

## Schenck v. United States

### Facts of the Case:

During World War I, Schenck mailed circulars to draftees. The circulars suggested that the draft was a monstrous wrong motivated by the capitalist system. The circulars urged "Do not submit to intimidation" but advised only peaceful action such as petitioning to repeal the Conscription Act. Schenck was charged with conspiracy to violate the Espionage Act by attempting to cause insubordination in the military and to obstruct recruitment.

### Question:

Are Schenck's actions (words, expression) protected by the free speech clause of the First Amendment?

### Conclusion:

Holmes, speaking for a unanimous Court, concluded that Schenck is not protected in this situation. The character of every act depends on the circumstances. "The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent." During wartime, utterances tolerable in peacetime can be punished.

## Gitlow v. New York

### Facts of the Case:

Gitlow, a socialist, was arrested for distributing copies of a "left-wing manifesto" that called for the establishment of socialism through strikes and class action of any form. Gitlow was convicted under a state criminal anarchy law, which punished advocating the overthrow of the government by force. At his trial, Gitlow argued that since there was no resulting action flowing from the manifesto's publication, the statute penalized utterances without propensity to incitement of concrete action. The New York courts had decided that anyone who advocated the doctrine of violent revolution violated the law.

### Question:

Does the New York law punishing the advocacy of overthrowing the government an unconstitutional violation of the free speech clause of the First Amendment?

### Conclusion:

Threshold issue: Does the First Amendment apply to the states? Yes, by virtue of the liberty protected by due process that no state shall deny (14th Amendment). On the merits, a state may forbid both speech and publication if they have a tendency to result in action dangerous to public security, even though such utterances create no clear and present danger. The rationale of the majority has sometimes been called the "dangerous tendency" test. The legislature may decide that an entire class of speech is so dangerous that it should be prohibited. Those legislative decisions will be upheld if not unreasonable, and the defendant will be punished even if her speech created no danger at all.

## Dennis v. United States

### Facts of the Case:

In 1948, the leaders of the Communist Party of America were arrested and charged with violating provisions of the Smith Act. The Act made it unlawful to knowingly conspire to teach and advocate the overthrow or destruction of the United States government. Party leaders were found guilty and lower courts upheld the conviction.

### Question:

Did the Smith Act's restrictions on speech violate the First Amendment?

### Conclusion:

In a 6-to-2 decision, the Court upheld the convictions of the Communist Party leaders and found that the Smith Act did not "inherently" violate the First Amendment. In the plurality opinion, the Court held that there was a distinction between the mere teaching of communist philosophies and active advocacy of those ideas. Such advocacy created a "clear and present danger" that threatened the government. Given the gravity of the consequences of an attempted putsch, the Court held that success or probability of success was not necessary to justify restrictions on the freedom of speech.

## Roth v. United States

### Facts of the Case:

Roth operated a book-selling business in New York and was convicted of mailing obscene circulars and an obscene book in violation of a federal obscenity statute. Roth's case was combined with *Alberts v. California*,

in which a California obscenity law was challenged by Alberts after his similar conviction for selling lewd and obscene books in addition to composing and publishing obscene advertisements for his products.

Question:

Did either the federal or California's obscenity restrictions, prohibiting the sale or transfer of obscene materials through the mail, impinge upon the freedom of expression as guaranteed by the First Amendment?

Conclusion:

In a 6-to-3 decision written by Justice William J. Brennan, Jr., the Court held that obscenity was not "within the area of constitutionally protected speech or press." The Court noted that the First Amendment was not intended to protect every utterance or form of expression, such as materials that were "utterly without redeeming social importance." The Court held that the test to determine obscenity was "whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest." The Court held that such a definition of obscenity gave sufficient fair warning and satisfied the demands of Due Process. Brennan later reversed his position on this issue in *Miller v. California* (1973).

