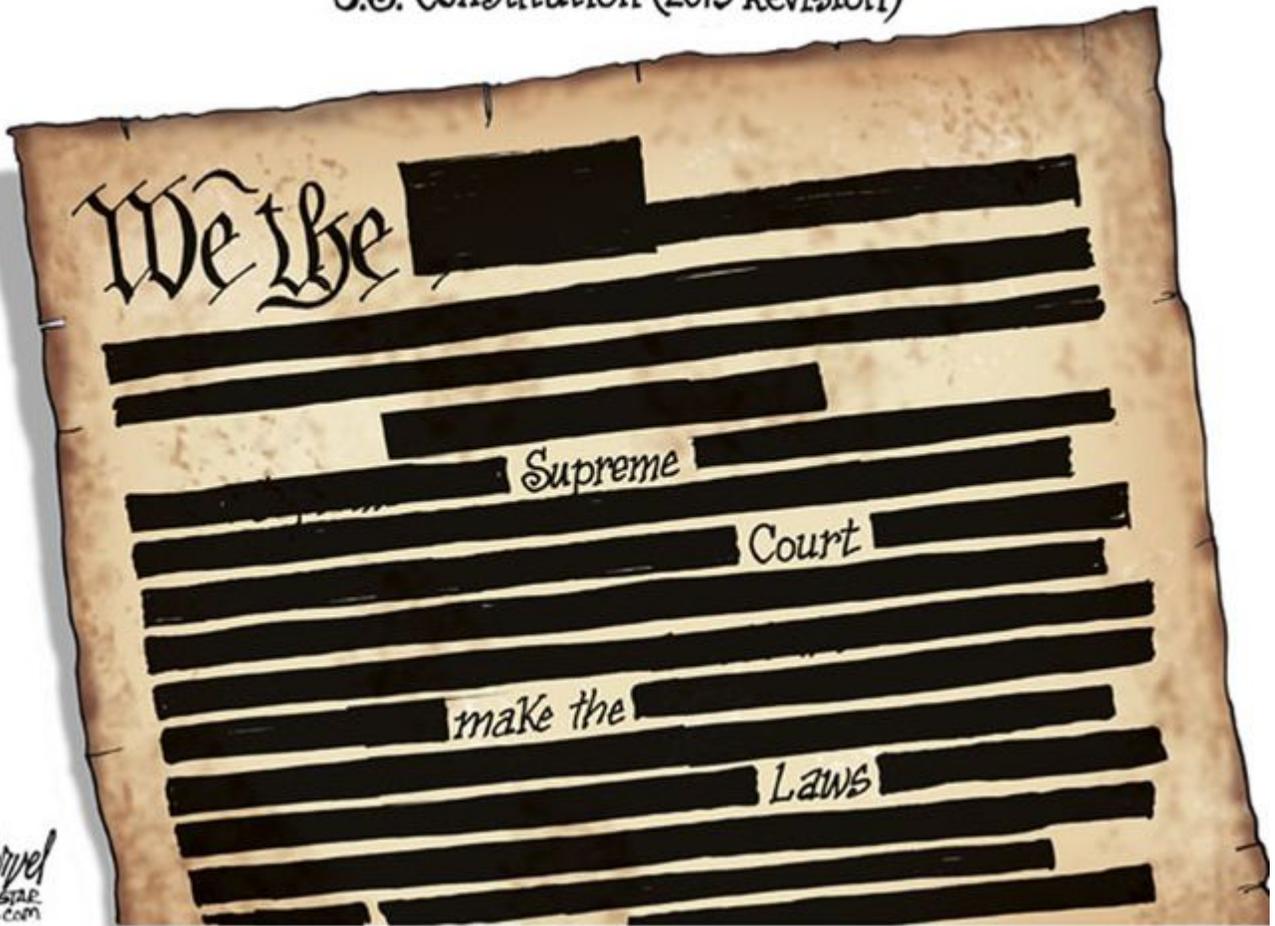


U.S. Constitution (2015 Revision)



