

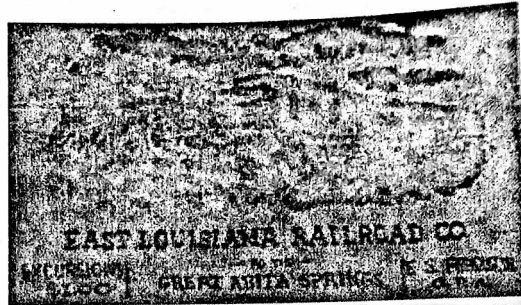
Plessy v. Ferguson (1896)

Name: _____

Breaking the Rules

You may have heard the saying, "Some rules are meant to be broken." In 1890, a man named Homer Plessy broke the rules. The state of Louisiana had passed the **Separate Car Act**, which required railway companies to have "separate but equal" train cars for black people and white people. A person who sat in the wrong car had to pay a \$25 fine or go to jail for 20 days.

You can probably guess that the cars for blacks weren't as nice as the cars for whites. Not only that, it seemed unfair to make black people sit separately. A group of citizens called the "Free People of Color in New Orleans" formed a committee dedicated to repealing this law. They convinced Homer Plessy, who was 7/8 white and 1/8 black, to test the law by sitting in a whites-only train car. When Plessy was asked to move, he refused and was arrested.



The railroad Plessy took. Courtesy nps.gov

ISSUE

Is it constitutional to make black people sit in a separate train car from white people?

DECISION

Yes, because the Constitution only protects legal equality, not social equality.

The Argument

Plessy argued that Louisiana's Separate Car Act violated the **14th Amendment** to the U.S. Constitution. It says that states may not "deny to any person within their jurisdiction the equal protection of the laws." He argued that requiring black people to sit separately from white people implied that blacks were inferior to whites, and therefore unequal.

The Decision

The Supreme Court disagreed. It saw separate train cars as an issue of social equality, not political or legal equality. It said separating the races did not take away civil or political rights. Justice Brown wrote for the Court, saying that "if one race be inferior to the other socially, the constitution of the United States cannot put them upon the same plane." Justice Brown said there had been separate schools for black and white students for a very long time, and many court cases had decided that states were allowed to have these **segregated** schools.

Out of the nine justices, Justice Harlan was the only one to dissent, or disagree. He wrote that "our constitution is color-blind" and does not tolerate "classes among citizens." He said the Court's decision would lead to racial hatred and increased attacks against black peoples' rights.



U.S. Supreme Court, 1896

So What?

The Court's decision set the stage for many more years of discrimination against people of color. Plessy's case gave rise to a new doctrine: "separate but equal." States were free to pass laws that kept races separate, and although the facilities were supposed to be equal, they rarely were. The "separate but equal" doctrine would not be abolished until the Civil Rights Act of 1964.



Gideon v. Wainwright (1963)

Name: _____

Being Your Own Lawyer

If you had to represent yourself in court, would you know what to do? Would you be successful if the other side had a lawyer? In 1961, Clarence Earl Gideon was charged with breaking into a Florida pool hall and stealing some beverages and about \$5 in cash. He could not afford a lawyer, so he asked the court to appoint one for him. The court refused. Under Florida law, only a person charged with a crime that could result in the death penalty could have a free, court-appointed lawyer.

Gideon defended himself in front of the jury. He examined witnesses and made legal arguments, but it wasn't enough. The jury found him guilty and sentenced him to five years in prison.



Mug shot of Clarence Earl Gideon.
Credit: State Archives of Florida

The Argument

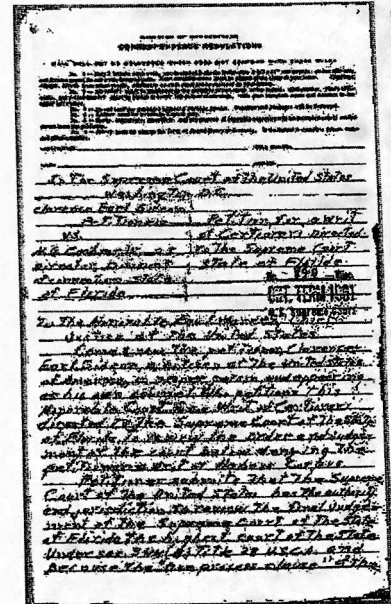
While in prison, Gideon petitioned the U.S. Supreme Court about his case. He argued that the 6th Amendment to the U.S. Constitution guaranteed him the right to a lawyer. The 6th Amendment says that "in all criminal prosecutions, the accused shall enjoy the right . . . to have the assistance of counsel for his defense." The Supreme Court had already said that in federal courts, this meant people accused of a crime must be given a lawyer even if they can't afford one. Gideon argued the same thing should be true in state courts.