### Edwards v. South Carolina, 1963

Facts of the Case:

The 187 petitioners in this case, all of whom were black, organized a march to the South Carolina State House grounds in which small groups of fifteen would walk in an open public area protesting the policies of segregation in their state. The march was peaceful, did not block pedestrian or vehicular traffic, and was conducted in an orderly fashion on public property. A group of approximately thirty police officers confronted the group and ordered its members to disperse or to submit to arrest. The marchers did not disperse, and instead began singing religious and patriotic songs like the Star Spangled Banner. They were arrested and later convicted on a charge of breach of the peace.

Question:

Did the arrests and convictions of the marchers violate their freedom of speech, assembly, and petition for redress of their grievances as protected by the First and Fourteenth Amendments?

Conclusion:

Yes. The Court held that the arrests and convictions violated the rights of the marchers. They were convicted of an offense which the South Carolina Supreme Court, in upholding the convictions, described as "not susceptible of exact definition." The evidence used to prosecute the marchers did not even remotely prove that their actions were violent. Hence, Justice Stewart found clear constitutional violations in this case. Stewart called the marchers' actions an exercise of First Amendment rights "in their most pristine and classic form" and emphasized that a state cannot "make criminal the peaceful expression of unpopular views" as South Carolina attempted to do here.

### Bethel School District No. 403 v. Fraser

Facts of the Case:

At a school assembly of approximately 600 high school students, Matthew Fraser made a speech nominating a fellow student for elective office. In his speech, Fraser used what some observers believed was a graphic sexual metaphor to promote the candidacy of his friend. As part of its disciplinary code, Bethel High School enforced a rule prohibiting conduct which "substantially interferes with the educational process . . . including the use of obscene, profane language or gestures." Fraser was suspended from school for two days.

Question:

Does the First Amendment prevent a school district from disciplining a high school student for giving a lewd speech at a high school assembly?

Conclusion:

No. The Court found that it was appropriate for the school to prohibit the use of vulgar and offensive language. Chief Justice Burger distinguished between political speech which the Court previously had protected in *Tinker v. Des Moines Independent Community School District* (1969) and the supposed sexual content of Fraser's message at the assembly. Burger concluded that the First Amendment did not prohibit schools from prohibiting vulgar and lewd speech since such discourse was inconsistent with the "fundamental values of public school education."

## Texas v. Johnson

### Facts of the Case:

In 1984, in front of the Dallas City Hall, Gregory Lee Johnson burned an American flag as a means of protest against Reagan administration policies. Johnson was tried and convicted under a Texas law outlawing flag desecration. He was sentenced to one year in jail and assessed a \$2,000 fine. After the Texas Court of Criminal Appeals reversed the conviction, the case went to the Supreme Court.

### Question:

Is the desecration of an American flag, by burning or otherwise, a form of speech that is protected under the First Amendment?

### Conclusion:

In a 5-to-4 decision, the Court held that Johnson's burning of a flag was protected expression under the First Amendment. The Court found that Johnson's actions fell into the category of expressive conduct and had a distinctively political nature. The fact that an audience takes offense to certain ideas or expression, the Court found, does not justify prohibitions of speech. The Court also held that state officials did not have the authority to designate symbols to be used to communicate only limited sets of messages, noting that "[I]f there is a bedrock principle underlying the First Amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

## Tinker v. Des Moines Ind. Comm. School Dist

### Facts of the Case:

John Tinker, 15 years old, his sister Mary Beth Tinker, 13 years old, and Christopher Ehardt, 16 years old, decided along with their parents to protest the Vietnam War by wearing black armbands to their Des Moines schools during the Christmas holiday season. Upon learning of their intentions, and fearing that the armbands would provoke disturbances, the principals of the Des Moines school district resolved that all students wearing armbands be asked to remove them or face suspension. When the Tinker siblings and Christopher wore their armbands to school, they were asked to remove them. When they refused, they were suspended until after New Year's Day.

### Question:

Does a prohibition against the wearing of armbands in public school, as a form of symbolic protest, violate the First Amendment's freedom of speech protections?

