

First Amendment

Religious Cases:

Engel v. Vitale -

Background

1. New York State allowed schools to read a daily, "non denominational" prayer at the start of every day.
2. Students were allowed to opt out. Teachers may or may not have been forced to. It was still state sponsored.
3. Engel (petitioner) sued Vitale (school board head) for violating a number of religious clauses, in particular, the AM1's establishment clause.

Question

DOES the reading of a school and thus state sponsored non denominational prayer at the beginning of every day CONSTITUTE an establishment of religion by the government and thus a violation of the establishment clause?

Decision and Precedent Set

6-1 decision in favor of petitioner (Engel)

1. the Bill of Rights applies to the states as well as the federal government (Everson)
2. the use of tax supported property for religious lessons and channels, even if they were voluntary, was unconstitutional.
3. somewhere in the opinion it also states that the practice may not have been in fact voluntary, as peer pressure or other factors would compel kids to participate anyways.

Wisconsin v. Yoder -

Wisconsin v. Yoder (1972)

The Question: Does a state's compulsory school law for children age 16 and younger violate the First Amendment's free exercise clause for parents whose religious beliefs and customs dictate they keep their children out of school after a certain age?

Decision: Yes, for Yoder, 7:0

Facts: Wisconsin required all parents of children age 16 and younger send their children to a formal school. Three Amish parents stopped sending their children to school after middle school because they felt that the children needed to learn a trade, and not more scholarly subjects. Yoder, one of the parents, and two others were charged in a state criminal court, found guilty, and fined \$5. The parents appealed on the grounds that their religion prevented them from sending their children to school after a certain age.

Reasoning: The Court believed that sending the Amish students to high school would expose them to values that ran counter to their beliefs. The Court declared that in this case the free exercise clause overruled the state statute to send children to school.

School Cases:

Tinker v. Des Moines -

Tinker v. Des Moines (1969) established that a public school banning the wearing of armbands for students infringes on their first amendment rights because it is a form of peaceful protest. This is a case where symbolic speech was addressed. Symbolic speech is nonverbal, non-written forms of communication. Examples are burning flags, wearing armbands, etc. 7-2 decision.

Press Cases:

New York Times v. US -

The New York Times (NYT) obtained a 7,000 page top-secret document from Daniel Ellsberg, a disgruntled Pentagon analyst. This document told the backstory of America's involvement in the Vietnam War and questioned the government's credibility. Nixon argued that the release of this document would negatively impact the president's ability to manage the War. The Supreme Court sided with the NYT because national security is not good enough grounds to justify censorship in advance over the press. The main point is that the government doesn't have the power to restrain publications prior to release.

It is important to distinguish that the Court ruled that the NYT could print these documents, not that the Pentagon analyst could legally leak the information. Ellsberg was later found guilty of breaking the 1917 Espionage Act in his trial.

In a rare instance, the Supreme Court didn't explain why it sided the way it did. In the per curiam opinion, a judgment issued on behalf of a unanimous court or the court's majority without attribution to any specific justice, the Court only listed previous rulings it was inspired from for this case, and not why.

Speech/Expression Cases:

Schenck v. US -

Schenck v. United States (1919)

The Question: Does the government's prosecution and punishment for expressing opposition to the military draft during wartime violate the First Amendment's free speech clause?

Decision: No, for United States, 9:0

Facts: During World War I, the US implemented a military draft to fight the Axis Powers. In

addition, the 1917 Sedition and Espionage Acts prevented publications that criticized the government, advocated for treason or insurrection, or that incited disloyal behavior in the military. Charles Schenck, the secretary of the Socialist Party, printed 15,000 pamphlets opposing the draft that he planned to spread around the Philadelphia area to dissuade people from complying with the draft. He argued that the draft was involuntary servitude, which is denied by the Thirteenth Amendment, which freed the slaves. A U.S. District Court tried and convicted Schenck, but he appealed to the Supreme Court.

Reasoning: The Supreme Court drew a distinction between honest opinionated speech from speech that incited unlawful action. The Court unanimously upheld the government's right to convict citizens for certain speech. This case set the precedent of the clear and present danger test becoming the test to determine if someone overreached their first amendment rights. If their speech creates a clear and present danger, they can be convicted and they are no longer protected by the Constitution.

Second Amendment

McDonald v. Chicago -

In McDonald v. City of Chicago (2010), the Court struck down a handgun ban at the state level, by a 5–4 vote. Four Justices relied on judicial precedents under the Fourteenth Amendment's Due Process Clause. Justice Thomas rejected those precedents in favor of reliance on the Privileges or Immunities Clause, but all five members of the majority concluded that the Fourteenth Amendment protects against both federal AND state infringements of the Second Amendment.

Due Process

Miranda vs. Arizona -

Miranda confessed to multiple crimes without being made aware of his 5th Amendment right of protection against self-incrimination. The Court ruled with Miranda that it is illegal to force someone to confess without making them aware of the right to remain silent or the right to have a lawyer for questioning. Since this case, suspected criminals have to be made aware of their rights, now known as Miranda Rights. 5-4 decision.

