

# Supreme Court Case Study 41

## Evidence Obtained from a Bugged Telephone

### *Katz v. United States, 1967*

\*\*\*\*\* **Background of the Case** \*\*\*\*\*

While gathering evidence for the prosecution of Charles Katz, the Federal Bureau of Investigation (FBI) "bugged" a telephone booth by attaching a microphone and tape recorder to the outside of the booth. This action was taken without a warrant. Based on the evidence the FBI secured from the bugged phone booth, Katz was convicted in a federal court in California for using telephone lines to transmit betting information from Los Angeles to Miami and Boston. This action violated federal communication statutes.

Katz sought review of his conviction by the United States Supreme Court on the grounds that a public telephone is a constitutionally protected area. Thus, he argued, evidence obtained by attaching an electronic listening device to a phone booth violates the user's right to privacy.

*Constitutional Issue* \*\*\*\*\*

Katz claimed that his right to privacy, a right that the Court had previously inferred from the Fourth Amendment's protection against unreasonable search and seizure, had been violated. The government, relying on rulings that had held electronic eavesdropping legal when no trespass (physical invasion of a protected area like the home) was involved, claimed that the FBI wiretap was legal because it was on the outside of the phone booth.

\*\*\*\*\* **The Supreme Court's Decision** \*\*\*\*\*

The Court decided 7 to 1 against the government. Justice Marshall did not participate in the vote. Justice Potter Stewart wrote the Court's decision. Although the government and Katz had both argued mostly over whether a phone booth was "a constitutionally protected area," the Court's decision followed a slightly different path. Stewart wrote that "the Fourth Amendment protects people, not places." Therefore, the government's argument of not actually penetrating the phone booth was beside the point.

Stewart continued "a person in a telephone booth may rely upon the protection of the Fourth Amendment [and] is surely entitled to assume that the words he utters into the mouth-piece will not be broadcast to the world." Given this reason, he continued, "it becomes clear that the reach of that Amendment cannot turn upon the presence or absence of a physical intrusion into any given enclosure."

Since Katz had "justifiably relied" on his privacy while using the telephone booth, the government's violation of that privacy constituted a search and seizure in violation of the Fourth Amendment. . . . In addition, the Court pointed out that the very "narrowly circumscribed" surveillance involved here could well have been authorized by a warrant. Not to have obtained a warrant ignored the central element of the Fourth Amendment, that is, justification before the fact and not afterward.

(continued)

Copyright © by The McGraw-Hill Companies, Inc.

# Supreme Court Case Study 41 (continued)



In making this point, Stewart wrote, "The government stresses the fact that the telephone booth . . . was constructed partly of glass, so that he [Katz] was as visible after he entered it as he would have been if he had remained outside. But what he sought to exclude when he entered the booth was not the intruding eye—it was the uninvited ear. He did not shed his right to do so simply because he made his calls from a place where he might be seen. No less than an individual in a business office, in a friend's apartment, or in a taxicab, a person in a telephone booth may rely upon the protection of the Fourth Amendment. . . . To read the Constitution more narrowly is to ignore the vital role that the public telephone has come to play in private communication."

In a concurring opinion, Justice John Marshall Harlan developed a test for determining what interests are protected: "First, that a person has exhibited an actual (subjective) expectation of privacy, and second, that the expectation be one that society is prepared to recognize as 'reasonable.'" This test became an accepted standard.

## \*\*\*\*\* Dissenting Opinion \*\*\*\*\*

As the only voice of dissent in the case, Justice Hugo L. Black expressed the opinion that eavesdropping using electronic means did not constitute "search and seizure." He thought that the words of the Fourth Amendment quite literally applied only to "tangible things with size, form, and weight." He was referring to the phrasing of the Fourth Amendment that people had the right: "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. . . ."

In concluding his dissent, Black wrote, "The Court talks about a constitutional 'right of privacy' as though there is some constitutional provision or provisions forbidding any law ever to be passed that might abridge the 'privacy' of individuals. But there is not."



### Questions \*\*\*\*\*

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. Do you agree with Justice Stewart's opinion or with Justice Black's? Explain.
2. How do you think the FBI might have recorded Katz's conversation legally?
3. Suppose an individual has told friends that he knows his phone has been tapped. Yet, when he appeals a conviction based on information obtained from the wiretap, his appeal is denied. In what way did the individual fail to meet Justice Harlan's test?
4. Suppose you use a public telephone to discuss with a friend a plan to rob a bank. A police officer who happens to be standing outside the phone booth hears your conversation. The bank robbery takes place, and you are convicted for having participated in the robbery. The conviction is based in part on the police officer's testimony about your phone conversation. Do you think the Supreme Court's majority opinion would apply in your case? Explain.
5. In his dissent Justice Black wrote that the right of privacy is not provided for anywhere in the Constitution. By so believing, Justice Black has been described as applying a literal interpretation to the Constitution. What do you think this means?