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UNIT V: Judiciary

Metea Valley High School Government

Name _____

Unit V: The Judiciary

Essential Unit Questions

1. Analyze how the Bill of Rights reflects the judiciary's responsibility of maintaining the balance between individual rights and the rights of society.
2. Identify and describe the formal (Constitutional) and informal qualifications and selection of Supreme Court justices.
3. Identify and describe the process of Judicial Review.
4. Describe how federalism impacts our judicial system.
5. Describe the process of how cases travel through the appellate process.
6. Identify and describe how rights are protected by the 1st, 2nd, 4th, 5th, 6th and 8th amendments in the Bill of Rights.
7. Identify and describe the concepts of procedural and substantive due process protected by the Bill of Rights and the 14th Amendment.
8. Compare and contrast the judicial philosophies of activism and restraint.



Can you identify any of the above Supreme Court Justices? Who is the Chief Justice? Who is the oldest justice? Which justice recently died and needs to be replaced? Which one of these justices had the most controversial hearing in the Senate? Which Supreme Court Justices did President Obama appoint? Who are the liberals? Who are the conservatives? Which justice is most likely to cast the "swing vote?"

Essential Unit Terms	I can define it and/or give an example of...	I've seen it but do not know the exact definition...	I have no idea what this term means...	Definitions and/or notes for the test:
Supreme Court Chief Justice				
Dual Court System				
Appointment				
Judicial Review (Marbury v. Madison)				
Appellate Process				
Due Process				
Substantive v. Procedural (Due Process)				
Judicial Activism				
Judicial Restraint				

Essential Unit Terms	I can define it and/or give an example of...	I've seen it but do not know the exact definition...	I have no idea what this term means...	Definitions and/or notes for the test:
Majority Opinion				
Dissenting Opinion				
Concurring Opinion				
Amicus Curiae				
Writ of Certiorari				
Legal Precedent				
Bill of Rights				
1 st Amendment				

Essential Unit Terms	I can define it and/or give an example of...	I've seen it but do not know the exact definition...	I have no idea what this term means...	Definitions and/or notes for the test:
4 th Amendment				
Exclusionary Rule				
5 th Amendment				
6 th Amendment				
8 th Amendment				
9 th Amendment				
14 th Amendment				

How does the Supreme Court work?

To help illustrate the terms and concepts you will often encounter in discussions of the Supreme Court, we have written an imaginary Supreme Court case. Pretend that the plaintiff (Mr. Lyon) is suing the defendant (his employer, the state-run Animal House Zoo). Mr. Lyon, who is white, scored higher than Mr. Behr, who is black, on an exam that qualifies employees for promotions. When the exam was scored, however, the zoo threw out the results because it worried that promoting a white candidate over a black candidate would leave it vulnerable to allegations that it had violated Title VII of the 1964 Civil Rights Act, which prohibits racial discrimination in employment. Mr. Lyon sued the Animal House Zoo, arguing that by throwing out the results of the exam, the zoo violated under his rights under Title VII. (The Supreme Court addressed a case with similar facts last year when it decided *Ricci v. DeStefano*.)

Directions: Here, we'll look at the life of our hypothetical case, **Lyon v. Animal House Zoo**, focusing on proceedings in the Supreme Court. Make sure you read over the vocabulary you will learn about in this unit!

1. Highlight all vocab terms! How many can you find? _____
2. Write a summary of what happens at each step.

LOWER COURTS

Mr. Lyon is suing his employer, the Animal House Zoo, because he believes that the zoo violated his rights under the Civil Rights Act and the U.S. Constitution. He begins his lawsuit by filing it in the federal district court that is, a federal trial court responsible for considering federal cases in the area where he lives and works. After hearing arguments and receiving evidence from both Mr. Lyon and the zoo, the district court decides that the zoo did not violate Mr. Lyons rights. Unhappy with the trial court's decision, Mr. Lyon appeals it to the U.S. Court of Appeals for the Second Circuit, one of thirteen federal appellate courts which review appeals from federal district courts. A panel of three randomly assigned judges reviews the case and affirms the district court's ruling that the zoo cannot be held liable for its actions, because by throwing out the exam results, it had simply been trying to fulfill its obligation not to discriminate under the Civil Rights Act.