### Conclusion:

The wearing of armbands was "closely akin to 'pure speech'" and protected by the First Amendment. School environments imply limitations on free expression, but here the principals lacked justification for imposing any such limits. The principals had failed to show that the forbidden conduct would substantially interfere with appropriate school discipline.

## Engel v. Vitale

### Facts of the Case:

The Board of Regents for the State of New York authorized a short, voluntary prayer for recitation at the start of each school day. This was an attempt to defuse the politically potent issue by taking it out of the hands of local communities. The blandest of invocations read as follows: "Almighty God, we acknowledge our dependence upon Thee, and beg Thy blessings upon us, our teachers, and our country."

### Question:

Does the reading of a nondenominational prayer at the start of the school day violate the "establishment of religion" clause of the First Amendment?

### Conclusion:

Yes. Neither the prayer's nondenominational character nor its voluntary character saves it from unconstitutionality. By providing the prayer, New York officially approved religion. This was the first in a series of cases in which the Court used the establishment clause to eliminate religious activities of all sorts, which had traditionally been a part of public ceremonies. Despite the passage of time, the decision is still unpopular with a majority of Americans.

## Abington School District v. Schempp

### Facts of the Case:

The Abington case concerns Bible-reading in Pennsylvania public schools. At the beginning of the school day, students who attended public schools in the state of Pennsylvania were required to read at least ten

verses from the Bible. After completing these readings, school authorities required all Abington Township students to recite the Lord's Prayer. Students could be excluded from these exercises by a written note from their parents to the school. In a related case -- Murray v. Curlett -- a Baltimore statute required Bible-reading or the recitation of the Lord's Prayer at open exercises in public schools. Murray and his mother, professed atheists -- challenged the prayer requirement.

Question:

Did the Pennsylvania law and Abington's policy, requiring public school students to participate in classroom religious exercises, violate the religious freedom of students as protected by the First and Fourteenth Amendments?

Conclusion:

The Court found such a violation. The required activities encroached on both the Free Exercise Clause and the Establishment Clause of the First Amendment since the readings and recitations were essentially religious ceremonies and were "intended by the State to be so." Furthermore, argued Justice Clark, the ability of a parent to excuse a child from these ceremonies by a written note was irrelevant since it did not prevent the school's actions from violating the Establishment Clause.

### Lemon v. Kurtzman

Facts of the Case:

This case was heard concurrently with two others, Earley v. DiCenso (1971) and Robinson v. DiCenso (1971). The cases involved controversies over laws in Pennsylvania and Rhode Island. In Pennsylvania, a statute provided financial support for teacher salaries, textbooks, and instructional materials for secular subjects to non-public schools. The Rhode Island statute provided direct supplemental salary payments to teachers in non-public elementary schools. Each statute made aid available to "church-related educational institutions."

Question:

Did the Rhode Island and Pennsylvania statutes violate the First Amendment's Establishment Clause by making state financial aid available to "church-related educational institutions"?

Conclusion:

Yes. Writing for the majority, Chief Justice Burger articulated a **three-part test** for laws dealing with religious establishment. To be constitutional, a statute must have "a secular legislative purpose," it must have principal effects which neither advance nor inhibit religion, and it must not foster "an excessive government entanglement with religion." The Court found that the subsidization of parochial schools furthered a process of religious inculcation, and that the "continuing state surveillance" necessary to enforce the specific provisions of the laws would inevitably entangle the state in religious affairs. The Court also noted the presence of an unhealthy "divisive political potential" concerning legislation which appropriates support to religious schools.

### Wisconsin v. Yoder

Facts of the Case:

Jonas Yoder and Wallace Miller, both members of the Old Order Amish religion, and Adin Yutzy, a member of the Conservative Amish Mennonite Church, were prosecuted under a Wisconsin law that required all children to attend public schools until age 16. The three parents refused to send their children to such schools after the eighth grade, arguing that high school attendance was contrary to their religious beliefs.

Question:

Did Wisconsin's requirement that all parents send their children to school at least until age 16 violate the First Amendment by criminalizing the conduct of parents who refused to send their children to school for religious reasons?