# Supreme Court Case Study 47

## The President and Executive Privilege

### United States v. Nixon, 1974

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

During President Nixon's 1972 reelection campaign, several men were caught breaking into the Democratic National Committee's headquarters in the Watergate apartment and office complex in Washington, D. C. It turned out that the burglars were associated with the president's campaign. A nationwide political and public outcry mushroomed into what became known as the Watergate scandal.

The United States Department of Justice appointed a special prosecutor to carry out an independent investigation of the scandal. From the investigation, trials of various White House staff members, investigative newspaper reports, and televised Senate Select committee investigative hearings, a shocked nation learned that the White House was involved in planning and covering up the burglary.

When it was revealed that the president had taped many conversations in the White House Oval Office, both the Senate investigating committee and the special prosecutor attempted to secure the tapes. The president refused to release them claiming separation of powers and executive privilege, the right of the president to keep his conversations confidential. The special prosecutor subpoenaed the tapes, and a federal judge ordered President Nixon to release them. Nixon refused and instead turned to the Supreme Court for a judgment on executive privilege.

*Constitutional Issue* \*\*\*\*\*  
The question for the Court to decide was whether the president could refuse to surrender the tapes and other information to a federal court for possible use against those charged in connection with the Watergate break-in.

#### \*\*\*\*\* The Supreme Court's Decision \*\*\*\*\*

The Court agreed unanimously that the president had to turn over the tapes. Chief Justice Warren E. Burger wrote for the Court. President Nixon had argued that the courts had no jurisdiction over what he claimed was a dispute between the president and his subordinate, the special prosecutor. The Court responded that it was competent to decide the case, just as it had decided similar controversies between officers and branches of the government in the past. In addition, because the material was wanted for a normal federal criminal trial, the matter fell directly under the Court's jurisdiction through the judicial powers spelled out in Article III of the Constitution.

The president had also claimed that executive privilege shielded him from a subpoena for two reasons. First, it was necessary to protect the confidentiality of high-level presidential communications. Second, the principle of separation of powers protects the president through the independence of the executive branch.

(continued)

Copyright © by The McGraw-Hill Companies, Inc.

## Supreme Court Case Study 47 (continued)



The Court found this argument insufficient, depending merely on a broad and undifferentiated claim of public interest that such conversations remain confidential. It might have been different, the chief justice wrote, if this had been a claim to protect "military, diplomatic or sensitive national security secrets. . . ."

Chief Justice Burger further reasoned that this claim based on the separation of powers would work to impair the balance of these powers. He wrote: "To read the Article II powers of the President as providing an absolute privilege as against a subpoena essential to enforcement of criminal statutes on no more than a generalized claim of the public interest in the confidentiality of nonmilitary and nondiplomatic discussions would upset the constitutional balance of a 'workable government' and gravely impair the role of the courts under Article III."

Against the president's claim of executive privilege stood the Sixth Amendment rights of the accused to subpoena evidence and the Fifth Amendment guarantees against being deprived of liberty without due process of law. The Court weighed these claims and concluded, "without access to specific facts a criminal prosecution may be totally frustrated. The President's broad interest in confidentiality . . . will not be vitiated by disclosure of a limited number of preliminary conversations shown to have some bearing on the pending criminal cases." In short, the Court concluded, the president's claim "cannot prevail over the fundamental demands of due process of law in the fair administration of criminal justice."

Finally, the Court ordered certain safeguards on the handling of the tapes while in the possession of the district court. These safeguards included that they be examined by the judge in private; that only relevant material would be used; and that confidentiality would be preserved as far as possible and that the material would be safely returned.

When Nixon still hesitated to turn the tapes over to the Senate committee, the House recommended that the president be impeached. Nixon then released the tapes, which revealed his role in the cover-up, and four days later he resigned the presidency, the first president in the history of the U.S. to do so.



### Questions

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. What reasons did the president give for justifying his claim of executive privilege?
2. Did the Court hold that there are no circumstances under which executive privilege might be asserted? Explain.
3. Do you agree or disagree with the Court's decision that a president must reveal material that he has recorded for his own use if it is needed as evidence in a criminal trial? Explain.
4. In what way did the Court's decision lead President Nixon to resign?
5. A constitutional scholar has written that the most important contribution of the Nixon case is "in its reaffirmation that even the highest officer of government is not beyond the reach of the law and the courts." Explain in your own words what this means and how this conclusion relates to the idea of a democratic government.

