds to private schools for educational materials just like the public schools.

DECISION: In a 6-3 decision, it was decided that Chapter 2 was not being used to establish religion, as it was used in Jefferson Parish. It was being used to provide funds to schools and the fact that they were affiliated by religious means had nothing to do with it. Justice Clarence Thomas turned to neutrality and stated, "[i]f the religious, irreligious, and areligious are all alike eligible for governmental aid, no one would conclude that any indoctrination that any particular recipient conducts has been done at the behest of the government." "

IMPLICATIONS: Public school districts have become even more strict with any sort of religion affiliation, such as the singing of Christmas carols, promotion of certain holidays and not others, etc.

[http://www.oyez.org/cases/1990-1999/1999/1999\\_98\\_1648](http://www.oyez.org/cases/1990-1999/1999/1999_98_1648)





Alison Schmidt  
Period 8; Brady  
2-24-15

### Landmark Supreme Court Case 2015: Bong Hits for Jesus

#### **Facts:**

At a school supervised event, high school student Joseph Frederick held up a banner that said "Bong Hits 4 Jesus". His principal took away the banner and suspended him for 10 days. Her excuse was that there was a school policy that prohibits the display of material that promotes the use of illegal drugs. Frederick sued the school district under 42 U.S.C. 1983, the federal civil rights statute for violating his freedom of speech. The District Court ruled in favor of the principal, who had already qualified for immunity in the case. The U.S. Court of Appeals for the Ninth Circuit reversed this ruling. The Ninth Circuit cited Tinker vs. Des Moines Independent Community School District. This included the freedom of speech to students assuming it didn't cause a disturbance. Frederick was suspended for his message, not the disturbance. Because of this, the Circuit Court ruled it unconstitutional. In the end, the principal did not have immunity because the principal's actions were unlawful.

#### **Issue:**

1. Does the First Amendment allow public schools to prohibit students from displaying messages promoting the use of illegal drugs at school-supervised events?
2. Does a school official have qualified immunity from a damages lawsuit under 42 U.S.C. 1983 when, in accordance with school policy, she disciplines a student for displaying a banner with a drug reference at a school-supervised event?

#### **Arguments:**

Chief Justice John Roberts, who led the majority vote in favor of Frederick, argued that while students have some right to free political speech in school, the right does not extend to pro-drug references, however, students are allowed to express their freedom of speech as long as it does not disrupt class. In relation to Principal Morse, the Court confirmed that the freedom of speech of public school students are not as extensive as those adults normally enjoy, and that the highly protective standard set by *Tinker* would not always be applied. Thomas expressed his view that the right to free speech does not apply to students and his wish to see *Tinker* overturned altogether, while Alito stressed that the decision applied only to pro-drug messages and not to broader political speech. The dissent conceded that the principal should have had immunity from the lawsuit, but argued that the majority opinion was "deaf to the constitutional imperative to permit unfettered debate, even among high-school students.

#### **Decision:**

5 votes for Morse, 4 votes against

#### **Implications:**

The ruling is likely for the best. If Frederick had won the case, the integrity of anti-drug school programs could have been compromised. However, if schools can win freedom of speech cases about drugs, what would stop them with freedom of expressing religion, gay rights, or other civil liberties?



## Munn v. Illinois

Facts: The State of Illinois regulated grain warehouse and elevator rates by establishing maximum rates for their use.

Issue: The owners of the warehouses do not get equal protection and due process under the fourteenth amendment; the owners did not have the freedom to set rates at whatever price they wanted to.

### Arguments

Against Illinois: The owners of the grain warehouses have a guaranteed freedom under the fourteenth amendment to set their rates however high they please due to equal access.

For Illinois: Waite argued that the state has the "police power" to do so. "When such regulation becomes necessary for the public good" Waite is saying that the state needs this power to prevent monopolies, and Illinois achieved this by setting maximum rates for the grain warehouses.