Conclusion:

In a unanimous decision, the Court held that individual's interests in the free exercise of religion under the First Amendment outweighed the State's interests in compelling school attendance beyond the eighth grade. In the majority opinion by Chief Justice Warren E. Burger, the Court found that the values and programs of secondary school were "in sharp conflict with the fundamental mode of life mandated by the Amish religion," and that an additional one or two years of high school would not produce the benefits of public education cited by Wisconsin to justify the law. Justice William O. Douglas filed a partial dissent but joined with the majority regarding Yoder.

## Near v. Minnesota ex rel. Olson

### Facts of the Case:

Jay Near published a scandal sheet in Minneapolis, in which he attacked local officials, charging that they were implicated with gangsters. Minnesota officials obtained an injunction to prevent Near from publishing his newspaper under a state law that allowed such action against periodicals. The law provided that any person "engaged in the business" of regularly publishing or circulating an "obscene, lewd, and lascivious" or a "malicious, scandalous and defamatory" newspaper or periodical was guilty of a nuisance, and could be enjoined (stopped) from further committing or maintaining the nuisance.

### Question:

Does the Minnesota "gag law" violate the free press provision of the First Amendment?

### Conclusion:

The Supreme Court held that the statute authorizing the injunction was unconstitutional as applied. History had shown that the protection against previous restraints was at the heart of the First Amendment. The Court held that the statutory scheme constituted a prior restraint and hence was invalid under the First Amendment. Thus the Court established as a constitutional principle the doctrine that, with some narrow exceptions, the government could not censor or otherwise prohibit a publication in advance, even though the communication might be punishable after publication in a criminal or other proceeding.

## Miller v. California

### Facts of the Case:

Miller, after conducting a mass mailing campaign to advertise the sale of "adult" material, was convicted of violating a California statute prohibiting the distribution of obscene material. Some unwilling recipients of Miller's brochures complained to the police, initiating the legal proceedings.

### Question:

Is the sale and distribution of obscene materials by mail protected under the First Amendment's freedom of speech guarantee?

### Conclusion:

In a 5-to-4 decision, the Court held that obscene materials did not enjoy First Amendment protection. The Court modified the test for obscenity established in *Roth v. United States* and *Memoirs v. Massachusetts*, holding that "[t]he basic guidelines for the trier of fact must be: (a) whether 'the average person, applying contemporary community standards' would find that the work, taken as a whole, appeals to the prurient interest. . . (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value." The Court rejected the "utterly without redeeming social value" test of the *Memoirs* decision.

## Hazelwood School District v. Kuhlmeier

### Facts of the Case:

The Spectrum, the school-sponsored newspaper of Hazelwood East High School, was written and edited by students. In May 1983, Robert E. Reynolds, the school principal, received the pages proofs for the May 13 issue. Reynolds found two of the articles in the issue to be inappropriate, and ordered that the pages on which the articles appeared be withheld from publication. Cathy Kuhlmeier and two other former Hazelwood East students brought the case to court.

### Question:

Did the principal's deletion of the articles violate the students' rights under the First Amendment?

### Conclusion:

No. In a 5-to-3 decision, the Court held that the First Amendment did not require schools to affirmatively promote particular types of student speech. The Court held that schools must be able to set high standards for student speech disseminated under their auspices, and that schools retained the right to refuse to sponsor speech that was "inconsistent with 'the shared values of a civilized social order.'" Educators did not offend the First Amendment by exercising editorial control over the content of student speech so long as their actions were "reasonably related to legitimate pedagogical concerns." The actions of Principal Reynolds, the Court held, met this test.

