

Applying Precedents Activity

Comparison case: *United States v. Wong Kim Ark* (1898)

Precedent case: *Dred Scott v. Sandford* (1857)

What you need to know before you begin: When the Supreme Court decides a case, it clarifies the law and serves as guidance for how future cases should be decided. Before the Supreme Court makes a decision, it always looks to precedents—past Supreme Court decisions about the same topic—to help make the decision. A principle called *stare decisis* (literally “let the decision stand”) requires that the precedent be followed. If the case being decided is legally identical to a past decision, then the precedent is considered binding and the Supreme Court must decide the matter the same way. However, cases that make it to the Supreme Court are typically not completely identical to past cases, and justices must consider the similarities and differences when deciding a case.

The process of comparing past decisions to new cases is called applying precedent. Lawyers often argue for their side by showing how previous decisions would support the Supreme Court deciding in their favor. This might mean showing how a previous decision that supports their side is analogous (similar) to the case at hand. It can also involve showing that a previous decision that does not support their side is distinguishable (different) from the case they are arguing.

How it’s done: In this exercise, you will analyze a precedent and compare it to *United States v. Wong Kim Ark*. You have been provided with information about two cases: **1)** the facts, issue, and constitutional provisions/precedents of the comparison case (*United States v. Wong Kim Ark*) and **2)** a full summary of a precedent case (*Dred Scott v. Sandford*).

After reading about the cases, you will look for evidence that *United States v. Wong Kim Ark* is analogous (similar) to the precedent case and evidence that the cases are distinguished (different) from each other. After considering both possibilities, you must decide whether the precedent is analogous enough to command the same outcome in the comparison case, or whether the comparison case is different enough to distinguish itself from the precedent.

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1. Using factual and legal similarities, show how *United States v. Wong Kim Ark* is **analogous** (similar) to the precedent case (*Dred Scott v. Sandford*):

Comparison Case: *United States v. Wong Kim Ark* (1898)

Argued: March 5, 1897

Decided: March 28, 1898

Background

The 13th, 14th, and 15th Amendments to the Constitution—sometimes referred to as the “Post-Civil War Amendments”—abolished slavery, changed citizenship qualifications, and made all former enslaved people citizens (see below). The 14th Amendment had a long-lasting impact on citizenship qualifications in the United States. With the ratification of the 14th Amendment, all people born in the United States are now legally citizens of the United States. Individuals who were not born in the United States and are otherwise eligible may apply to become a U.S. citizen through a process called naturalization. Benefits to being a United States citizen include the right to vote, protection from deportation, and the freedoms guaranteed in the Bill of Rights such as the freedom of speech the right to a fair trial.

Facts

In 1882, the United States passed the Chinese Exclusion Act to prevent Chinese laborers from immigrating. Wonk Kim Ark was born in San Francisco to Chinese citizens. His parents resided in the United States for 20 years before returning to China, while Ark continued to live in the U.S. In 1894, he went to China to visit his parents. When he attempted to return to the United States, he was stopped by local authorities who claimed Ark was not a citizen.

Issue

Is a child who was born in the United States to Chinese immigrant parents, a citizen of the United States?

Constitutional Amendment, Federal Statute, and Supreme Court Precedent

– **14th Amendment to the U.S. Constitution (1868)**

“All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside . . . no state shall deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

– **Chinese Exclusion Act (1882)**

The first significant federal law prohibiting immigration to the United States. It suspended immigration of all Chinese skilled and unskilled laborers for 10 years with only a few

exceptions including diplomats, teachers, students, and merchants. The Act also declared Chinese immigrants ineligible for naturalization as United States citizens.

– *Dred Scott v. Sandford* (1857)

Dred Scott, an enslaved person in Missouri, sued for his freedom because he had resided in a free territory. The Supreme Court held that an enslaved person whose ancestors were enslaved could not claim citizenship and were property under the Fifth Amendment.

Precedent Case: *Dred Scott v. Sandford* (1857)

Argued: February 11–18, 1856

Decided: March 6, 1857

Background

In the early 1800s, tensions were growing between states that supported slavery and those that opposed it. In 1803, France sold 828,000 square miles of land to the United States. This acquisition of land, called the **Louisiana Purchase**, nearly doubled the size of the country. As new states were created on the new land, tensions increased and debate emerged about whether the states should allow slavery.