At this point, Mr. Lyon has to choose between petitioning the Supreme Court or seeking rehearing from the three judges or all the judges on the Second Circuit (a procedure known as filing a petition for rehearing en banc). Mr. Lyon chooses the latter option, but from the day the Second Circuit denies his request.

SUMMARY:

PETITION FOR WRIT OF CERTIORARI

From the day the Second Circuit denies his petition for rehearing en banc, Mr. Lyon has ninety days to file a petition for certiorari (often called a "cert. petition"), which is a brief asking the Supreme Court to hear his case. (If Mr. Lyon had won in the lower courts, the zoo could have filed a cert. petition.)

In his cert. petition, Mr. Lyon sets out the facts, the history of the case, and the reasons why the Supreme Court should review the Second Circuit's ruling. He tells the Court that it should grant review not only because the Second Circuit's opinion is wrong but also because, by doing so, the Court can clarify doubts in both the Civil Rights Act and the Constitution. (In addition to focusing directly on the legal questions at issue in the case, cert. petitions often point to disagreements between courts of appeals about those issues and ask the Supreme Court to resolve those disputes by setting a precedent that the lower courts must follow.)

Before the Court decides whether to hear Mr. Lyon's petitions, outside groups or individuals with an interest in the outcome of the case can file briefs telling the Court why it should grant certiorari. These groups or individuals are known as an amicus curiae (singular) or amici curiae (plural), which is Latin for "friend of the Court"; the briefs that they file are called amicus briefs. (At the certiorari stage (or "cert.-stage"), when the Court is deciding whether to hear the case, amicus briefs are normally only filed by groups or individuals who agree with the petitioner that the Court should review the case.)

SUMMARY:

ORAL ARGUMENT

The Supreme Court normally hears oral arguments between October and April, scheduling them into two-week sittings during which the Court hears two (although sometimes one or three) arguments per day on Monday, Tuesday, and Wednesday. Generally, the Court allots one hour of argument time for each case, with each party speaking for thirty minutes.

SUMMARY:

DECISION

Later that week, the Justices hold a private conference during which they vote on how to decide the case. The senior justice in the majority (that is, either the Chief Justice or, if he is not in the majority, the justice who has been on the Court the longest) decides who will write the majority opinion; if there is a dissent "“an opinion held by a minority of Justices that a different decision should have been reached "“then the senior dissenting Justice decides who will write the lead dissent to the opinion. The assigned Justices then draft opinions outlining their reasoning in reaching their decision. The amount of time taken to write an opinion depends on several factors: how divided the Justices are, which Justice is writing the opinion, and the time of year.

The Court announces its decision in *Lyon v. Animal House Zoo* in open court. Here, the Court hands down (issues) an opinion in which it reverses the Second Circuit's decision, explaining its reasons for ruling that the Second Circuit was wrong to decide the case in the zoo's favor and that it should have ruled in favor of Mr. Lyon instead. (Alternatively, the Court could have affirmed the case, ruling that the Second Circuit was right and that the zoo should not be held liable; it could have vacated the Second Circuit's ruling, effectively canceling it; and it could have remanded the case, directing the Second Circuit to re-examine it based on theories, evidence, or reasoning it had not yet considered.)

SUMMARY:

Adapted from SCOTUS Blog

10 Things You Need to Know about the Supreme Court (Take good notes as your classmates present!)

1. Why do justices get their jobs for life?
2. How do cases get to the Supreme Court?
3. How do the justices decide cases?