# Supreme Court Case Study 51



## The Right to Search Students

### New Jersey v. T.L.O., 1985

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

A New Jersey high school teacher discovered a 14-year-old freshman, whom the courts later referred to by her initials, T.L.O., smoking in a school lavatory. Since smoking was a violation of school rules, T.L.O. was taken to the assistant vice-principal's office.

When questioned by the assistant vice-principal, T.L.O. denied that she had been smoking. The assistant vice-principal then searched her purse. There he found a pack of cigarettes along with rolling papers commonly used for smoking marijuana. He then searched the purse more thoroughly and found marijuana, a pipe, plastic bags, a large amount of money, an index card listing students who owed T.L.O. money, and "two letters that implicated T.L.O. in marijuana dealing."

The assistant vice-principal notified the girl's mother and turned the evidence of drug dealing over to the police. T.L.O. was charged, as a juvenile, with criminal activity. T.L.O., in turn, claimed the evidence of drug dealing found in her purse could not be used in court as evidence because it had been obtained through an illegal search and seizure. T.L.O.'s attorneys claimed that the Fourth Amendment protects against unreasonable search and seizure. They maintained that the Fourth Amendment requirements for a warrant and probable cause applied to T.L.O. while in high school as a student. After appeals in lower courts, the case eventually reached the United States Supreme Court.

#### *Constitutional Issue* \*\*\*\*\*

T.L.O.'s case raised the question of whether the Fourth Amendment required school officials, when conducting searches of students' property in school, to meet the same strict standards as police officials. In most instances police officers must have probable cause to believe that the subject of a search has violated or is violating the law, and generally must obtain a warrant issued by a neutral judicial officer. If these standards are not met by the police, evidence they have gathered from a search can be excluded as evidence of guilt in a criminal trial.

#### \*\*\*\*\* The Supreme Court's Decision \*\*\*\*\*

Justice Byron R. White wrote the Court's 6-to-3 decision, which ruled against T.L.O. The Court concluded that the Fourth Amendment ban on unreasonable searches and seizures applies to searches conducted by school officials but that the search of T.L.O. was reasonable. The Court also ruled that school officials do not have to meet the same standards as police officers when conducting searches.

Justice White wrote that students have a real need to bring personal property into school and have "legitimate expectations of privacy" while in school. At the same time, however, "against the child's interest in privacy must be set the substantial interest of teachers and

(continued)

Copyright © by The McGraw-Hill Companies, Inc.

# Supreme Court Case Study 51 *(continued)*



administrators in maintaining discipline in the classroom and on school grounds." The Court devised a plan to ease for school officials the Fourth Amendment requirements for a lawful search. Because of the significance of the school's interests, the Court ruled that school officials need not obtain a search warrant before searching a student who is under their supervision. "The warrant requirement," the Court held, "is unsuited to the school environment . . . [and] would unduly interfere with the maintenance of the swift and informal disciplinary procedures needed in the schools."

Next, the Court ruled that school officials do not have to be held to the same strict probable cause standard that applies to the police when conducting searches. In earlier cases the Court had ruled that "probable cause" meant that the police must have solid information that there is a real chance the person being searched has violated or is violating the law. Declining to apply this standard to public school officials, the Court said that school officials may search a student as long as "there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school." Thus, the Court replaced the "probable cause" requirement with a "reasonableness" requirement.

\*\*\*\*\* **Dissenting Opinion** \*\*\*\*\*

Justices William Brennan and two other justices disagreed strongly with letting school officials use a reasonableness standard instead of the same probable cause standard required of the police. Justice Brennan wrote that this [idea] "finds support neither in precedent nor policy and . . . [could lead to] a dangerous weakening of the purpose of the Fourth Amendment to protect the privacy and security of our citizens."



**Questions** \*\*\*\*\*

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. In what way does the Court differentiate between the standard set for a school official and that for a police officer regarding a search and seizure?
2. Why did the Court give school officials more freedom than the police to conduct searches?
3. Do you think the assistant vice-principal's search was "reasonable"? Explain.
4. Under the Court's ruling, do you think a school official has the right to search a student any time he or she wishes? Give reasons for your answer.
5. Do you agree with the Court's decision or with the dissenting opinion? Explain.

# Supreme Court Case Study 54



## Students' First Amendment Rights

### *Hazelwood School District v. Kuhlmeier, 1988*

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

In May 1983 the principal of Hazelwood East High School in St. Louis County, Missouri, ordered that two pages from an issue of *Spectrum*, a student newspaper, be deleted. The two pages included an article on students' experiences with pregnancy and another about the impact of divorce on students at the school.

