

## Question about President defying Supreme Court

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[Julie Griess](#) · a day ago 🔒

As I understand it, the Supreme Court ruled in 1832 that Andrew Jackson couldn't forcibly relocate the Cherokees from Georgia, but he defied them and therefore we had the Trail of Tears where thousands of people died. Did he have authority to do this? The question is particularly relevant since recently some potential Presidential candidates said they would not obey the Supreme Court on some issues.

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[Ray Strong](#) · a day ago 🔒

Julie. that is true to some extent. The court case was between the Cherokee and the State of Georgia. the Court ruled in favor of the Indians. Jackson's retort was that he made his decision, now let him enforce it. However, it is my understanding that a political settlement was reached before there was an actual confrontation between Jackson and Marshall. So the defiance was not actually tested. Jackson was a strong advocate of indian removal in spite of the fact he had adopted an indian boy as a son and raised him as such.

However the events transpired, the trail of tears is a very, very sad and unjust episode in our history.

Some other reader out there may have a more definitive answer on the actual confrontation between Jackson and the Court.

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[Joel Kovarsky](#) · a day ago 🔒

As you say, this was a terrible episode in US history. Here is one review that appears to summarize most of the legal issues: [http://www.pbs.org/wnet/supremecourt/antebellum/landmark\\_cherokee.html](http://www.pbs.org/wnet/supremecourt/antebellum/landmark_cherokee.html) . Part of the miscarriage was legal due to the "Discovery Doctrine," then enshrined by the 1823 case of Johnson v. M'Intosh. The right of discovery, a much older legal principle dating back centuries--and known to Jefferson and others--was used in numerous other instances against Native Americans. If you want a more detailed analysis (although some argue with bits of the perspective) see Robert Miller's *Native America, Discovered and Conquered Thomas Jefferson, Lewis & Clark, and Manifest*

*Destiny:* [https://lawlib.lclark.edu/blog/native\\_america/?page\\_id=2](https://lawlib.lclark.edu/blog/native_america/?page_id=2) .

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[Julie Griess](#) · a day ago 🔒

Thanks. So in general, can the President defy the Supreme Court, or should he be impeached if he does so?

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[Ray Strong](#) · a day ago 🔒

To be clear, if The President defies the Supreme Court he or she can be impeached if the opposition has the votes to do so. If they don't have the votes, they can't impeach him even if he defies the court. the other remedy is to vote against him and his party.

We see that happen a lot. Lots of talk about impeachment, but not a lot votes.

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[brianew](#) · 17 hours ago 🔒

If the President defies the Supreme Court the Court has no remedy. If there is public outrage an impeachment can be enacted by the House and a trial before the Senate with the Chief Justice presiding. This is solely a political calculation and not legally driven. If the House has the votes to impeach and the Senate the votes to adopt a finding of guilt then the president will be removed from office or reprimanded. The reality was Jackson despised Native Americans and famously said "John Marshall has made his decision, now let him enforce it!" Congress and the nation were not much friendlier to Native Americans than Jackson was so there was no desire to impeach him for flagrantly ignoring the Court and the law. I do not know what the law was back in Jackson's day but today the President has immunity from legal prosecution in the course of his duties while in office and even after office depending on the issue. The complexity and cost of bringing a sitting or former president to court deters most cases from ever being filed and courts have historically given deference to presidents, and also Congress, while choosing and hearing cases.





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