4. Why are so many decisions 5 to 4?



5. Does the Court ever change its mind?
6. Does public opinion influence the Court?

7. Has the presence of women and minorities changed the court?

8. What's the role of the chief justice?

9. Why are the justices so camera shy?

10. What's gone wrong with the confirmation process?

YES

Stripping life tenure from the Supreme Court would "fix" a nonexistent problem, would require a constitutional amendment, and would threaten our independent judiciary.

There is no evidence that Supreme Court Justices need to be forced to retire. Many of our greatest Justices have served honorably on the Court well into old age, and the argument that old Justices are bad smacks of age discrimination.

Since 1787, the Constitution has granted Supreme Court Justices and most federal judges the right to hold their offices until they die or retire. This and other protections given federal judges by the Framers of the Constitution guarantee an independent judiciary. This ensures that our judges can interpret the law free from political pressure.

Abolishing life tenure for Justices would require a constitutional amendment, which is a costly and time-consuming process. In addition to distracting us from the many real problems facing our society, such an amendment would set a dangerous precedent for more serious threats to our independent judiciary, such as giving judges shorter terms of office or making it easier for politicians to fire them.

In June 2004, the Court ruled that the President could not detain citizens indefinitely as terrorists without a hearing decision that would have been impossible without true judicial independence. Our Constitution is working just fine; it would be foolish to tamper with it.

Neil M. Richards

*Associate Professor of Law
Washington University School of Law*

NO

In the late 18th and early 19th century, Supreme Court Justices were required to "ride circuit" traveling to parts of the country as distant as Georgia or Vermont to hear cases. Given the difficulties of travel then, only the hardiest of men could keep this up much beyond his 60th year. And since life spans were much shorter then, the idea of a Justice serving into his 80s likely didn't occur to the Framers.

Chief Justice William H. Rehnquist and Justice John Paul Stevens are both in their 80s, and two more Justices are in their 70s.

Rehnquist has been on the Court for 33 years and Stevens is not far behind. There is always a possibility as Justices age that their mental faculties will diminish.

There is no mechanism to ensure that a Justice will retire when he or she is no longer up to the job.

Even more significant is the question of power. It is not appropriate for one individual, appointed by a President who is long gone, to continue to exercise such significant power for such a long period. Justices should be required to step aside and let others with new ideas and, presumably, more vigor, take over.

This can easily be achieved without loss of judicial independence. I propose that the Constitution be amended to provide that Justices serve a term of 20 years or until age 72, whichever comes first. This would not diminish judicial independence, and it would also discourage Presidents from appointing extremely young Justices with the expectation that they would serve for inordinately long terms.

Craig M. Bradley

*Professor of Law
Indiana University School of Law*



One reason the senate confirmation process is so combative is that new justices, like Sonia Sotomayor, can serve for decades

SHOULD SUPREME COURT JUSTICES CONTINUE TO HAVE TENURE FOR LIFE?

Obama nominates Merrick Garland to Supreme Court

By Stephen Collinson, Kevin Liptak, Ariane de Vogue and Manu Raju, CNN
Wed March 16, 2016



Washington (CNN) President Barack Obama nominated Judge Merrick Garland, who is respected across political lines, to the Supreme Court Wednesday, in an epic power play targeting the resolve of Republicans who have vowed to block any replacement for the late Justice Antonin Scalia until a new president takes office.

GOP leaders, caught in the undertow of an election in which the conservative grass-roots are already in revolt, immediately renewed their refusal to consider Garland, 63, saying their reservations were not personal but motivated by a desire for the American people to weigh in on Scalia's replacement. The showdown is even more fraught than most Supreme Court fights, since Obama's choice could tilt the ideological balance of the court away from conservatives -- possibly for years.

Who is Merrick Garland?

In a speech in the evocative ceremonial surroundings of the White House Rose Garden, Obama praised Garland as "one of America's sharpest legal minds," making a case that he was so eminently qualified for the job in terms of legal learning, experience and temperament that any attempt to ignore his appointment could only be the result of base political motivations.

