**APUSH Review - Supreme Court Decisions**

***Marbury v. Madison*** (1803)

**Facts of the Case**

The case began on March 2, 1801, when an obscure Federalist, William Marbury, was designated as a justice of the peace in the District of Columbia. Marbury and several others were appointed to government posts created by Congress in the last days of John Adams's presidency, but these last-minute appointments were never fully finalized. The disgruntled appointees invoked an act of Congress and sued for their jobs in the Supreme Court. (Justices William Cushing and Alfred Moore did not participate.)

**Question**

Is Marbury entitled to his appointment? Is his lawsuit the correct way to get it? And, is the Supreme Court the place for Marbury to get the relief he requests?

**Decision**

4 votes for Madison, 0 vote(s) against

**Legal provision:** Section 13 of the Judiciary Act of 1789

Yes; yes; and it depends. The justices held, through Marshall's forceful argument, that on the last issue the Constitution was "the fundamental and paramount law of the nation" and that "an act of the legislature repugnant to the constitution is void." In other words, when the Constitution--the nation's highest law--conflicts with an act of the legislature, that act is invalid. This case establishes the Supreme Court's power of judicial review.

***McCulloch v. Maryland*** (1819)

**Facts of the Case**

In 1816, Congress chartered The Second Bank of the United States. In 1818, the state of Maryland passed legislation to impose taxes on the bank. James W. McCulloch, the cashier of the Baltimore branch of the bank, refused to pay the tax.

**Question**

The case presented two questions: Did Congress have the authority to establish the bank? Did the Maryland law unconstitutionally interfere with congressional powers?

**Decision**

7 votes for McCulloch, 0 vote(s) against

**Legal provision:** US Const. Art 1, Section 8 Clauses 1 and 18

In a unanimous decision, the Court held that Congress had the power to incorporate the bank and that Maryland could not tax instruments of the national government employed in the execution of constitutional powers. Writing for the Court, Chief Justice Marshall noted that Congress possessed unenumerated powers not explicitly outlined in the Constitution. Marshall also held that while the states retained the power of taxation, "the constitution and the laws made in pursuance thereof are supreme. . .they control the constitution and laws of the respective states, and cannot be controlled by them."

***Gibbons v. Ogden*** (1824)

**Facts of the Case**

A New York state law gave to individuals the exclusive right to operate steamboats on waters within state jurisdiction. Laws like this one were duplicated elsewhere which led to friction as some states would require foreign (out-of-state) boats to pay substantial fees for navigation privileges. In this case Thomas Gibbons -- a steamboat owner who did business between New York and New Jersey under a federal coastal license -- challenged the monopoly license granted by New York to Aaron Ogden. New York courts consistently upheld the state monopoly.

**Question**

Did the State of New York exercise authority in a realm reserved exclusively to Congress, namely, the regulation of interstate commerce?

**Decision**

6 votes for Gibbons, 0 vote(s) against

**Legal provision:** US Const. Art 1, Section 8, Clause 3; Act of February 1793, Section 1, Clause 8

The unanimous Court found that New York's licensing requirement for out-of-state operators was inconsistent with a congressional act regulating the coasting trade. The New York law was invalid by virtue of the Supremacy Clause. In his opinion, Chief Justice John Marshall developed a clear definition of the word commerce, which included navigation on interstate waterways. He also gave meaning to the phrase "among the several states" in the Commerce Clause. Marshall's was one of the earliest and most influential opinions concerning this important clause. He concluded that regulation of navigation by steamboat operators and others for purposes of conducting interstate commerce was a power reserved to and exercised by the Congress.

In a concurring opinion, Justice William Johnson argued a much stronger position: that the national government had exclusive power over interstate commerce, negating state laws interfering with the exercise of that power.

***Worcester v. Georgia*** (1832)

**Facts of the Case**

In September 1831, Samuel A. Worcester and others, all non-Native Americans, were indicted in the supreme court for the county of Gwinnett in the state of Georgia for "residing within the limits of the Cherokee nation without a license" and "without having taken the oath to support and defend the constitution and laws of the state of Georgia." They were indicted under an 1830 act of the Georgia legislature entitled "an act to prevent the exercise of assumed and arbitrary power by all persons, under pretext of authority from the Cherokee Indians." Among other things, Worcester argued that the state could not maintain the prosecution because the statute violated the Constitution, treaties between the United States and the Cherokee nation, and an act of Congress entitled "an act to regulate trade and intercourse with the Indian tribes." Worcester was convicted and sentenced to "hard labour in the penitentiary for four years." The U.S. Supreme Court received the case on a writ of error.

**Question**

Does the state of Georgia have the authority to regulate the intercourse between citizens of its state and members of the Cherokee Nation?