## De Jonge v. Oregon

### Facts of the Case:

On July 27, 1934, at a meeting held by the Communist Party, Dirk De Jonge addressed the audience regarding jail conditions in the county and a maritime strike in progress in Portland. While the meeting was in progress, police raided it. De Jonge was arrested and charged with violating the State's criminal syndicalism statute. The law defines criminal syndicalism as "the doctrine which advocates crime, physical violence, sabotage or any unlawful acts or methods as a means of accomplishing or effecting industrial or political change or revolution." After being convicted, De Jonge moved for an acquittal, arguing that the evidence was insufficient to warrant his conviction. Disagreeing, the State Supreme Court distinguished that the indictment did not charge De Jonge with criminal syndicalism, but rather that he presided at, conducted and assisted in conducting an assemblage of persons, organization, society and group called by the Communist Party, which was unlawfully teaching and advocating in Multnomah county the doctrine of criminal syndicalism and sabotage.

### Question:

Does Oregon's criminal syndicalism statute violate the due process clause of the Fourteenth Amendment?

### Conclusion:

Yes. In an opinion delivered by Chief Justice Charles E. Hughes, the Court held that the Oregon statute, as applied, violated the due process clause of the Fourteenth Amendment. After reviewing the record, the Court determined that De Jonge's sole offense was assisting in a public meeting held under the auspices of the Communist Party. The Court reasoned that to preserve the rights of free speech and peaceable assembly - principles embodied in the Fourteenth Amendment - not the auspices under which a meeting is held, but the purpose of the meeting and whether the speakers' remarks transcend the bounds of freedom of speech must be examined, which had not occurred in De Jonge's case. Justice Harlan Fiske Stone took no part in the consideration or decision of the case.

## Griswold v. Connecticut

### Facts of the Case:

Griswold was the Executive Director of the Planned Parenthood League of Connecticut. Both she and the Medical Director for the League gave information, instruction, and other medical advice to married couples concerning birth control. Griswold and her colleague were convicted under a Connecticut law which criminalized the provision of counseling, and other medical treatment, to married persons for purposes of preventing conception.

### Question:

Does the Constitution protect the right of marital privacy against state restrictions on a couple's ability to be counseled in the use of contraceptives?

### Conclusion:

Though the Constitution does not explicitly protect a general right to privacy, the various guarantees within the Bill of Rights create penumbras, or zones, that establish a right to privacy. Together, the First, Third, Fourth, and Ninth Amendments, create a new constitutional right, the right to privacy in marital relations. The Connecticut statute conflicts with the exercise of this right and is therefore null and void.

## Roe v. Wade

### Facts of the Case:

Roe, a Texas resident, sought to terminate her pregnancy by abortion. Texas law prohibited abortions except to save the pregnant woman's life. After granting certiorari, the Court heard arguments twice. The first time, Roe's attorney -- Sarah Weddington -- could not locate the constitutional hook of her argument for Justice Potter Stewart. Her opponent -- Jay Byrd -- misfired from the start. Weddington sharpened her constitutional argument in the second round. Her new opponent -- Robert Flowers -- came under strong questioning from Justices Potter Stewart and Thurgood Marshall.

### Question:

Does the Constitution embrace a woman's right to terminate her pregnancy by abortion?

### Conclusion:

The Court held that a woman's right to an abortion fell within the right to privacy (recognized in *Griswold v. Connecticut*) protected by the Fourteenth Amendment. The decision gave a woman total autonomy over the pregnancy during the first trimester and defined different levels of state interest for the second and third trimesters. As a result, the laws of 46 states were affected by the Court's ruling.

## Weeks v. United States

### Facts of the Case:

Police entered the home of Fremont Weeks and seized papers which were used to convict him of transporting lottery tickets through the mail. This was done without a search warrant. Weeks took action against the police and petitioned for the return of his private possessions.

### Question:

Did the search and seizure of Weeks' home violate the Fourth Amendment?

### Conclusion:

In a unanimous decision, the Court held that the seizure of items from Weeks' residence directly violated his constitutional rights. The Court also held that the government's refusal to return Weeks' possessions violated the Fourth Amendment. To allow private documents to be seized and then held as evidence against citizens would have meant that the protection of the Fourth Amendment declaring the right to be secure against such searches and seizures would be of no value whatsoever. This was the first application of what eventually became known as the "exclusionary rule."