ISSUE
Is it constitutional for states to deny a lawyer to criminal defendants who can't afford one?
DECISION
No. A fair criminal trial requires that the defendant be given a lawyer.

The Decision

The Supreme Court agreed. The Constitution is a federal document, which means that legally, the rights it contains only protect people when dealing with the federal government. The Court had already ruled that states do not need to give people those same rights unless the right is fundamental to a fair trial.

The Court now said the right to a lawyer is a fundamental right. A person cannot be assured of a fair trial without one. The Court wrote, "Even the intelligent and educated layman . . . lacks both the skill and knowledge adequately to prepare his defense," even if that person's defense would prove he or she is not guilty. People accused of a crime need a lawyer because they don't understand all the rules and procedures that take place during a trial.



Gideon's handwritten petition to the Supreme Court

So What?

When the Supreme Court sent Gideon's case back to the lower court, Gideon received a lawyer and a new jury trial. This time, the lawyer presented evidence that proved Gideon was not guilty.

Because of this case, states must now provide a lawyer to criminal defendants who cannot afford one. **Public defenders** are lawyers employed by the state to represent these criminal defendants. Public defenders work to make sure people accused of a crime get a fair trial. Criminal defendants have certain rights under the Constitution, and public defenders make sure those rights are protected.



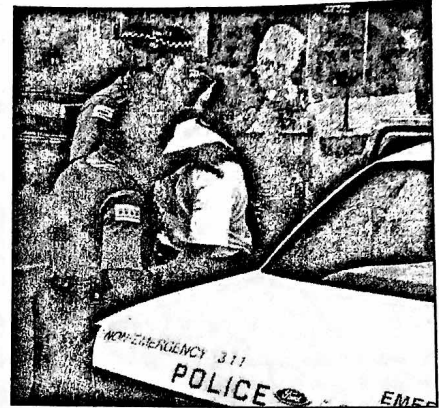
States now have state-funded public defender offices

Miranda v. Arizona (1966)

Name: _____

You Have the Right to Remain Silent...

Ernesto Miranda was arrested for a violent crime in Phoenix, Arizona and was taken to a police station for questioning. Officers put him into an interrogation room, where they questioned him for two hours. They came out with a written confession Miranda had signed. The confession form included a typed paragraph saying the confession had been made voluntarily. The typed paragraph said Miranda had signed the confession "with full knowledge of my legal rights, understanding any statement I make may be used against me." Miranda's confession was used against him in court, and he was convicted of a serious crime.



The Argument

The 5th Amendment to the U.S. Constitution says that a person involved in a criminal case cannot be forced to be a witness against himself. In other words, only statements that are made voluntarily may be used. Miranda argued that his confession was not voluntary because he had not been told about his right to remain silent. He was also not told about his right to a lawyer under the 6th Amendment, so a lawyer was not present during the questioning. For these reasons, Miranda argued that his confession should not have been used in court.

ISSUE

Do the police need to inform a suspect of his 5th and 6th Amendment rights in order to use the suspect's confession at the trial?

DECISION

Yes, because this will prevent police from illegally forcing confessions from people.

The Decision

The Supreme Court agreed. It said that the 5th Amendment right to remain silent is so basic that it doesn't even matter if a person already knows about this right—the right is not safeguarded unless officers tell people about it before interrogation begins. The Court said this is especially true because the interrogation techniques used by law enforcement officers can be very intimidating.

The Court also said police must inform suspects of the right to have a lawyer present during the questioning. Technically, the right to a lawyer is a 6th Amendment right. But the Court said that a lawyer is absolutely necessary to protect a suspect's 5th Amendment right not to testify against himself or herself. That's because a lawyer can advise a suspect about what to say and what not to say during the questioning. Because Miranda's 5th Amendment right was violated, the Court reversed his conviction.



Chief Justice Earl Warren wrote the opinion for Miranda's case.

MIRANDA WARNING

1. YOU HAVE THE RIGHT TO REMAIN SILENT.
2. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.
3. YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED.
4. IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU WISH.
5. YOU CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS.