"I have selected a nominee who is widely recognized not only as one of America's sharpest legal minds, but someone who brings to his work a spirit of decency, modesty, integrity, evenhandedness and excellence," Obama said. These qualities and his long commitment to public service have earned him the respect and admiration from leaders from both sides of the aisle."

Senate Republicans do not plan to vet or have hearings on Garland, let alone a vote on his nomination. Obama and Democrats argue that with 10 months left in his term, there is plenty of time for the Senate to take up and confirm a new justice. The gravity of Obama's announcement on Wednesday was part of an attempt to pressure Republicans, especially senators with an eye on their own legacies or those who face tough re-election fights, to peel away from their leadership.

Mitch McConnell responds to Supreme Court nomination

But Senate Majority Leader Mitch McConnell and the GOP chairman of the Senate Judiciary Committee, Chuck Grassley of Iowa, have both expressed little leeway in their determination to forgo hearings for Obama's nominee.

"The American people may well elect a president who decides to nominate Judge Garland for Senate consideration," McConnell said Wednesday. "The next president may also nominate someone very different. Either way, our view is this: Give the people a voice in the filling of this vacancy." McConnell spoke with Garland this afternoon by phone.

"Rather than put Judge Garland through more unnecessary political routines orchestrated by the White House, the leader decided it would be more considerate of the nominee's time to speak with him today by phone," McConnell spokesman Don Stewart said. "And since the Senate will not be acting on this nomination, he would not be holding a perfunctory meeting, but he wished Judge Garland well."

'Greatest honor of my life'

Garland, the chief judge for the U.S. Court of Appeals for the District of Columbia Circuit, has been on short lists before. An appointee of President Bill Clinton, Garland is a graduate of Harvard and Harvard Law School. As a Justice Department lawyer, he supervised investigations in the Unabomber case as well as the Oklahoma City bombing.

His voice cracking with emotion, Garland called Obama's decision to nominate him "the greatest honor of my life."

"For me, there could be no higher public service than serving as a member of the Supreme Court," Garland said.

Obama's announcement amplifies the ongoing political battle over the precedent and propriety of considering a Supreme Court nomination amid a heated presidential election.

The announcement comes after a big night in the 2016 election, with both party's front-runners -- Democrat Hillary Clinton and Republican Donald Trump -- emerging with sweeping victories as they march toward their respective nominations. Some believed Obama would time his pick so it wouldn't get lost in a news cycle dominated by election results. But the timing seems suited to directly insert the selection into the political conversation.

Fueling the argument is the potential for the first shift in the court's ideological leaning in two decades. If confirmed, Obama's nominee will likely offer a vastly different legal outlook than Scalia, who was considered one of the court's most conservative members.

CNN senior legal analyst Jeffrey Toobin said the pick of Garland, who is well-respected in legal circles "takes the issue of qualifications off the table," but noted the fight now is all about politics.

"He is the chief judge of the second most important court in the country, but the political calculation here is, I think, quite clear," Toobin said. "President Obama is saying to the Senate Republicans, you can take my 63-year-old now or wait for President Hillary Clinton to bring up a 45-year-old in 10 months."

At 63, Garland is much older than the other contenders on the short list such as Judges Sri Srinivasan, Paul Watford and Jane Kelly. Garland's supporters argue he is the nominee that the senators couldn't refuse even in a contentious environment.

Obama had said his goal was to find a "consensus candidate."

"It is my intention to nominate somebody who has impeccable credentials, somebody who should be a consensus candidate," Obama told CNN en Español anchor Juan Carlos Lopez in an interview last week.

This is Obama's third nomination to the high court. Sonia Sotomayor and Elena Kagan were confirmed in 2009 and 2010, respectively. But those confirmation hearings and votes occurred when Democrats were firmly in control of the Senate.