**Conclusion**

No. In an opinion delivered by Chief Justice John Marshall, the Court held that the Georgia act, under which Worcester was prosecuted, violated the Constitution, treaties, and laws of the United States. Noting that the "treaties and laws of the United States contemplate the Indian territory as completely separated from that of the states; and provide that all intercourse with them shall be carried on exclusively by the government of the union," Chief Justice Marshall argued, "The Cherokee nation, then, is a distinct community occupying its own territory in which the laws of Georgia can have no force. The whole intercourse between the United States and this nation, is, by our constitution and laws, vested in the government of the United States." The Georgia act thus interfered with the federal government's authority and was unconstitutional. Justice Henry Baldwin dissented for procedural reasons and on the merits.

***Dred Scott v. Sandford*** (1857)

**Facts of the Case**

Dred Scott was a slave in Missouri. From 1833 to 1843, he resided in Illinois (a free state) and in an area of the Louisiana Territory, where slavery was forbidden by the Missouri Compromise of 1820. After returning to Missouri, Scott sued unsuccessfully in the Missouri courts for his freedom, claiming that his residence in free territory made him a free man. Scott then brought a new suit in federal court. Scott's master maintained that no pure-blooded Negro of African descent and the descendant of slaves could be a citizen in the sense of Article III of the Constitution.

**Question**

Was Dred Scott free or a slave?

**Decision**

7 votes for Sandford, 2 vote(s) against

**Legal provision:** US Const. Amend. 5; Missouri Compromise

Dred Scott was a slave. Under Articles III and IV, argued Taney, no one but a citizen of the United States could be a citizen of a state, and that only Congress could confer national citizenship. Taney reached the conclusion that no person descended from an American slave had ever been a citizen for Article III purposes. The Court then held the Missouri Compromise unconstitutional, hoping to end the slavery question once and for all.

***Plessy v. Ferguson*** (1896)

**Facts of the Case**

The state of Louisiana enacted a law that required separate railway cars for blacks and whites. In 1892, Homer Adolph Plessy--who was seven-eighths Caucasian--took a seat in a "whites only" car of a Louisiana train. He refused to move to the car reserved for blacks and was arrested.

**Question**

Is Louisiana's law mandating racial segregation on its trains an unconstitutional infringement on both the privileges and immunities and the equal protection clauses of the Fourteenth Amendment?

**Decision**

7 votes for Ferguson, 1 vote(s) against

**Legal Provision** US Const. Amend 14, Section 1

No, the state law is within constitutional boundaries. The majority, in an opinion authored by Justice Henry Billings Brown, upheld state-imposed racial segregation. The justices based their decision on the separate-but-equal doctrine, that separate facilities for blacks and whites satisfied the Fourteenth Amendment so long as they were equal. (The phrase, "separate but equal" was not part of the opinion.) Justice Brown conceded that the 14th amendment intended to establish absolute equality for the races before the law. But Brown noted that "in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races unsatisfactory to either." In short, segregation does not in itself constitute unlawful discrimination.

***Schenck v. United States*** (1919)

**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?

**Decision**

9 votes for United States, 0 vote(s) against

**Legal provision:** 1917 Espionage Act; US Const Amend 1

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.

***Schecter v. United States*** (1935)

**Facts of the Case**

Section 3 of the National Industrial Recovery Act empowered the President to implement industrial codes to regulate weekly employment hours, wages, and minimum ages of employees. The codes had standing as penal statutes.

**Question**

Did Congress unconstitutionally delegate legislative power to the President?

**Decision**

9 votes for Schechter Poultry Corp., 0 vote(s) against

**Legal provision:** U.S. Const. Art I; U.S. Const. Amend. 10; 15 U.S.C. § 703 (1933) (National Industrial Recovery Act § 3)

The Court held that Section 3 was "without precedent" and violated the Constitution. The law did not establish rules or standards to evaluate industrial activity. In other words, it did not make codes, but simply empowered the President to do so. A unanimous Court found this to be an unconstitutional delegation of legislative authority.

***Brown v. Board of Education*** (1954)

**Facts of the Case**

Black children were denied admission to public schools attended by white children under laws requiring or permitting segregation according to the races. The white and black schools approached equality in terms of buildings, curricula, qualifications, and teacher salaries. This case was decided together with Briggs v. Elliott, Davis v. County School Board of Prince Edward County, and Gebhart v. Belton. (A separate but related case -- Bolling v. Sharpe -- presented the same issue in the context of the District of Columbia, which is not subject to the provisions of the Fourteenth Amendment because the District is not a state.)

**Question**

Does the segregation of children in public schools solely on the basis of race deprive the minority children of the equal protection of the laws guaranteed by the 14th Amendment?