The principal objected to the story on pregnancy because he believed the girls described in the story could easily be identified even if their names were left out of the story. In addition, he said, the references in the story to sexual activity were not suitable for the younger students at the school.

The principal objected to the story on divorce because it named a student who complained about her father's behavior. The principal believed the parents should have been given a chance to respond to the story.

The school paper was written and edited by the school's journalism class as part of the school curriculum. The principal also said he had "serious doubts" that the two articles fit the journalistic rules of fairness and privacy taught in the course. Three former students who worked on the student paper in 1983 then filed a suit against the principal, the school district, and other school officials. They claimed that the principal's action had violated their First Amendment rights to free speech.

In May 1985 a federal district court judge ruled against the students. In July 1986, however, a federal appeals court overturned that ruling. The appeals court said the *Spectrum* was a public forum for student expression and was fully protected by the First Amendment. In 1987 the United States Supreme Court agreed to hear the case.

#### *Constitutional Issue* \*\*\*\*\*

Clashes between high school students and school administrators are not uncommon. Students tend to resent being told what they cannot do or say. In some instances, such disputes reach the courts, as in the case of *Bethel School District v. Fraser*. In that case the Supreme Court ruled that under the circumstances of the case, the students were not protected by the First Amendment right of free speech.

In the *Hazelwood* case, the principal's decision to censor the school newspaper raised a basic constitutional question. Does the First Amendment guarantee of freedom of speech prevent school administrators from regulating student speech in school-sponsored publications, such as newspapers and yearbooks?

#### \*\*\*\*\* The Supreme Court's Decision \*\*\*\*\*

The Court ruled 5 to 3 against the students. (The Court had only 8 justices during this time.) Justice Byron R. White wrote the majority opinion.

(continued)



# Supreme Court Case Study 54 (continued)

White stated that the First Amendment rights of students in public schools are not exactly the same as the rights of adults in other settings. White explained that a school “must be able to set high standards for student speech . . . under [its] auspices—standards that may be higher than those demanded by some newspaper publishers and theatrical producers in the ‘real’ world—and may refuse to . . . [publish] student speech that does not meet those standards.”

In the case of *Tinker v. Des Moines* in 1969 the Court had ruled the First Amendment gave students the right to wear black armbands to school to protest the Vietnam War. Justice White said that while the *Tinker* decision protected students’ rights to personally express their political ideas, speech in school-sponsored newspapers was different because it occurred “as part of the school curriculum.”

A school newspaper like the *Spectrum*, the Court decided, was not “a forum for public expression” but rather a tool for teaching and learning. As a result, “educators are entitled to exercise greater control over this form of student expression to assure that participants learn whatever lessons the activity is designed to teach.” Thus, the Court held “that educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities. . . .”

## \*\*\*\*\* Dissenting Opinion \*\*\*\*\*

Justice William H. Brennan, joined by Justices Marshall and Blackmun, dissented. Brennan noted that the *Tinker* decision said school officials could limit student speech only if the speech threatened to “materially disrupt” schoolwork or violate the rights of others. He argued, “*Tinker* teaches us that the state educator’s undeniable . . . mandate to inculcate moral and political values is not a general warrant to act as ‘thought police’ stifling discussion of all but state-approved topics and advocacy of all but the official position.”

Brennan added that “instead of teaching children to respect the diversity of ideas that is fundamental to the American system . . . the Court today teaches youth to discount important principles of our government as mere platitudes.”

School officials across the nation praised the Court’s decision. They believed it gave them more authority to regulate student conduct. One official said the decision meant that schools, like “any other publisher, have the right to decide what will and will not be published.” Civil libertarians, on the other hand, viewed the decision as an unwarranted curtailment of students’ rights.



## Questions \*\*\*\*\*

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. What reason did the Court give for allowing school officials to censor the school paper?
2. How did the Court distinguish between its decision in the *Tinker* case and the present case?
3. What danger did Justice Brennan see in the Court’s decision?
4. If you had been the principal in the Hazelwood school, how would you have acted after seeing the articles the students wished to publish? Give reasons for your answer.



# Supreme Court Case Study 56



## The Right to Die

### ***Cruzan v. Director, Missouri Department of Health, 1990***

#### \*\*\*\*\* Background of the Case \*\*\*\*\*

After being involved in an automobile accident, Nancy Cruzan sustained injuries that resulted in permanent brain damage. Medical specialists in a Missouri state hospital where she was taken after the accident determined that she was in a "persistent vegetative state" with no operational brain functions. There were no medical expectations that she would ever recover.

Cruzan's parents therefore requested that she be allowed to die. They asked that she be taken off artificial nutrition and hydration systems, but hospital employees refused.