Decision: The Supreme Court ruled in a seven to two vote for Illinois. Waite found an old legal doctrine which stated supported his view for Illinois which stated "When property is affected with a public interest, it ceases to be *juris privai* only."

Implications: The ruling of this case gave the states a lot more power. The ruling made it possible for the state's legislation to affect privately owned businesses' commerce by setting maximums and minimums. This court decision started the anti-trust law movement which was a national attack on monopolies, but was not federally legislated. The court decision of Munn v. Illinois set the basis of the anti-trust movement and gave the states the power to legislate and regulate commerce in privately owned businesses.



Near v. Minnesota

FACTS: Publishers Jay Near and Howard Guilford published a newspaper that said that Jewish gangs were “practically ruling” the city and that the local police chief was corrupt. The paper also accused other public figures such as local lawyers and judges of being corrupt. The governor of Minnesota, Floyd Olson, was also accused of being corrupt and he filed a complaint stating that Near and Guilford’s paper was illegal under the Minnesota Gag Law.

ISSUE: Do newspapers have the right to publish scandalous and shocking material under the first amendment's provision to free press?

ARGUMENTS: Minnesota argued that scandalous material published would cause unrest and panic to a considerable number of people. The Minnesota Supreme Court upheld the law stating that the scandalous newspaper caused a nuisance akin to “lotteries,” “Houses of Prostitution,” and “noxious weeds.” Near argued that the first amendment guarantees freedom of the press and to censor his paper would be unconstitutional.

DECISION: The U.S. Supreme Court ruled in favor of Jay Near, stating that the Minnesota Gag Law was unconstitutional because of the first and fourteenth amendment.

IMPLICATIONS: The legacy of this case is that newspapers have the right to print true, scandalous material, even if it may lead to public unrest. However, it did leave a provision that stated newspapers could be subject to prior restraint in “exceptional cases” such as the publishing of sensitive military information.



*New Jersey v. TLO (1985)*

FACTS:

T.L.O and another student were caught smoking in a school bathroom by a teacher. Both were brought down to the principal's office, here, they were questioned by their Vice-Principal, Choplick. T.L.O denied accusations of smoking, leading Choplick to demand a search of T.L.O's purse, where he found a pack of cigarettes. When he pulled it out to show her, he noticed cigarette rolling papers, leading him to believe that T.L.O was selling marihuana at the school. He proceeded to do a thorough search of her purse, where he found some marihuana, a pipe, plastic bags, numerous dollar bills, a list of students who T.L.O owed money to, and two letters implicating her as a drug dealer. She was taken to the police station where she confessed to selling marihuana. She was found guilty by the Juvenile Court and charged as a delinquent. T.L.O moved to suppress the evidence found in her purse as well as her confession, alleging it was found through an unlawful search. The Juvenile Court denied her motion, ruling the search as reasonable. On appeal, the New Jersey Supreme Court Appellate Division affirmed that there was no 4th amendment violation but reversed the lower court decision, agreeing with T.L.O argument to suppress the evidence. The case was granted certiorari by the Supreme Court after an appeal by the New Jersey Supreme Court.

ISSUE:

Based on 4th amendment claims of illegal search and seizures, the Court determined the appropriateness of the exclusionary rule as a remedy for searches carried out by school authorities. The Court was to assess the proper standards of legality of searches conducted by school officials with reasonable suspicion, as it applies to the facts of today's case.

ARGUMENTS:

**For New Jersey:** Schools are held to a standard of "reasonable" suspicion, rather than probable cause. Here, the reasonable suspicion was raised when Chopstick conducted his first search for cigarettes in T.L.O's purse. Since students are under school authority, schools are to act as parents; therefore they have the authority of a parent and are not subject to the limits of the 4th amendment.

**For T.L.O:** School officials are agents of the state, therefore they do not have authority of parents. The 4th amendment rule of having probable cause for searches applies the same. There was no warrant present for the search. Students may hold personal belonging on school ground with a legitimate expectation of privacy.