Democrats have already begun a campaign to pressure Republicans into considering Obama's nomination. In their sights: vulnerable senators up for reelection, some of whom are already facing backlash from opponents for refusing to consider even a hypothetical Obama nominee. The White House launched a Twitter account, @SCOTUSnom, designed to promote the nomination as well.

But while some moderate Republicans have expressed willingness to meet with the nominee, their ability to force hearings before the full judiciary panel appear slim.

A McConnell aide said noted the Kentucky senator voted against Garland when he was confirmed to the appeals court in 1997 and argued Obama's choice is a recognition that this pick not getting through -- otherwise the President would have picked a younger nominee who would serve longer.

Sen. Pat Roberts, one of seven current Republicans to vote for Garland in 1997, told CNN he will not back the judge now. "It's not about the person. It's about the process. Let the people decide," Roberts said. Asked why he voted for Garland previously, Roberts replied, "I supported him."

Trump said he agrees with the stance of the Hill Republicans. "I think the next president should make the pick. And I think they shouldn't go forward. And I believe I'm pretty much in line with what the Republicans are saying," Trump told CNN's Chris Cuomo Wednesday on "New Day." Toobin said it will be difficult for them to change tactics now.

"I don't see how at this point they can go back on this promise," not to move on the nominee, Toobin said Wednesday morning. Polls show most Americans support giving a nominee a congressional hearing. A CNN/ORC survey taken late

last month indicated sizable majorities of Republicans, Democrats and independents want Senate Republican leaders to hold hearings on the nominee. Grassley last week said the Senate retained a prerogative to forgo hearings for Obama's selection. "It isn't any different if the President of the United States notifies Congress well in advance of a piece of legislation that he's going to veto it," Grassley said at a Judiciary panel hearing, citing criticism from Republicans over the role of the high court.

"Whether it's today or tomorrow or whether it's for the next seven or eight months, this is a very important debate that we ought to have about the Constitution and about not only who's going to be a replacement for Justice Scalia but about the role of the Supreme Court," he added. "At the grassroots of America, there's a real feeling of 'Is the Supreme Court doing what the Constitution requires?'"

The announcement comes 32 days after Scalia's death, only slightly longer than it took him to name his two previous appointments to the high court. Unlike his nominations of Sotomayor and Kagan, the vacancy this time wasn't expected. White House officials have said they weren't anticipating another Supreme Court nomination during Obama's term ahead of Scalia's death.

Obama oversaw a team led by his counsel Neil Eggleston, chief of staff Denis McDonough, and his senior adviser Brian Deese to select and vet a group of potential nominees. After conducting interviews last week, Obama narrowed his list to include Merrick, Watford and Srinivasan, each of them considered "consensus" candidates for their history in gaining confirmation support from Republicans.

Any replacement of Scalia has the power to tilt the ideological balance of the court for decades, something conservatives are using to move their base to hold the line.

"This seat could be transformational to the court because Justice Scalia's fidelity to the Constitution was a real anchor for the court. If he were replaced by an Obama nominee that would give the court a solid five votes for enacting an extremely liberal agenda that the American people will not be comfortable with," Carrie Severino, of Judicial Crisis Network, a conservative group opposed to any candidate getting a hearing until after the election. It would shift the court --that is somewhat balanced --to a liberal stronghold. She is a former clerk of Justice Clarence Thomas.

Since Scalia's death and for the foreseeable future, the court has operated with eight justices, four appointed by Democrats and four by Republicans.

Justices have been considering several major cases, including a challenge to public sector unions, a race-conscious admissions plan at the University of Texas, the first big abortion case since 2007, challenges to voting rights, the Affordable Care Act's contraceptive mandate and a challenge to Obama's executive actions on immigration. Scalia's death means not only the loss of the court's main conservative voice but also increases the likelihood of a 4-4 split on controversial issues. If the court is equally divided in a case, ruling 4-4, it means the lower court opinion stands and there is no precedent set by the Supreme Court.