Cruzan's parents then asked a state court to authorize the hospital to take their daughter off the life-support systems. After a trial the court ruled that a person in Nancy Cruzan's condition had a fundamental right under the state and federal constitutions to choose whether to prolong her life through artificial means. The court based this ruling on the statements of Cruzan's former housemate, who testified that Nancy Cruzan said she would not want to be kept alive by artificial means if she were injured to the point where she could not live "at least halfway normally."

The defendant in the case, the Missouri Department of Health, appealed the decision to the state supreme court, which reversed the lower court's ruling. The Missouri Supreme Court ruled that the state's "living will" statute expressed "a state policy strongly favoring the preservation of life." Cruzan's parents did not have the right to terminate their daughter's medical treatment. The state high court concluded that "no person can assume the choice [death] for an incompetent in the absence of the formalities required under Missouri's living will statutes or the clear and convincing, inherently reliable evidence absent here." The court also ruled that Cruzan's statements to her housemate were "unreliable for the purpose of determining her intent." The Cruzan family then took the case to the United States Supreme Court.

#### *Constitutional Issue* \*\*\*\*\*

The Court had to decide whether the Constitution protects the right of seriously ill patients to be free from life-sustaining medical treatment. A related issue was whether Nancy Cruzan's parents had the right to act in her behalf to end medical treatment. Such issues arose in the public's minds with increasing frequency during the latter decades of the twentieth century as advanced medical technology made it possible to maintain the life of seriously ill or injured patients even though they had little chance of resuming a normal life.

#### \*\*\*\*\* The Supreme Court's Decision \*\*\*\*\*

The Court by a 5-to-4 vote affirmed the decision of the Missouri Supreme Court that the judgment of family members in this situation was not sufficient to end life-sustaining treatment.

Chief Justice William H. Rehnquist wrote for the Court. The Court held first that the United States Constitution did not forbid Missouri from requiring clear, convincing evidence of an

(continued)

Copyright © by The McGraw-Hill Companies, Inc.

# Supreme Court Case Study 56 (continued)



incompetent's wishes to the withdrawal of life-sustaining treatment. Further, the Court concluded that the state high court was entitled to apply the clear and convincing standard of proof because that standard protected the state's interest in protecting life while allowing the state's interest to be overcome only in the face of substantial proof. Next, the Court concluded that the state supreme court did not "commit constitutional error" in finding that the evidence of Cruzan's parents was not clear and convincing. In addition, due process did not require the state to accept the judgment of a family member on this matter without substantial proof that his or her views were those of the patient. On this last point, if a living will document had been completed by Nancy to the effect that she would allow her parents to carry out her wish to be taken off life-supporting systems, this document would have served as "substantial proof."

Sympathizing with Nancy's parents while defending the Court's decision, Rehnquist wrote, "No doubt is engendered by anything in this record but that Nancy Cruzan's mother and father are loving and caring parents. If the State were required to repose a right of 'substituted judgment' with anyone, the Cruzans would surely qualify. But we do not think the due process clause requires the State to repose judgment on these matters with anyone but the patient herself."

## \*\*\*\*\* Dissenting Opinion \*\*\*\*\*

Justice William J. Brennan wrote one of the dissenting opinions. He wrote, "The State has no legitimate general interest in someone's life, completely abstracted from the interest of the person living that life, that could outweigh the person's choice to avoid medical treatment." He concluded, "Because I believe that Nancy Cruzan has a fundamental right to be free of unwanted . . . [medical treatment] . . . , which right is not outweighed by any interests of the State, and because I find that the improperly biased procedural obstacles imposed by the Missouri Supreme Court impermissibly burden that right, I respectfully dissent. Nancy Cruzan is entitled to die with dignity."



## Questions \*\*\*\*\*

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. What did the Court's ruling mean for Nancy Cruzan?
2. Did the Court completely rule out the right of a terminally ill patient to terminate life-support systems? Explain.
3. In Justice Brennan's opinion, what constitutional provision was involved in this case?
4. Some people believe that it is immoral to arrange for a person's death, even though the person has no chance to live a normal life. Why do you think the Court did not address this question?
5. Do you agree or disagree with the Court's ruling? Explain.

Copyright © by The McGraw-Hill Companies, Inc.

# Supreme Court Case Study 57

## Limits on Government's Right to Search

### California v. Acevedo, 1991

\*\*\*\*\* **Background of the Case** \*\*\*\*\*

On October 28, 1987, a federal drug enforcement agent in Hawaii called Officer Coleman of the Santa Ana, California, Police Department. The agent told Coleman that he had seized a Federal Express package containing marijuana which was addressed to a man named J. R. Daza living in Santa Ana. The agent sent the package to Coleman, who took it to the Federal Express office in order to arrest the person who came to claim it.