WAIVER

DO YOU UNDERSTAND EACH OF THESE RIGHTS I HAVE EXPLAINED TO YOU? HAVING THESE RIGHTS IN MIND, DO YOU WISH TO TALK TO US NOW?

So What?

The famous "Miranda warning" you hear on detective shows (and that officers recite in real life) came from this case. Now, if officers question you without reading your rights first, nothing you say during the questioning can be used against you in court. (Failing to read your rights does *not* mean your case will be automatically dismissed.) As for Miranda, he was put on trial a second time and convicted even without his confession.

Brown v. Board of Education (1954) Name: _____

Different Races, Different Schools

In 1950 and 1951, black parents and students in several states got tired of laws that required children of color to attend separate schools from white children. For decades, many states had kept blacks and whites **segregated**, or separated from each other based on their race. In 1896 in a case called *Plessy v. Ferguson*, the Supreme Court had said this segregation was constitutional as long as the separate facilities for blacks and whites were equal.

In some places, schools for black children were run-down and lacked things like gyms or cafeterias. In many places, there were school buses for whites but not for blacks. Parents had to send their kids across town to school when there were schools right in their own neighborhoods. But the closer schools were for whites only.



Parents and kids protest segregation

With the help of the National Association for the Advancement of Colored People (NAACP), parents and students decided to challenge the *Plessy* decision. In Topeka, Kansas, Oliver Brown and several other parents tried to enroll their children in the closer, whites-only schools. They were rejected. In the other states, peoples' efforts to get better facilities for black school were ignored.

ISSUE

Is it constitutional to make children of color attend different schools from white children, even if the school facilities are equal?

DECISION

No, because segregation sends a message that children of color are inferior.

The Argument

Brown and the others argued that segregated public schools are not "equal" and cannot be made equal because keeping black and white students separate sends a message that the black students are inferior. Therefore, the very act of separating black and white students violates the **14th Amendment** to the U.S. Constitution, which guarantees equal protection of the laws.

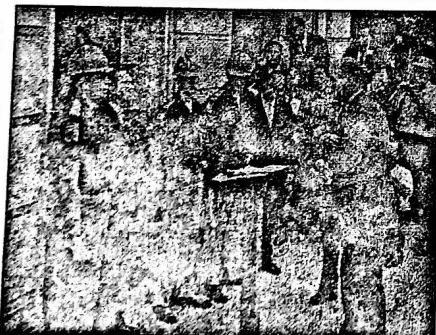
The Decision

The Supreme Court agreed. In a complete reversal from its decision in the *Plessy* case, the Court said that the "separate but equal" doctrine "has no place" in public education. Separating children just because of race "generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone." Segregation therefore deprived black students of equal protection of the laws under the 14th Amendment.



So What?

The court's decision rejected the "separate but equal" doctrine the court had approved 58 years earlier in *Plessy v. Ferguson*. Now, all-white schools could no longer reject black students. Although the Court's decision was aimed at K-12 public schools, the decision was also applied to colleges and universities. But not everyone was happy with the decision in *Brown*. In 1963, Alabama governor George Wallace spoke out against letting black students attend the University of Alabama. He stood in the doorway to block two black students from being able to register. The conflict ended when President Kennedy ordered the Alabama National Guard to the scene.



Governor Wallace makes his stand in the door of the University of Alabama.

In re Gault (1967)

Name: _____

An Unfair Detention

In 1964, an Arizona sheriff took 15-year-old Gerald Gault into custody after a woman complained Gerald and another boy made an indecent phone call. The sheriff left no notice for Gerald's parents, who had to figure out on their own where Gerald went. At the station, the deputy told Gerald's mom there would be a hearing the next day. They kept Gerald in custody overnight. At the hearing, nobody wrote anything down or recorded what was said. Witnesses were not sworn in, and the woman who complained about the phone call wasn't there. The judge said he would think about what to do, and they kept Gerald in custody for two or three more days.

A few days later, Gerald's mom got a note that there would be another hearing. Again, nobody made any record of what happened, and the woman wasn't there. At both hearings, Gerald testified about what happened. At the end of second hearing, the judge found Gerald to be delinquent and said he must stay in juvenile detention until he turned 21.



Most states have juvenile justice systems that follow special rules for kids who break the law. The idea is to help kids make better choices the next time instead of just punishing them.