DECISION:

With 6 votes for New Jersey, 3 against it, the Court found that the 4th amendment standards do apply to school officials and the exclusionary rule does not. However, the 4th amendment is not violated so long that the school has *reasonable* grounds to believe the student possessed illegal substances or if their activities disrupt school order. Also, school officials do not need search warrants to conduct searches.

IMPLICATIONS:

Precedent from this case established that schools have a more relaxed standard for searches because they must maintain order. This case gave the school the authority over students to act as parents and to conduct searches without any warning or warrant. Schools have leeway for random locker searches, backpack checks and even metal detectors installation. Now, it can be applied to school searches of student's social media sites and cell phones if they have suspicion.





*New York Times v. Sullivan*

FACTS: The New York Times featured a full page ad that claimed that the arrest of Dr. Martin Luther King, Jr. for perjury was part of an effort by Montgomery officials to destroy Dr. King's goals of integrating public facilities and encouraging black voting. Police Commissioner L. B. Sullivan of the Montgomery police claimed that the ad was libel and personally defamed him, and filed legal action against the New York Times and the four ministers who had endorsed the ad. Under Alabama state law Sullivan did not have to prove he was harmed, and the ad did contain factual errors that made it difficult for the defense as it was untruthful.

ISSUE: The case was brought up in regards to the first amendment provision, freedom of the press. The Supreme Court was tasked with finding if libel is protected by the first amendment and if the Alabama libel law violated the constitution.

ARGUMENTS: The Supreme Court went through each part of the ad in which Sullivan had claimed to be libeled by and discounted many of his claims by showing that Sullivan had not been commissioner during the time, so criticisms were not directed toward him. The Supreme Court also stated that Sullivan had failed to prove that he was actually damaged, as his case and witnesses were operating off of scenarios not facts.

DECISION: The Supreme Court, in a unanimous vote, stated that newspapers were able to publish inaccurate information in regards to government officials by mistake, and that only when actual malice is exercised, defined as knowing it is false or have reckless disregard, that the paper is not protected.

IMPLICATIONS: The Supreme Court decision made it exceptionally harder for a government official to prove that a newspaper had stated inaccurate facts in regards to the official, and the official must also prove that the newspaper did it with malicious intent or disregard to the real facts. By reaching this decision it has made it much harder for the official to protect their image and prove that they are really being attacked by the journalist, but it also protects journalist from misinformation by sources.



**New York Times v. United States (1971)**

FACTS: Also known as the “Pentagon Papers Case,” it involved the Nixon Administration trying to prevent *The New York Times* and *Washington Post* from publishing materials which belonged to a classified Department of Defense study about the history of the United States activities in Vietnam. The papers claimed that the government was participating in censorship.

ISSUE: Whether or not the prevention of the publication of classified documents went against the First Amendment’s right of freedom of speech.

ARGUMENTS: The government did not overcome “heavy presumption against” prior restraint of the press. The vagueness of the word “security” cannot be used to undermine the fundamental law that is defined in the First Amendment. Since the publication would not cause an inevitable and direct threat to the safety of the nation, restraint would be unjustified.

DECISION: 6 votes for New York Times, 3 votes against

IMPLICATIONS: Though the court did not specify exactly when the government may use prior restraint (prior restraint meaning a government requested court injunction which would prohibit the publication of portions of the papers) if ever, against the press, it did set a precedence as that prior restraint on the First Amendment is almost never justified and remains an important victory for advocates of Freedom of Speech.



## **Paroline vs. The U.S. (2013) Restitution Case**

**FACTS:** Doyle R. Paroline was accused of possession of child pornography and he pled guilty to this claim that he possessed anywhere from 150 to 300 images of child pornography on his computer. Two of the pictures on his computer featured Amy Unknown who was sexually abused as a young girl, which produced the child pornography. Doyle Paroline was sentenced to 24 months of incarceration.

**ISSUE:** Amy Unknown and the government sought restitution in the amount of about \$3,400,000 under the federal statute that mandates full restitution to victims of child pornography by anyone who has been convicted of possessing, creating, or distributing the child pornography.