Three days later, on October 31, "a man, who identified himself as Jamie Daza," claimed the package. Police officers followed him as he drove to his apartment and took the package inside. Shortly after, another man left the apartment carrying a knapsack that appeared to be half full. Police officers "stopped him as he was driving off, searched the knapsack, and found 1½ pounds of marijuana." About a half hour later, Acevedo arrived and went into the apartment. He reappeared carrying a full brown paper bag, which he deposited in the trunk of his car. Police officers then stopped Acevedo, opened the trunk and the bag, and found marijuana. They arrested Acevedo.

Acevedo "was charged in state court with possession of marijuana for sale." He demanded that evidence that the marijuana had been found in the car trunk be suppressed. The court denied his motion. Acevedo "then pleaded guilty but appealed the denial of the suppression motion" to the California Court of Appeals. The appellate court ruled that the evidence concerning the marijuana found in Acevedo's trunk should have been suppressed. The court referred to an earlier case which held that the police needed a warrant to conduct a search of the bag. Police officers could have seized the bag and held it, but could not open it without first obtaining a warrant to do so. The State of California then appealed this decision to the California Supreme Court, which refused to review the case. California then asked the United States Supreme Court to review the state appellate court decision, and it agreed to do so.

### *Constitutional Issue* \*\*\*\*\*

The Fourth Amendment protects "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. . . ." The amendment, however, does not explain what is meant by "unreasonable" searches and seizures. The Court must consider the constitutional rights of accused persons without losing sight of society's right to be protected from criminal acts.

\*\*\*\*\* **The Supreme Court's Decision** \*\*\*\*\*

Justice Harry Blackmun delivered the opinion of the Court. The decision held that the police may search a container in an automobile without a warrant if there is probable cause to search the container. There does not have to be probable cause to search the entire automobile. Blackmun wrote for the Court, "The line between probable cause to search a vehicle and probable cause to

(continued)

# Supreme Court Case Study 57 (continued)



search a package in that vehicle is not always clear. . . .” The search, however, must be limited to the container. The vehicle cannot be searched unless separate probable cause exists to support such action.

In a concurring opinion Justice Antonin Scalia wrote, “The Fourth Amendment does not by its terms require a prior warrant for searches and seizures; it merely prohibits searches and seizures that are ‘unreasonable.’ . . . In my view, the path out of this confusion should be sought by returning to the principle that the ‘reasonableness’ requirement of the Fourth Amendment affords the protection that the common law [the legal system that relies on previous court decisions and custom rather than on statutes] afforded.” In essence, then, the Court ruled that the police had probable cause to seize the bag in *Acevedo*’s car and search it.

The Court’s decision in this case has done much to clarify the question of when a police search and/or seizure is or is not legal, and has enabled the police to conduct warrantless searches or seizures without being concerned that their actions are illegal.

## \*\*\*\*\* Dissenting Opinion \*\*\*\*\*

Justice John Paul Stevens argued for a stricter interpretation of the Fourth Amendment and the need for a warrant in circumstances such as found in the *Acevedo* case. He wrote: “Our decisions have always acknowledged that the warrant requirement imposes a burden on law enforcement. And our cases have not questioned that trained professionals normally make reliable assessments of the existence of probable cause to conduct a search. We have repeatedly held, however, that these factors are outweighed by the individual interest in privacy that is protected by advance judicial approval. The Fourth Amendment dictates that the privacy interest is paramount, no matter how marginal the risk of error might be if the legality of warrantless searches were judged only after the fact.”

Stevens continued to express grave concern about the Court’s decision: “It is too early to know how much freedom America has lost today. The magnitude of the loss is, however, not nearly as significant as the Court’s willingness to inflict it without even a colorable [plausible] basis for its rejection of prior law. I respectfully dissent.”



### Questions \*\*\*\*\*

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. What was the reason California’s appeal in the *Acevedo* case was successful?
2. Assume you are driving a car home through a city neighborhood known for drug trafficking. You stop at a store to buy a soda. On your return to your car, the police say they want to search you and your car. How would the *Acevedo* decision apply in this instance?
3. With which Supreme Court justice’s opinion do you most agree? Explain.
4. On balance, who do you think benefited most from the Court’s majority opinion, individual citizens or the police? Give reasons for your answer.
5. In what way do you think the wording of the Fourth Amendment was clarified by the Court’s opinion?

# Supreme Court Case Study 58



## Exclusion of Women from Employment

### *International Union, UAW v. Johnson Controls, Inc., 1991*

\*\*\*\*\* **Background of the Case** \*\*\*\*\*

In the early years of industrialization in the United States, little attention was paid to protecting workers from dangerous work environments. Gradually individual states passed legislation regarding industrial safety. Then in 1970, with the passage of the Occupational Safety and Health Act, the federal government started setting safety and health standards for industry.