## Mapp v. Ohio

### Facts of the Case:

Dolree Mapp was convicted of possessing obscene materials after an admittedly illegal police search of her home for a fugitive. She appealed her conviction on the basis of freedom of expression.

### Question:

Were the confiscated materials protected by the First Amendment? (May evidence obtained through a search in violation of the Fourth Amendment be admitted in a state criminal proceeding?)

### Conclusion:

The Court brushed aside the First Amendment issue and declared that "all evidence obtained by searches and seizures in violation of the Constitution is, by [the Fourth Amendment], inadmissible in a state court." Mapp had been convicted on the basis of illegally obtained evidence. This was an historic -- and controversial -- decision. It placed the requirement of excluding illegally obtained evidence from court at all levels of the government. The decision launched the Court on a troubled course of determining how and when to apply the exclusionary rule.

## Gideon v. Wainwright

### Facts of the Case:

Gideon was charged in a Florida state court with a felony for breaking and entering. He lacked funds and was unable to hire a lawyer to prepare his defense. When he requested the court to appoint an attorney for him, the court refused, stating that it was only obligated to appoint counsel to indigent defendants in capital cases. Gideon defended himself in the trial; he was convicted by a jury and the court sentenced him to five years in a state prison.

### Question:

Did the state court's failure to appoint counsel for Gideon violate his right to a fair trial and due process of law as protected by the Sixth and Fourteenth Amendments?

### Conclusion:

In a unanimous opinion, the Court held that Gideon had a right to be represented by a court-appointed attorney and, in doing so, overruled its 1942 decision of *Betts v. Brady*. In this case the Court found that the Sixth Amendment's guarantee of counsel was a fundamental right, essential to a fair trial, which should be made applicable to the states through the Due Process Clause of the Fourteenth Amendment. Justice Black called it an "obvious truth" that a fair trial for a poor defendant could not be guaranteed without the assistance of counsel. Those familiar with the American system of justice, commented Black, recognized that "lawyers in criminal courts are necessities, not luxuries."

## Miranda v. Arizona

### Facts of the Case:

The Court was called upon to consider the constitutionality of a number of instances, ruled on jointly, in which defendants were questioned "while in custody or otherwise deprived of [their] freedom in any significant way." In *Vignera v. New York*, the petitioner was questioned by police, made oral admissions, and signed an inculpatory statement all without being notified of his right to counsel. Similarly, in *Westover v. United States*, the petitioner was arrested by the FBI, interrogated, and made to sign statements without

being notified of his right to counsel. Lastly, in *California v. Stewart*, local police held and interrogated the defendant for five days without notification of his right to counsel. In all these cases, suspects were questioned by police officers, detectives, or prosecuting attorneys in rooms that cut them off from the outside world. In none of the cases were suspects given warnings of their rights at the outset of their interrogation.

Question:

Does the police practice of interrogating individuals without notifying them of their right to counsel and their protection against self-incrimination violate the Fifth Amendment?

Conclusion:

The Court held that prosecutors could not use statements stemming from custodial interrogation of defendants unless they demonstrated the use of procedural safeguards "effective to secure the privilege against self-incrimination." The Court noted that "the modern practice of in-custody interrogation is psychologically rather than physically oriented" and that "the blood of the accused is not the only hallmark of an unconstitutional inquisition." The Court specifically outlined the necessary aspects of police warnings to suspects, including warnings of the right to remain silent and the right to have counsel present during interrogations.

## Sheppard v. Maxwell

Facts of the Case:

After suffering a trial court conviction of second-degree murder for the bludgeoning death of his pregnant wife, Samuel Sheppard challenged the verdict as the product of an unfair trial. Sheppard, who maintained his innocence of the crime, alleged that the trial judge failed to protect him from the massive, widespread, and prejudicial publicity that attended his prosecution. On appeal from an Ohio district court ruling supporting his claim, the Sixth Circuit Court of Appeals reversed. When Sheppard appealed again, the Supreme Court granted certiorari.