ISSUE
Is it constitutional to take a child's liberty without following due process?
DECISION
No. Both children and adults have a right to due process under the 14th Amendment.

The Argument

The 14th Amendment to the U.S. Constitution says that no state can "deprive any person of life, liberty, or property without due process of law." Due process refers to the procedures that are followed when someone is convicted of a crime. Gerald's lawyers argued that the State of Arizona had deprived him of his liberty without due process of law—meaning, without following procedures that are fair. They argued that the Constitution guarantees due process to both juveniles and adults.

The Decision

The Supreme Court agreed. Here are the due process procedures the Court said Arizona must give to juveniles as well as adults:

Notice of Charges. Both Gerald and his parents should have received written notice of the charges against him. That notice should have been delivered far enough in advance to allow time to prepare a defense.

Right to Counsel. Gerald and his parents should have been told that they had a right to a lawyer, and that one would be appointed for them if they could not afford one.

Right to Remain Silent. The Court said Gerald did not have to testify against himself. His confession could not be used against him unless it was obtained properly.

Right to Confrontation. Without a valid confession, only testimony from witnesses who had been sworn in could be used against Gerald, and he had a constitutional right to confront the witnesses against him.



Supreme Court Justice Abe Fortas wrote the court's opinion.

So What?

When kids get in trouble, should they be treated differently from adults? Most states say yes. The Court's decision did not mean that states can't make special rules for juveniles who break the law and treat juvenile offenders differently from adults. But it does mean that they can't deny kids basic protections of the Constitution.



Texas v. Johnson (1989)

Name: _____

A Burning Discontent

The presidential election of 1984 had something in common with all other presidential elections: People disagreed about who the next president should be. Ronald Reagan was finishing up four years as president and was running for re-election. He was a popular president, but there were many who disagreed with his ideas. One of these people was Gregory Johnson. In Dallas, Texas in the summer of 1984, Johnson joined a group of protestors outside the Republican National Convention, where Reagan was set to be nominated as the Republican presidential candidate. Standing in front of the Dallas City Hall, Johnson poured kerosene on an American flag and set it on fire. He was then arrested under a Texas law that prohibited "desecration of a venerated object." At trial, Johnson was sentenced to a year in prison and fined \$2,000.



An American flag being burned in protest.

ISSUE

Does the First Amendment right to freedom of speech protect flag burning?

DECISION

Yes. Burning the flag is an act of expression that is intended to convey a message.

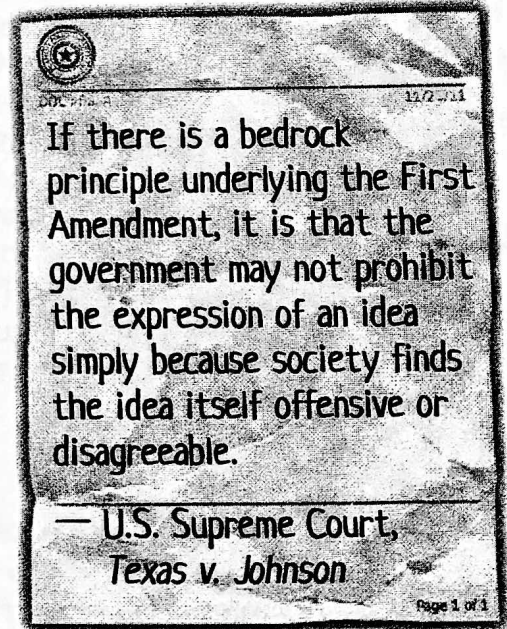
The Argument

The First Amendment to the U.S. Constitution forbids laws that would limit citizens' freedom of speech. Johnson argued that the Texas law did exactly that: Burning a flag, he argued, was a form of speech that should be protected by the First Amendment.

The Decision

The Supreme Court agreed. Many times before, the Court had already said that speech is not limited to words. Conduct can also be "speech" if it is intended to send a message. The fact that Johnson's conduct involved an American flag only made it more obvious that he was trying to send a message: "Johnson was not... prosecuted for the expression of just any idea; he was prosecuted for his expression of dissatisfaction with the policies of this country," and that kind of expression is "at the core of our First Amendment values."

The Court made it clear that even though some people were seriously offended by the flag burning "speech," that didn't make it okay to limit the speech. Instead, the Court said that "a principal function of free speech under our system of government is to invite dispute." Ultimately, the Court said, "Johnson's political expression was restricted because of the content of the message he conveyed." That is exactly what the First Amendment forbids.