Meanwhile, the women's movement in the United States worked to end discrimination against women in employment so that more women were hired for jobs that had historically not been open to women.

Johnson Controls, Inc., manufactured batteries in which lead is an ingredient in the manufacturing process. Exposure to lead involves health risks, including possible harm to the fetuses of pregnant female employees. Before the Civil Rights Act of 1964, known as Title VII, Johnson Controls did not employ any women in battery manufacturing. In 1977 the company announced a policy stating that a woman who is expecting a child should not choose a job which exposed her to lead. This policy warned that women exposed to lead had a higher rate of abortion and that it was, "medically speaking, just good sense not to run that risk. . . ."

Then in 1982 the company instituted a policy excluding all female employees medically capable of bearing children from any job that involved actual or potential lead exposure exceeding OSHA standards. Female employees who had medical proof that they could not bear children were the only women allowed to hold jobs exposing them to lead.

A group of employees, including men as well as women, filed a class action suit against the company, claiming that the company policy constituted sex discrimination in violation of the Civil Rights Act of 1964. Among those employees were Mary Craig, who had chosen to be sterilized in order to keep her job, and Elsie Nason, a 50-year-old divorcee who had suffered a loss in pay when she was transferred out of such a job. Both a federal district court and a court of appeals ruled in favor of Johnson Controls. The women, through their union, appealed the case to the United States Supreme Court.

### *Constitutional Issue* \*\*\*\*\*

The question before the Court was whether Johnson Controls' policy was discriminatory in violation of employees' civil rights as put forth in the Civil Rights Act of 1964. Under Title VII, could an employer lawfully exclude a female employee from certain jobs because of the company's concern for the health of the children the woman might bear?

\*\*\*\*\* **The Supreme Court's Decision** \*\*\*\*\*

The Court decided without dissent 6 to 3 in favor of the employees. Justice Harry A. Blackmun wrote the principal opinion of the Court, which held that an employer could not exclude a female employee from certain jobs because of concern for the health of a fetus she might conceive.

(continued)

Copyright © by The McGraw-Hill Companies, Inc.



## Supreme Court Case Study 58 (continued)

Justice Blackmun wrote: "The bias in Johnson Controls' policy is obvious. Fertile men, but not fertile women, are given a choice as to whether they wish to risk their reproductive health for a particular job." The company policy violated the Civil Rights Act of 1964, which "prohibits sex-based classifications in terms of conditions of employment, in hiring and discharging decisions, and in other employment decisions that adversely affect an employee's status." Title VII mandates that "decisions about welfare of future children must be left to the parents who conceive, bear, support, and raise them rather than to the employers who hire those parents."

Justice Blackmun also cited the Pregnancy Discrimination Act, which made it clear that "... discrimination based on a woman's pregnancy is, on the face of it, discrimination because of her sex." Further, "It is no more appropriate for the courts than it is for individual employers to decide whether a woman's reproductive role is more important to herself and her family than her economic role. Congress has left this choice to the woman as hers to make."

In regard to the safety issue, Blackmun wrote, "Our case law, therefore, makes clear that the safety exception is limited to instances in which sex or pregnancy actually interferes with the employee's ability to perform the job." Further, "Fertile women, as far as appears in the record, participate in the manufacture of batteries as efficiently as anyone else."

Justice Byron R. White wrote a concurring opinion in which he said that "a fetal-protection policy would be justified [under Title VII] . . . if, for example, an employer could show that exclusion of women from certain jobs was reasonably necessary to avoid substantial tort [personal injury] responsibility." He took the position that employers could be sued for damages by children who suffered prenatal injuries and that companies should be able to protect themselves to some extent. He agreed, however, that the policy of Johnson Controls was unacceptable.

Justice Antonin Scalia also had some reservations about the majority's reasoning, although he concurred in the judgment. He wrote, "I think, for example, that a shipping company may refuse to hire pregnant women as crew members on long voyages because the on-board facilities for foreseeable emergencies, though quite feasible, would be inordinately expensive."



### Questions

**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. Why did Johnson Controls order that women could not hold jobs that exposed them to lead?
2. How did the company's policy violate the Civil Rights Act of 1964?
3. In the Court's view, who should decide whether a woman was to work at a job that exposed her to lead?
4. Justice White mentioned a possible reason why employers might want to exclude women from certain jobs. What was that reason?
5. Do you agree or disagree with the Court's ruling? Give reasons for your answer.