**Decision**

9 votes for Brown, 0 vote(s) against

**Legal provision:** Equal Protection

Yes. Despite the equalization of the schools by "objective" factors, intangible issues foster and maintain inequality. Racial segregation in public education has a detrimental effect on minority children because it is interpreted as a sign of inferiority. The long-held doctrine that separate facilities were permissible provided they were equal was rejected. Separate but equal is inherently unequal in the context of public education. The unanimous opinion sounded the death-knell for all forms of state-maintained racial separation.

***Baker v. Carr*** (1962)

**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?

**Decision**

6 votes for Baker, 2 vote(s) against

**Legal provision**

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.

***Engel v. Vitale*** (1962)

**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?

**Decision**

6 votes for Engel, 1 vote(s) against

**Legal Provision:** Establishment of Religion

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.

***Gideon v. Wainwright*** (1963)

**Facts of the Case**

Clarence Earl Gideon was charged in Florida state court with a felony: having broken into and entered a poolroom with the intent to commit a misdemeanor offense. When he appeared in court without a lawyer, Gideon requested that the court appoint one for him. According to Florida state law, however, an attorney may only be appointed to an indigent defendant in capital cases, so the trial court did not appoint one. Gideon represented himself in trial. He was found guilty and sentenced to five years in prison. Gideon filed a habeas corpus petition in the Florida Supreme Court and argued that the trial court’s decision violated his constitutional right to be represented by counsel. The Florida Supreme Court denied habeas corpus relief.

**Question**

Does the Sixth Amendment's right to counsel in criminal cases extend to felony defendants in state courts?

**Decision**

9 votes for Gideon, 0 vote(s) against

**Legal provision:** Right to Counsel

Yes. Justice Hugo L. Black delivered the opinion of the 9-0 majority. The Supreme Court held that the framers of the Constitution placed a high value on the right of the accused to have the means to put up a proper defense, and the state as well as federal courts must respect that right. The Court held that it was consistent with the Constitution to require state courts to appoint attorneys for defendants who could not afford to retain counsel on their own.

Justice William O. Douglas wrote a concurring opinion in which he argued that the Fourteenth Amendment does not apply a watered-down version of the Bill of Rights to the states. Since constitutional questions are always open for consideration by the Supreme Court, there is no need to assert a rule about the relationship between the Fourteenth Amendment and the Bill of Rights. In his separate opinion concurring in judgment, Justice Tom C. Clark wrote that the Constitution guarantees the right to counsel as a protection of due process, and there is no reason to apply that protection in certain cases but not others. Justice John M. Harlan wrote a separate concurring opinion in which he argued that the majority’s decision represented an extension of earlier precedent that established the existence of a serious criminal charge to be a “special circumstance” that requires the appointment of counsel. He also argued that the majority’s opinion recognized a right to be valid in state courts as well as federal ones; it did not apply a vast body of federal law to the states.

***Griswold v. Connecticut*** (1965)

**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 that 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?

**Decision**

7 votes for Griswold, 2 vote(s) against

**Legal provision:** Due Process

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.

***Miranda v. Arizona*** (1966)

**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 notifiying them of their right to counsel and their protection against self-incrimination violate the Fifth Amendment?

**Decision**

5 votes for Miranda, 4 vote(s) against

**Legal provision:** Self-Incrimination

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.

***Roe v. Wade*** (1973)

**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 Floyd -- 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?

**Decision**

7 votes for Roe, 2 vote(s) against

**Legal provision:** Due Process

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.

# Regents of the University of California v. Bakke (1978)

**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?

**Decision**

5 votes for Bakke, 4 vote(s) against

**Legal provision:** Equal Protection

**Split Vote**

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.

***Planned Parenthood v. Casey*** (1992)

**Facts of the Case**

The Pennsylvania legislature amended its abortion control law in 1988 and 1989. Among the new provisions, the law required informed consent and a 24 hour waiting period prior to the procedure. A minor seeking an abortion required the consent of one parent (the law allows for a judicial bypass procedure). A married woman seeking an abortion had to indicate that she notified her husband of her intention to abort the fetus. These provisions were challenged by several abortion clinics and physicians. A federal appeals court upheld all the provisions except for the husband notification requirement.

**Question**

Can a state require women who want an abortion to obtain informed consent, wait 24 hours, and, if minors, obtain parental consent, without violating their right to abortions as guaranteed by Roe v. Wade?