Gideon vs. Wainwright -

Gideon is charged with a somewhat petty crime in Florida. At the courthouse he asks for a lawyer since he couldn't get one himself. In Florida, the law is you can only get a lawyer appointed to you if it was a major, capital crime. Gideon goes to the Supreme Court because the 6th Amendment says everyone has the right to a lawyer in a trial. SCOTUS sides with Gideon because the right to a lawyer is guaranteed for all US citizens because of the 6th Amendment. 9-0 decision.

New Jersey vs. TLO -

School officials thought TLO had cigarettes, so they searched her purse. She had illegal substances and was found guilty. She appealed because the people who searched her didn't have a warrant and therefore violated the search and seizure clause of the 4th Amendment. SCOTUS agreed with New Jersey, that school officials can conduct reasonable searches without a warrant, if there is reasonable suspicion. In this case, TLO was suspicious and therefore it is legal to search her bag without a warrant. 6-3 decision.

Mapp vs. Ohio -

In 1961, police are looking for a criminal, and they enter Ms. Mapp's house without a warrant. In a box, they find indecent material and take her to court. She says they didn't have a warrant so they can't use illegal things they found against her in court. She won the case because of the search and seizure clause of the 4th Amendment, the police didn't have reason that the criminal they were looking for was inside of a box, and so there wasn't reasonable suspicion and therefore a warrant was necessary. 5-3 decision.

Death Penalty

Gregg v. Georgia -

Gregg was found guilty of robbery and murder and was sentenced to death. He appealed and the Georgia Supreme Court said the death sentence was affirmed except not for the burglary, only the murder. Gregg challenged the remaining death sentence citing it as a "cruel and unusual punishment" that violated the Eighth and Fourteenth Amendment. The question was "is the death penalty a cruel and unusual punishment, which would therefore make it unconstitutional?" The Court ruled that no, the death sentence can be appropriate at times, such as when one willingly killed someone. 7-2 decision.

Useful Terms

Establishment Clause - First Amendment, prohibits the government from making a law "respecting an establishment of religion", so basically declares that the government cannot favor any religion over another. Along with the Free Exercise Clause, this creates freedom of religion.

Free Exercise Clause - First Amendment, protects citizens' rights to practice religion how they want to. This, along with the Establishment Clause, completes freedom of religion.

Writ of Habeas Corpus - To bring a prisoner before a court to determine if their prison sentence is valid or undeserved.

Clear and Present Danger - Schenck v. US (1919) set the precedent of the clear and present danger test becoming the test to determine if someone overreached their first amendment rights. If their speech creates a clear and present danger, they can be convicted and they are no longer protected by the Constitution.

The Miller Test - The Miller Test was established after the Miller v. California Supreme Court case in 1973. Melvin Miller mailed brochures depicting people participating in various sexual activities to a restaurant manager and his mom. He was prosecuted for knowingly distributing obscene material and found guilty by the Court. In the majority opinion, Chief Justice Burger established guidelines for jurors in obscenity cases.

The Miller Test: The person is guilty if...

1. the average person applying contemporary community standards would find the work, taken as a whole, appeals to the prurient interest;
2. the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
3. the work, taken as a whole, lacks serious literary, artistic, political or scientific value.

Judicial Review - The Supreme Court declaring a law unconstitutional. This was done in Marbury v. Madison (1803) when John Marshall did this to the Judiciary Act of 1789.

Exclusionary Rule - The exclusionary rule prevents the government from using evidence gathered in violation of the United States Constitution. The decision in Mapp v. Ohio (1961) established that the exclusionary rule applies to evidence gained from an unreasonable search or seizure in violation of the Fourth Amendment.

Due Process Clause - The Fifth Amendment says that no one shall be "deprived of life, liberty or property without due process of law." The Fourteenth Amendment, ratified in 1868, uses the same eleven words, to describe a legal obligation of all states.

Equal Protection Clause - Fourteenth Amendment, States must give equal protection to all citizens, not drawing distinctions because of differences that are irrelevant from a governmental perspective (sexuality, race, etc.)

Griswold v. Connecticut and Roe v. Wade

- These are cases that have to do with the right to abortion (they don't cover these in class during this specific unit because they figure most people have some base knowledge of the issue, but still good to know for the test)

Brown v. Board of Education - desegregation of schools (1954)

US v. Lopez - The US vs Lopez case (1995) was the debate over whether the federal government had power to pass the Gun-Free Zone Act dealing with the regulation of guns within school zones or whether it was up to the states to regulate those gun and education laws. Lopez's lawyers argued that the federal government had no authority over schools as that was the responsibility of the states and local governments. Lopez's lawyers also said that under the commerce clause, Congress had no power over regulations involving guns near public schools. Members of the Supreme Court argued that gun violence in schools would affect not just the local schools and citizens, but education across the nation and should therefore be regulated as interstate commerce. The Court decided that Lopez was in the right and the Gun-Free Zone Act was unconstitutional because education does not fall under the commerce clause. 5-4 decision.

1964 Civil Rights Act and 1965 Voting Rights Act - The Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, sex or national origin. The Act prohibited discrimination in public accommodations and federally funded programs. The Voting Rights Act of 1965 removed barriers to black enfranchisement in the South, banning poll taxes, literacy tests, and other measures that effectively prevented African Americans from voting.

Swann v. Charlotte-Mecklenburg (1971) - (Charlotte-Mecklenburg is a city area, not a human) The Court upheld busing programs to speed up desegregation. 9-0 decision.