# Supreme Court Case Study 65



## Individual Rights and Terrorism

### *Hamdi v. Rumsfeld, 2004*

\*\*\*\*\* **Background of the Case** \*\*\*\*\*

Following the terrorist attacks against Americans on September 11, 2001, President George W. Bush declared a war against terrorism. As part of this effort, U.S. forces invaded Afghanistan to remove the Taliban, a group of Muslim extremists who supported terrorists, from power. During the fighting American troops captured Yasser Hamdi, an American citizen who was with the Taliban fighters. Hamdi was born in Louisiana and raised in Saudi Arabia. His father claimed that Hamdi was serving as a relief worker in Afghanistan. The U.S. government, however, said that Hamdi was an "enemy combatant" fighting for the Taliban.

The government claimed that, as an enemy combatant, Hamdi could be imprisoned indefinitely without being brought to trial or given a chance to show that he was wrongfully captured. As a result, Hamdi was held without a judicial hearing for two and a half years at a navy prison in South Carolina. The Bush administration argued that the government needed sweeping powers to imprison such people in order to successfully pursue terrorists. It claimed that during wartime, the president should have broad discretion to declare a U.S. citizen an enemy combatant without having to seek approval by judges. Lawyers for Hamdi argued that he had the right to be told why he was being held and to make his case before a neutral judge.

*Constitutional Issue* \*\*\*\*\*

The Constitution safeguards individuals charged with crimes against arbitrary actions by the government. The Sixth Amendment requires that an accused person be given a "speedy" trial to ensure that he or she will not be held in jail for a lengthy period and, in essence, punished without a trial. The Fourteenth Amendment states that no person shall be deprived of liberty without "due process" of law. Do such protections apply to citizens named by the government as "enemy combatants"—that is, people accused of taking up arms against the United States during wartime? This case illustrates the basic tension in a democracy between the need to protect individual rights and the need to maintain security during times of national emergency.

\*\*\*\*\* **The Supreme Court's Decision** \*\*\*\*\*

The Court ruled eight to one that a U.S. citizen held as an enemy combatant has a fundamental right to take his or her case to court. Justice Sandra Day O'Connor wrote for the Court: "We reaffirm today the fundamental nature of a citizen's right to be free from involuntary confinement by his own government without due process of law. . . ." O'Connor explained that "even a state of war is not a blank check for the president when it comes to the rights of the nation's citizens." She added, "Striking the proper constitutional balance here is of great importance to the nation during this period of ongoing combat."

(continued)

## Supreme Court Case Study 65 (continued)



The Court did recognize that citizens who take up arms for the enemy during times of war pose a serious threat. Still, O'Connor stated that "history and common sense teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse of others. . . ." She added, "We must preserve our commitment at home to the principles for which we fight abroad."

The eight justices agreed that these principles guarantee a citizen like Hamdi notice of the factual basis for his detention and a "meaningful" judicial hearing to rebut such claims. The Court did note that such hearings might not have to be very extensive. Judges could, the Court said, speed up such hearings by relaxing the rules for admitting evidence and shifting more of the burden of proof to the accused. Five of the justices noted that military tribunals might be able to provide acceptable judicial hearings. No such tribunal had reviewed Hamdi's case. Lawyers for the government indicated that the administration would create a process to address the Court's requirement that so-called enemy combatants be given a hearing.

Five justices, including O'Connor, further stated that a congressional resolution passed after the September 11 attacks did give President Bush the power to declare a citizen an enemy combatant and have such a person imprisoned. The resolution authorized the president to "use all necessary and appropriate force" against those involved in the attacks. Four justices, however, dissented from this idea. They claimed that the president has no constitutional power to detain Americans as enemy combatants without an express authorization by Congress.

Many observers noted that the Court's decision seemed to be an attempt by the Court to keep a constitutional balance in the ongoing war against terrorism. On the one hand, the Court recognized the need for U.S. leaders to try to protect the nation from another terrorist attack. At the same time, the Court's decision affirmed its belief that the government should not abandon the constitutional principles of freedom that make American democracy a model for other countries. One legal scholar said the Court's decision was aimed at sending a message to the world: "We're behind the rule of law and fair treatment."



### Questions



**DIRECTIONS:** Answer the following questions on a separate sheet of paper.

1. On what basis did the Court uphold the rights of citizens held as enemy combatants?
2. How did the Court's decision in this case demonstrate the principle of checks and balances?
3. What compromises did the Court make in its requirement that detained citizens must be granted hearings?
4. Historically, presidents have been permitted broader powers during national emergencies. Do you believe that constitutional limits on presidential power should be relaxed during national crises? Give reasons for your answer.
5. Do you agree with the congressional resolution that gives the president authority to detain American citizens as enemy combatants? Give reasons for your answer.