**ARGUMENTS:** The Supreme Court held that the victim or the government must have proof that the money that the victim wants for restitution for stem from the offense in question. They must be connected in ways that are proximate rather than solely factual. The offense and the victim's cost must be sufficiently linked. This will ensure that a defendant is not held liable in cases where the connection between the alleged harm and the offense itself could be described as coincidental.

**DECISION:** The Supreme Court ruled that Paroline did not have to pay the requested restitution amount due to the fact that Paroline's individual possession of the child pornography did not directly cause the extent of the victim's losses that stem from her images being continuously trafficked. The Court did hold that it would be fair for the court to order restitution in an amount that would accurately represent the defendant's role in harming the victim relative to the larger process. However, Chief Justice John G. Roberts wrote a dissenting opinion and claimed that there was no way to prove exactly what amount of the victim's harms were caused by the defendant's possession of her images. The court would only be able to pick an arbitrary amount, which would violate a defendant's right to due process of law.

**IMPLICATIONS:** This case has created the controversy of whether or a defendant should pay restitutions for crimes when proven guilty for a portion of the offense, but not the entire offense and the court is unable to determine what portion of the crime the defendant is responsible for. The court held that the defendant should pay restitution in proportion with the extent of his part in the crime as a whole, but since the court is unable to determine this, any amount that they would charge from the defendant would be an arbitrary guess, which would violate his right to due process of law. This could create issues in which anyone seeks restitution from a convicted criminal who had a part in, but was not solely responsible for the crime. The court could try to seek restitutions from everyone involved, but that would be an enormous hassle for the already busy courts.



## Planned Parenthood v. Casey

**Facts:** Pennsylvania Legislatures amended their abortion control law to require informed consent and a 24 hour waiting period before a woman got her abortion. Minors would need parental consent. Married women would have to indicate that they had informed their husband of their abortion. This law was challenged by a number of abortion clinics.

**Issue:** The Constitutional question was whether or not a state could require women who want an abortion to get informed consent and wait 24 hours to have their abortion without violating their right to abortions as provided by Roe v. Wade. Also, could a state require minors to get the consent of their parent without violating this right? The Supreme Court was asked to decide if the government can force a woman to continue or end a pregnancy against her will.

**Arguments:** Abortion is a fundamental right as it was decided in Roe v. Wade. Fundamental rights cannot be removed or infringed upon by the government. The overruling of Roe v. Wade could lead women back to self-attempted abortions, which could put their health and lives at risk. Millions of women continue to rely on the right guaranteed by Roe v. Wade. Forced pregnancy is a bodily invasion and goes against American values. The government can't force people to donate an organ or force people to be sterilized, so they can't force a woman to continue a pregnancy. The state is allowed to deny a woman an abortion after she reaches the stage where the fetus can survive, however they can only do so if the abortion would be a danger to the woman's health or life. With the provisions in this attempted law requiring women to notify their husband before getting an abortion, the state could similarly ask women to notify everyone they had sexual relations with before she gets an abortion. However, this would then create such a big obstacle for some women that these women would be unable to complete the task, thus forcing them to continue their pregnancy, which states cannot do.

**Decision:** The Supreme Court voted 5 for Planned Parenthood and 4 against. This decision reaffirmed Roe v. Wade, but upheld most of the Pennsylvania provisions. States may not regulate abortions to protect both lives involved in the pregnancy, and many states outlaw abortions of viable fetuses.

**Implications:** This decision led to the development of the "undue burden" test. This test is used by justices to decide whether an abortion law is unconstitutional or not. In this test, the justices have to decide if the law was created in order to make it harder for women to get abortions. If so, it is ruled unconstitutional. Many laws, however, pass this test, to the point where it is legal to make women make multiple trips to an abortion clinic or provider before getting an abortion. This creates a major delay in the process of a woman's abortion.





