
Facts and Case Summary – Korematsu v. U.S.

Background

About 10 weeks after the U.S. entered World War II, President Franklin D. Roosevelt on February 19, 1942 signed Executive Order 9066. The order authorized the Secretary of War and the armed forces to remove people of Japanese ancestry from what they designated as military areas and surrounding communities in the United States. These areas were legally off limits to Japanese aliens and Japanese-American citizens.

The order set in motion the mass transportation and relocation of more than 120,000 Japanese people to sites the government called detention camps that were set up and occupied in about 14 weeks. Most of the people who were relocated lived on the West Coast and two-thirds were American citizens. In accordance with the order, the military transported them to some 26 sites in seven western states, including remote locations in Washington, Idaho, Utah, and Arizona.

Facts

Fred Korematsu, 23, was a Japanese-American citizen who did not comply with the order to leave his home and job, despite the fact that his parents had abandoned their home and their flower-nursery business in preparation for reporting to a camp. Korematsu planned to stay behind. He had plastic surgery on his eyes to alter his appearance; changed his name to Clyde Sarah; and claimed that he was of Spanish and Hawaiian descent.

On May 30, 1942, about six months after the Japanese attack on Pearl Harbor, the FBI arrested Korematsu for failure to report to a relocation center. After his arrest, while waiting in jail, he decided to allow the American Civil Liberties Union to represent him and make his case a test case to challenge the constitutionality of the government's order. Korematsu was tried in federal court in San Francisco, convicted of violating military orders issued under Executive Order 9066, given five years on probation, and sent to an Assembly Center in San Bruno, CA.

Korematsu's attorneys appealed the trial court's decision to the U.S. Court of Appeals, which agreed with the trial court that he had violated military orders. Korematsu asked the Supreme Court of the United States to hear his case. On December 18, 1944, a divided

Supreme Court ruled, in a 6-3 decision, that the detention was a “military necessity” not based on race.

Reopening the Case

In 1983, a pro bono legal team with new evidence re-opened the 40-year-old case in a federal district court on the basis of government misconduct. They showed that the government’s legal team had intentionally suppressed or destroyed evidence from government intelligence agencies reporting that Japanese Americans posed no military threat to the U.S. The official reports, including those from the FBI under J. Edgar Hoover, were not presented in court. On November 10, 1983, a federal judge overturned Korematsu’s conviction in the same San Francisco courthouse where he had been convicted as a young man.

The district court ruling cleared Korematsu’s name, but the Supreme Court decision still stands. Writing for the majority, Justice Hugo Black held that “all legal restrictions which curtail the civil rights of a single racial group are immediately suspect” and subject to tests of “the most rigid scrutiny,” not all such restrictions are inherently unconstitutional. “Pressing public necessity,” he wrote, “may sometimes justify the existence of such restrictions; racial antagonism never can.”

In a strongly worded dissent, Justice Robert Jackson contended: “Korematsu ... has been convicted of an act not commonly thought a crime,” he wrote. “It consists merely of being present in the state whereof he is a citizen, near the place where he was born, and where all his life he has lived.” The nation’s wartime security concerns, he contended, were not adequate to strip Korematsu and the other internees of their constitutionally protected civil rights.

He called the exclusion order “the legalization of racism” that violated the Equal Protection Clause of the Fourteenth Amendment. He compared the exclusion order to the “abhorrent and despicable treatment of minority groups by the dictatorial tyrannies which this nation is now pledged to destroy. He concluded that the exclusion order violated the Fourteenth Amendment by “fall[ing] into the ugly abyss of racism.”

Procedural History

Lower Court

U.S. District Court, Northern District of California

Lower court held: Korematsu was convicted of violating an exclusion order by the military.

Lower Court

Ninth Circuit Court of Appeals

Lower court held: Upheld the trial court's decision. Conviction upheld.

140 F.2d 289 (9th Cir. 1944)

Supreme Court Ruling

Affirmed the lower courts. Conviction upheld.

- Supreme Court vote: 6-3
- Argued: October 11-12, 1944
- Decided: December 18, 1944

Majority opinion written by: Justice Black

Majority: Conviction affirmed. The Supreme Court ruled that the evacuation order violated by Korematsu was valid, and it was not necessary to address the constitutional racial discrimination issues in this case.

Concurring Opinion Written by: Justice Frankfurter

Concurrence: The constitutional issues should be addressed, but in evaluating them, it is clear that the "martial necessity arising from the danger of espionage and sabotage" warranted the military's evacuation order. Conviction affirmed

Dissenting opinion written by: Justice Jackson

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Issue

Was the military's exclusion order justified?

Reasoning

The majority opinion ruled that the court should not address the entirety of the order under which Korematsu was convicted, which included provisions requiring citizens to report to assembly and relocation centers. The majority found it necessary only to rule on the validity of the specific provision under which Korematsu was convicted: the provision requiring him to leave the designated area.

Because the order applied only to people who were Japanese or of Japanese descent, it was subject to the “most rigid scrutiny.” The majority found that although the exclusion of citizens from their homes is generally an impermissible use of government authority, there is an exception where there is “grave [] imminent danger to the public safety” as long as there is a definition and close relationship between the government’s actions and the prevention against espionage and sabotage. The majority ruled that there was sufficient danger and a sufficient relationship between the order and the prevention of the danger to justify requiring Korematsu to evacuate. The majority said the order was valid.

The dissenters disagreed. They put forth their position that the order should have been considered as a whole, and the Court should have considered the other contemporaneous orders, all of which, when considered together resulted in the imprisonment of U.S. citizens in what were essentially concentration camps, based only on their race.