**Decision**

5 votes for Planned Parenthood, 4 vote(s) against

**Legal provision:** Due Process

In a bitter, 5-to-4 decision, the Court again reaffirmed Roe, but it upheld most of the Pennsylvania provisions. For the first time, the justices imposed a new standard to determine the validity of laws restricting abortions. The new standard asks whether a state abortion regulation has the purpose or effect of imposing an "undue burden," which is defined as a "substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability." Under this standard, the only provision to fail the undue-burden test was the husband notification requirement. The opinion for the Court was unique: It was crafted and authored by three justices.

***United States v. Windsor*** (2013)

**Facts of the Case**

The Defense of Marriage Act (DOMA), enacted in 1996, states that, for the purposes of federal law, the words “marriage” and “spouse” refer to legal unions between one man and one woman. Since that time, some states have authorized same-sex marriage. In other cases regarding the DOMA, federal courts have ruled it unconstitutional under the Fifth Amendment, but the courts have disagreed on the rationale.

Edith Windsor is the widow and sole executor of the estate of her late spouse, Thea Clara Spyer, who died in 2009. The two were married in Toronto, Canada, in 2007, and their marriage was recognized by New York state law. Thea Spyer left her estate to her spouse, and because their marriage was not recognized by federal law, the government imposed $363,000 in taxes. Had their marriage been recognized, the estate would have qualified for a marital exemption, and no taxes would have been imposed.

On November 9, 2010 Windsor filed suit in district court seeking a declaration that the Defense of Marriage Act was unconstitutional. At the time the suit was filed, the government’s position was that DOMA must be defended. On February 23, 2011, the President and the Attorney General announced that they would not defend DOMA. On April 18, 2011, the Bipartisan Legal Advisory Group of the House of Representatives filed a petition to intervene in defense of DOMA and motioned to dismiss the case. The district court denied the motion, and later held that DOMA was unconstitutional. The U.S. Court of Appeals for the Second Circuit affirmed.

**Question**

Does the executive branch’s agreement with the lower court that the act is unconstitutional deprive the Supreme Court of jurisdiction to decide the case?

Does the Bipartisan Legal Advisory Group of the House of Representatives have standing in the case?

Does the Defense of Marriage Act, which defines the term “marriage” under federal law as a “legal union between one man and one woman” deprive same-sex couples who are legally married under state laws of their Fifth Amendment rights to equal protection under federal law?

**Decision**

5 votes for Windsor, 4 vote(s) against

**Legal provision:** Fifth Amendment

Yes, unanswered, yes. Justice Anthony M. Kennedy delivered the opinion of the 5-4 majority. The Supreme Court held that the United States Government, despite the executive branch’s agreement regarding DOMA’s unconstitutionality, retains a significant enough stake in the issue to support Supreme Court’s jurisdiction. Because the judgment in question orders the U.S. Treasury to refund tax money, the Government stands to suffer a real economic injury and therefore maintains standing in the case. The Bipartisan Legal Advisory Group (BLAG) presented substantial arguments for the constitutionality of DOMA that reflected an actual controversy under Article III, which allowed the Supreme Court to address the case without needing to decide whether BLAG would have had standing before a lower court. The Court also held that states have the authority to define marital relationships and that DOMA goes against legislative and historical precedent by undermining that authority. The result is that DOMA denies same-sex couples the rights that come from federal recognition of marriage, which are available to other couples with legal marriages under state law. The Court held that the purpose and effect of DOMA is to impose a “disadvantage, a separate status, and so a stigma” on same-sex couples in violation of the Fifth Amendment’s guarantee of equal protection.

Chief Justice John G. Roberts wrote a dissent in which he argued that the Court lacked the jurisdiction to review the case and that interests in uniformity and stability justified Congress’ enactment of DOMA. He also argued that the majority’s opinion did not address the issue of state definitions of marriage affecting same-sex couples. In his separate dissent, Justice Antonin Scalia wrote that the Supreme Court had neither the jurisdiction to review the case nor the power to invalidate democratically enacted legislation. He argued that the majority’s opinion wrongly asserted the supremacy of the Supreme Court as the final arbiter of government. However, the majority opinion did not address the issue of whether or not the Equal Protection Clause required laws restricting the definition of marriage to be reviewed under a rational basis or strict scrutiny standard. He also argued that the majority misconstrued DOMA’s insidious intent and should not rule based on that presumption. Justice Clarence Thomas and Chief Justice Roberts joined in the dissent. Justice Samuel A. Alito, Jr. also wrote a separate dissent in which he argued that the United States Government did not have standing in the case because the executive branch declined to defend the statute, but that BLAG did have standing because it chose to defend the otherwise undefended statute. He also argued that the Constitution does not guarantee the right to enter into a same-sex marriage because that right is not “deeply rooted in this Nation’s history and tradition.” Instead, the issue of the definition of marriage is left to the people to decide, a decision in which DOMA does not interfere. Justice Clarence Thomas partially joined in the dissent.