Plessy v. Ferguson (1896)

FACTS: This case took place in 1892. Homer Plessy decided he would take a seat in the “whites only” section of a Louisiana railway car. After this matter, Plessy was asked to move to his rightful section of the train but refused. He was forcibly removed and then arrested.

ISSUE: Whether or not the Constitution violated this law enforced by Louisiana. They questioned whether the actions made against Plessy on that railway car infringed upon his rights given in the Fourteenth Amendment.

ARGUMENTS: On one side, Justice Brown argued the point that the Fourteenth amendment protected political equality, but not social equality. He said the Fourteenth Amendment was only there only "to enforce the absolute equality of the two races before the law," and not to enforce social equality or "a commingling of the two races upon terms unsatisfactory to either." On the other hand, Justice John Harlan said that the Constitution colorblind and that all citizens were equal under the law.

DECISION: The final decision made by the Court was 7 votes for Ferguson and 1 vote against. Therefore, the majority took the side of Justice Brown’s opinion.

IMPLICATIONS: All in all, this case basically said that it was okay for separate but equal laws to be put in place.



## Printz v. United States

FACTS: The Brady handgun prevention act ( Brady Bill) required chief law enforcement officers to preform background checks on handgun purchasers, until the general attorney made a federal system for this specific purpose. County sheriffs J. Printz, and R. Mack challenged the constitutionality of the anticipation of the Brady Bill on behalf of the enforcement officers in Montana and Arizona respectively. In both cases the background checks were found to be unconstitutional , but remained to the Brady Bill due to some conditions. Both cases were granted certiorari and consolidated.

ISSUE: Can congress temporarily require state sheiff law enforcement officers to regulate handgun purchases by performing those duties that Brady Bill calls for, in handgun application background checks?

ARGUMENT: “In the Federal-State context, this Court has upheld laws passed under the spending power, the commerce power, including the power to preempt State legislation, and the Article VI duty of State judges to hear Federal causes of action.

The interim provisions of the Brady act at issue here is not an exercise of any of those powers.

The Court of Appeals for the Ninth Circuit held that, in essence, Congress may commandeer the sheriffs departments of our country as long as the laws concerned do not interfere unduly with their duties.

The only alternative for the States is to enact laws which meet Congress' standards to get out from under or exempt themselves from the Federal commands to—“

DECISION: 5 votes for Printz.. saying that the Brady Bill was in fact constitutional. 4 votes against.

IMPLICATIONS: with this bill it could be safer and more difficult for someone to get a gun, without it would remain the same and someone insane or unstable could get ahold of a gun.



Reed v. Reed (1971)

FACTS: Richard Lynn Reed passed away, as a minor, in Ada County, Idaho. His parents, who were separated, fought over who was going to gain Richard's estate so they both filed a petition. The probate court held a joint hearing and ruled that his father, Cecil Reed, gain his estate. The court based their decision on section 15-312 of the Idaho Code which states that Cecil should get the estate because he is a male. Sally Reed, his mother, then appealed from the court order and that act was considered a constitutional attack by the District Court. Cecil then took an appeal order to the Idaho Supreme Court who rejected Sally's appeal and said the estate belonged to Cecil because he is a male.

ISSUE: The Supreme Court has to decide whether or not section 15-312 of the Idaho Code withstands the Fourteenth Amendment.

ARGUMENTS: An argument that the court had to overcome was that 15-312, which states that the male takes priority over the female, was greater than the Fourteenth Amendment, which states that no state can deny the equal protection of the laws to any person within its jurisdiction. Another argument was that under 15-312, women have priority over other male relatives if their husband dies.

DECISION: The Supreme Court ruled that the Fourteenth Amendment had more authority than section 15-312 of the Idaho Code. They stated that states must treat all sexes equally and cannot base a ruling on male v. female.

IMPLICATIONS: After this decision, women might have the confidence to stand up for themselves or fight for their rights. Also, Idaho repealed section 15-312 and put a new law in place that said that no preference of males over females is allowed.