Johnson (left) and his lawyer outside the Supreme Court.

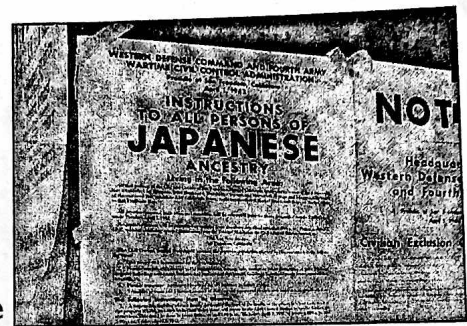
So What?

Most people aren't going to go out and burn a flag. But at some point, most of us will have ideas and opinions that some people will find offensive. Does the government have the right to decide what opinions are too offensive to express? The answer is no. This case reinforced citizens' right to express ideas even if those ideas are extremely upsetting to some people. The Constitution guarantees people the freedom to hold and express whatever views they wish, about our government or the flag or anything else.

Korematsu v. United States (1944) Name: _____

The Japanese Internment

On December 7, 1941, during the early part of World War II, Japan bombed the U.S. naval base at Pearl Harbor in Hawaii. The next day, the U.S. declared war on Japan. Japan was capturing many islands and territories around the Pacific Ocean, and the U.S. military was concerned about the safety of the west coast of the United States. Worried that people with Japanese ancestry might be loyal to Japan and become spies, the U.S. military issued an "exclusion order" for certain regions on the west coast. It required everyone with Japanese ancestry—even U.S. citizens—to leave the area and live in a military-controlled detention center. These centers were known as "internment camps." Fred Korematsu, an American-born U.S. citizen with Japanese parents, refused to relocate. He was arrested for violating the exclusion order.



ISSUE
Is it constitutional to target only people of one race and violate their civil rights?
DECISION
Yes, if the targeting is during wartime and it's impossible to identify particular suspects.

The Argument

Korematsu followed the same arguments used a year earlier by a man of Japanese ancestry who had refused to obey a curfew. The Court had upheld the curfew. Still, Korematsu argued the new order was unconstitutional because it discriminated against people based on their race. He argued that the government violated the 5th Amendment, which says no person may be "deprived of life, liberty, or property without due process of law."

The Decision

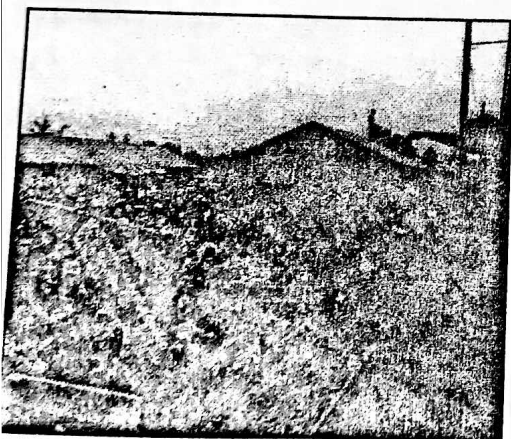
The Supreme Court disagreed. In an earlier case, the Court had said that in normal circumstances racial discrimination is unconstitutional, but the situation during the war with Japan was different. The Court pointed to evidence showing that some members of the Japanese community were disloyal. Because the military said it was impossible to single out the disloyal people, the Court said it was constitutional to isolate the whole group. "Korematsu was not excluded... because of hostility to him or his race," the Court said. "He was excluded because we are at war with the Japanese Empire [and our] military authorities... feared an invasion of our West Coast..." The Court refused to look back with "the calm perspective of hindsight" and second-guess what the military did during a time of urgent threat.



Justice Black wrote the Court's opinion

So What?

This case meant that during wartime it was okay for the U.S. government to violate people's civil rights just because they looked like the enemy. In the years since, this opinion has met with severe disapproval. The issue took on new life after the terrorist attacks on September 11, 2001. Many people were concerned that people's rights would be violated just because they looked Middle Eastern. In 2004, two American citizens being held as "enemy combatants" challenged the government's right to keep them in prison without the opportunity to tell a judge their side of the story. The Court said those prisoners had the right to go before a judge. Even so, the rights of people who look like the enemy during wartime are still unclear.



Japanese internment camp run by the U.S. government. Courtesy Library of Congress.