CNN's Ted Barrett, Dana Bash, Deirdre Walsh, Evan Perez, Tom LoBianco and Dan Berman contributed to this report

Directions: After reading the article, outline the reasons FOR and AGAINST Merrick Garland's nomination.

<i>Arguments For</i>	<i>Arguments Against</i>

You Decide: Is this a Legal Search?

DIRECTIONS

1. Read each situation. Use the information in the excerpt of the majority opinion to help you complete the chart.
2. Answer the question, "Is this a legal search?" by placing an "X" in the appropriate space.
3. Provide a brief explanation for your answer.

Situation	Is this a legal search?		Explanation
	Yes	No	
School administrators receive a report that a member of the cheerleading squad is selling drugs. They confront her and tell her they are going to check her locker. Then they do so.			
Concerned over recent school shootings, the school board installs metal detectors in all local high schools and requires that all students walk through them in order to enter the building.			
After one second grader complains of having lost the \$5.00 she got from the tooth fairy, teachers ask all of the students in her class to go into the locker room and remove their clothing so they may be strip-searched.			
Administrators receive a tip that members of two rival gangs plan to fight after school and that many of the members have brought knives and other weapons to school. The principal calls the police, who conduct a search of the suspicious students.			
Concerned about alcohol use at the school dance, school officials search the vehicles of all students who attend the prom.			
After receiving a report that a student has brought a gun to school, the principal and security guard bring the student to the office, frisk him, and ask to search his locker.			

FOR EXTENSION

At Boulder High School in Boulder, Colorado, \$60,000 worth of surveillance equipment is able to keep track of students on school grounds, in the halls, and in class. In fact, the principal is able to manipulate the cameras to zoom in on individuals or groups of students.

Is this constitutional? Explain your answer.

NEW JERSEY V. T.L.O. (1985)

YOU CAN'T SMOKE IN HERE!
YOU HAVE BROKEN A SCHOOL
RULE!



A TEACHER OBSERVES A STUDENT
SMOKING IN THE LAVATORY...

SHE TOLD THE VICE PRINCIPAL THAT SHE
WAS NOT SMOKING AND THAT SHE DID NOT
EVEN SMOKE. HE DEMANDED TO SEE HER PURSE

HEY! WHAT ARE YOU DOING?
YOU CAN'T LOOK IN MY PURSE!

HAND IT OVER! YOU'VE
BROKEN A RULE. I WANT
THE CIGARETTES!!



YOU HAVE MARIJUANA IN HERE!!

HEY MAN...
THAT'S ILLEGAL!!



HE LOOKS THROUGH THE ITEMS...

ARE NOT SCHOOL OFFICIALS
ACTING IN "LOCO PARENTIS"?
HOW CAN THEY BE BOUND BY
THE FOURTH AMENDMENT?

WERE NOT THIS STUDENT'S
RIGHTS VIOLATED? WHAT
REASONABLE BELIEF OF
ILLEGAL ACTIVITY LED
TO THIS SEARCH?



Juveniles and the Death Penalty- What's Your Ruling?

Read the following cases and determine if the death penalty for juveniles is constitutional?

Thompson v. Oklahoma (1988)

The sixth of eight children, Wayne Thompson grew up in Chickasha, Oklahoma, a small town about 30 miles southwest of Oklahoma City. He also grew up in the shadow of his brother-in-law Charles Keene's violent rages. He saw his sister Vicky beaten by Keene. Sniffing paint, Keene often grew violent and spared no one. He beat Wayne repeatedly. He struck Wayne's mother, other sisters and even his old brothers. Keene once even carried his infant son on top of his trailer and threatened to drop him off.