Question:

What threshold must be crossed before a trial is said to be so prejudicial, due to context and publicity, as to interfere with a defendant's Fifth Amendment due process right to a fair trial?

Conclusion:

In an 8-to-1 decision the Court found that Sheppard did not receive a fair trial. Noting that although freedom of expression should be given great latitude, the Court held that it must not be so broad as to divert the trial away from its primary purpose: adjudicating both criminal and civil matters in an objective, calm, and solemn courtroom setting. The Cleveland television media's repeated broadcasts of Sheppard confessing in detail to crimes he was later charged with, the blatant and hostile trial coverage by Cleveland's radio and print media, and the physical arrangement of the courtroom itself - which facilitated collaboration between the prosecution and present media - all combined to so inflame the jurors' minds against Sheppard as to deny him a fair trial. The Court concluded that the trial judge should have either postponed the proceedings or transferred them to a different venue.

## Nix v. Williams

Facts of the Case:

Williams was arrested for the murder of a ten-year-old girl whose body he disposed of along a gravel road. State law enforcement officials engaged in a massive search for the child's body. During the search, after responding to an officer's appeal for assistance, Williams made statements to the police (without an attorney present) which helped lead the searchers to the child's body. The defendant's Miranda rights were only read to him after his arrest.

Question:

Should evidence resulting in an arrest be excluded from trial because it was improperly obtained?

Conclusion:

No. The Court relied on the "inevitable discovery doctrine," as it held that the exclusionary rule did not apply to the child's body as evidence since it was clear that the volunteer search teams would have discovered the body even absent Williams' statements.

## Thompson v. Oklahoma

Facts of the Case:

At the age of 15 years Thompson was tried as an adult, convicted of first degree murder, and sentenced to death. On appeal, the Court of Criminal Appeals of Oklahoma affirmed. The Supreme Court granted Thompson certiorari.



Question:

Would the execution of a 15 year old violate the Eighth Amendment's prohibition against "cruel and unusual punishments"?

Conclusion:

Yes. After noting that the Eighth Amendment's prohibition against "cruel and unusual punishments" applied to the states through the Fourteenth Amendment, the Court held that the execution of a person under the age of 16 was unconstitutional. In noting the uniform ban among all relevant state statutes against the execution of one under the age of 16, the Court explained that such an act would violate the "evolving standards of decency that mark the progress of a maturing society." The case was reversed and remanded.

### **Baker v. Carr**

Facts of the Case:

Charles W. Baker and other Tennessee citizens alleged that a 1901 law designed to apportion the seats for the state's General Assembly was virtually ignored. Baker's suit detailed how Tennessee's reapportionment efforts ignored significant economic growth and population shifts within the state.

Question:

Did the Supreme Court have jurisdiction over questions of legislative apportionment?

Conclusion:

In an opinion which explored the nature of "political questions" and the appropriateness of Court action in them, the Court held that there were no such questions to be answered in this case and that legislative apportionment was a justiciable issue. In his opinion, Justice Brennan provided past examples in which the Court had intervened to correct constitutional violations in matters pertaining to state administration and the officers through whom state affairs are conducted. Brennan concluded that the Fourteenth Amendment equal protection issues which Baker and others raised in this case merited judicial evaluation.

### **Automobile Workers v. Johnson Controls, Inc.**

Facts of the Case:

Johnson Controls, Inc. ("Johnson") manufactures batteries whose assembly process entails exposure to high levels of lead. After discovering that eight of its female employees became pregnant while maintaining blood lead levels in excess of those thought safe by the Occupational Safety and Health Administration (OSHA), Johnson barred all its female employees - accepting those with medically documented infertility - from engaging in tasks that require exposure to lead in excess of recommended OSHA levels. Following its passage, the United Automobile Workers (UAW) challenged Johnson's fetal-protection policy as sexually discriminatory in violation of Title VII of the 1964 Civil Rights Act (Act). When the Appellate Court affirmed a district court decision in favor of Johnson, the UAW appealed and the Supreme Court granted certiorari.