When Vicky finally divorced Keene, the family thought their long nightmare was over. But Keene kept returning, threatening and abusing Vicky. Finally, Wayne decided to put a stop to Keene's abuse once and for all. Together with his adult, older brother Tony and two of Tony's adult friends, 15-year-old Wayne Thompson set out to kill Keene. Before dawn on January 23, 1983, they found Keene at his home in Amber, Oklahoma. They kidnapped him, beat him, cut open his stomach, chest, and throat and shot him twice. Before heaving his body in a river, they chained it to a cement block.

Twenty-six days later, it surfaced. At the fitness hearing shortly after his arrest, Wayne was certified to stand trial as an adult. Charged with first-degree murder, he was found guilty. During the trial, the prosecution had introduced three color pictures of Keene's body. The prosecution introduced the same pictures at the sentencing hearing. The jury found the murder to have the aggravating circumstances of being "especially heinous, atrocious, or cruel." The jury returned a sentence of death for Wayne.

On appeal, Wayne's attorney argued that the pictures should not have been allowed into evidence at trial or at the sentencing hearing. Further, he argues that sentencing a 15-year-old boy to death violated the Eight Amendment's ban against cruel and unusual punishment. The Oklahoma Court of Criminal Appeals upheld the conviction. It did agree with the defense on one point: the pictures should not have been allowed in evidence at the trial. But the court said this error was not sufficient to overturn Wayne's conviction because of the overwhelming evidence of his guilt.

Otherwise the court sided with the prosecution. The sentencing judge did not err in admitting the picture because they helped prove the aggravating circumstances of the murder. The sentences did not violate the Eight Amendment. Wayne had been certified to be tried as an adult, so he should be sentenced as an adult. Wayne's lawyer appealed to the Supreme Court. Wayne waited on death row in a cell next to his brother. In separate trials, all three adults had also been found guilty of first-degree of first-degree murder and sentenced to death. One of the men was killed in a jail-yard fight shortly after his trial. Another's conviction was reversed on appeal because of trial court error, and at this second trial, he was found not guilty.

If you were a Justice, would you sentence 15-year old Wayne to death? Why?

Roper v Simmons (2005)

In September of 1993, Christopher Simmons broke into the suburban St. Louis home of Shirley Crook with the intention to rob and possibly kill her. Simmons and a friend tied the victim up with duct tape and drove her to a nearby state park. At the park, Simmons pushed the victim, who was still alive, off of the bridge and into the Meramec River where she drowned. Simmons was 17 years old at the time of the murder. Before the crime, he had told several of his friends the plan to burglarize a home and kill the occupants, noting that they could do it and “get away with it” (not get charged for it) because they were juveniles.

Simmons and his friends were arrested the following day, and Simmons confessed on videotape at the police station. He even agreed to re-enact the crime on videotape and returned to the park and demonstrated where Mrs. Crook had been pushed from the rail bridge. At trial the jury easily found his guilt. During the sentencing hearing the defense attorneys asked the jury to not give Simmons the death penalty. His attorney’s used Simmons’ age and the fact that he had no prior convictions as mitigating factors. However, the jury focused on the brutal and aggravated nature of the crime and sentence Simmons to death by lethal injection.

Simmons’ case was appealed, citing ineffective trial support. His age and thus impulsiveness, along with troubled background were brought up as issues. The appeal court upheld the jury’s death sentence. The Missouri Supreme Court upheld the conviction and the US Supreme Court denied review. Simmons’ attempt at legal relief from the federal courts was also denied.

However, in light of a 2003 US Supreme Court ruling in *Atkins v. Virginia* (2002) that overturned the death penalty for someone suffering from mental retardation, the Missouri Supreme Court reconsidered Simmons’ case. In an unusual move, the Missouri Supreme Court concluded that, “a national consensus has developed against the execution of juvenile offenders” and sentenced Simmons to life imprisonment without parole.

The State of Missouri appealed the decision to the US Supreme Court. On January 6, 2003 the US Supreme Court granted certiorari (agreed to hear the case) and ordered oral arguments in the case.

If you were a Justice, would you sentence Simmons to death? Why?