Question:

Does a policy barring the participation of potentially fertile and pregnant women in occupations that could be detrimental to their reproductive capacities constitute sexual discrimination in violation of Title VII of the 1964 Civil Rights Act?

Conclusion:

Yes. In a unanimous decision, the Court noted that even well intentioned proposals are forbidden if they result in discrimination. Johnson's fetal-protection plan discriminated against women by not requiring their male counterparts to demonstrate proof of medical sterility, despite the fact that lead exposure has also proved hazardous to male reproductive systems. The Court added that Johnson's fetal-protection plan fell outside the bona fide occupational qualification exception of Title VII, since the exception only permits employers to discriminate based on qualities that detrimentally impact on an employee's job performance. In the present case, although lead exposure may be harmful to the unborn, Johnson furnished no proof that it detracted from its female employees' abilities to perform any of their essential tasks.

### **Scheidler v. National Organization for Women (NOW)**

Facts of the Case:

In 2003, the Supreme Court ruled that abortion protesters do not commit extortion in violation the Hobbs Act and the Racketeer Influenced and Corrupt Organizations Act (RICO) when they blockade abortion clinics, because they do not "obtain" property, as required by the Act. The Court concluded that "Without an underlying RICO violation, the injunction [on the protesters] issued by the District Court must necessarily be vacated." The Seventh Circuit Court of Appeals declined to vacate the injunction, however, finding that the Court had only ruled on the 117 counts of extortion, and not on four additional counts of violence unrelated

to extortion. The National Organization for Women (NOW) argued that acts of physical violence are sufficient to establish a violation of the Hobbs Act. Scheidler countered that the four counts of "violence-only" were irrelevant to the Hobbs Act, which he said requires that violence be used for robbery or extortion. Scheidler petitioned the Supreme Court to decide whether the Circuit Court had acted properly, and the Court granted certiorari. (Consolidated with No. 04-1352, Operation Rescue v. NOW.)

Question:

Does the Hobbs Act prohibit violence unrelated to extortion or robbery?

Conclusion:

No. In an 8-0 decision (Justice Alito not participating), the Court ruled that "physical violence unrelated to robbery or extortion falls outside the scope of the Hobbs Act." Writing for the unanimous Court, Justice Stephen Breyer cited statutory language, legislative history, and case law in support of the decision. He wrote, "The language of the statute makes the more restrictive reading the more natural one." Although Congress had revised the Act in 1948, making it less clear, the Court ruled that Congress did not intend for the revisions to "create a freestanding physical violence offense in the Hobbs Act."

## Regents of the University of California v. Bakke

Facts of the Case:

Allan Bakke, a thirty-five-year-old white man, had twice applied for admission to the University of California Medical School at Davis. He was rejected both times. The school reserved sixteen places in each entering class of one hundred for "qualified" minorities, as part of the university's affirmative action program, in an effort to redress longstanding, unfair minority exclusions from the medical profession. Bakke's qualifications (college GPA and test scores) exceeded those of any of the minority students admitted in the two years Bakke's applications were rejected. Bakke contended, first in the California courts, then in the Supreme Court, that he was excluded from admission solely on the basis of race.

Question:

Did the University of California violate the Fourteenth Amendment's equal protection clause, and the Civil Rights Act of 1964, by practicing an affirmative action policy that resulted in the repeated rejection of Bakke's application for admission to its medical school?

Conclusion:

No and yes. There was no single majority opinion. Four of the justices contended that any racial quota system supported by government violated the Civil Rights Act of 1964. Justice Lewis F. Powell, Jr., agreed, casting the deciding vote ordering the medical school to admit Bakke. However, in his opinion, Powell argued that the rigid use of racial quotas as employed at the school violated the equal protection clause of the Fourteenth Amendment. The remaining four justices held that the use of race as a criterion in admissions decisions in higher education was constitutionally permissible. Powell joined that opinion as well, contending that the use of race was permissible as one of several admission criteria. So, the Court managed to minimize white opposition to the goal of equality (by finding for Bakke) while extending gains for racial minorities through affirmative action.