By 1819, the United States was composed of 22 states. Of these states, 11 were slave states that allowed slavery, and 11 were free states that prohibited slavery. When Missouri asked to be admitted as a slave state, Congress was unsure of what to do. The Southern states wanted Missouri and the rest of the land from the Louisiana Purchase to be admitted as slave states to increase their political power. At the same time, the Northern states wanted the land to be admitted as free states due to their own desire for political power and their moral concerns about slavery.

In response, Congress created the **Missouri Compromise** in 1820. The law stated that Missouri would be admitted to the United States as a slave state, and Maine would be admitted as a free state at the same time to maintain the delicate political balance. The Missouri Compromise also established that all new states to the north of an imaginary line, known as the 36°30' north parallel, would be free states. This law was very controversial because the Southern states did not like that Congress was passing laws limiting slavery, and they worried Congress might eventually try to ban slavery altogether.

Facts

Dred Scott was an enslaved person who was owned by an Army surgeon named John Emerson. They resided in Missouri, which was a slave state. In 1834, the Army sent Emerson to Illinois, which was a free state, and then to the Wisconsin Territory where slavery was prohibited by the Missouri Compromise. In 1837, the Army reassigned Emerson to Louisiana, which was a slave state, and Emerson sent for Scott to join him. In 1840, Emerson's wife returned to St. Louis with Scott and the other enslaved people owned by her husband.

Emerson died in 1843, leaving all his property to his wife. Because enslaved people were considered property, Mrs. Emerson now owned Scott and his family. Scott tried to purchase his freedom from Mrs. Emerson, but she refused. In 1846, Scott sued her for his freedom in Missouri Circuit Court. He based his argument on the Missouri Compromise, which prohibited slavery in Illinois. Scott argued that when Emerson brought Scott and his family to Illinois, they became free and could not be re-enslaved when they returned to Missouri. A jury in the Circuit Court decided Scott's

arguments were valid and that he should go free. The Missouri State Supreme Court overturned that decision declaring that Scott was still enslaved.

Mrs. Emerson left Scott with her brother, John Sanford—for whom this case is named. However, due to a clerical error, Sanford's name was misspelled in court records as Sandford. In 1853, Scott once again sued for his freedom, this time in federal court. The court applied Missouri state law and concluded that Scott was still enslaved. Scott asked the Supreme Court of the United States to hear his case, and it agreed.

Issue

Is Dred Scott, a person who was born enslaved but later taken by his owner to live in a free state and a free territory, considered a citizen of the United States, and is he entitled to the rights and privileges guaranteed by the Constitution?

Constitutional Provisions and Law

- **Fifth Amendment to the U.S. Constitution**

“No person shall...be deprived of life, liberty, or property, without due process of law.”

- **Article I, Section 2 of the U.S. Constitution**

“Representation and direct Taxes shall be apportioned among the several States ... according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons... and excluding Indians not taxed, three fifths of all other Persons.”

Article I, Section 2 sets out how the members of the U.S. House of Representatives will be chosen. It states that the number of representatives each state gets will be determined by adding together the number of free people and three-fifths of all enslaved people residing within the state's boundaries. This is known as the **Three-Fifths Compromise**.

- **Article IV, Section 2 of the U.S. Constitution**

“The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several states.”

This section is known as the **Privileges or Immunities Clause**. It is often interpreted to guarantee the right to travel between the states. It also ensures that states cannot discriminate against citizens of other states.

- **Missouri Compromise (1820)**

“Section 8. That in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude... slavery and involuntary servitude... is hereby, forever prohibited. Provided always, That any person

escaping into the same... such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labour or services as aforesaid.”

Arguments for Dred Scott (petitioner)

- Under the Missouri Compromise all states and territories north of the boundary were free states. The Wisconsin Territory was free under this law. Illinois was a free state as a result of the Northwest Ordinance. When Emerson took Scott to Illinois, Scott became free and could not be re-enslaved when he went back to a slave state. Thus, Scott became free forever.
- The Constitution does not explicitly state that Black people—either enslaved or free—cannot be citizens. Scott was born in the United States, which makes him a citizen.
- Many states had laws that said when an enslaved person was moved to a free state, they became free. During this time there was a doctrine that said, “once free, always free.”

Arguments for Sandford (respondent)

- The Missouri Compromise was unconstitutional. The Fifth Amendment to the U.S. Constitution prohibits the government from taking away a person’s property without **due process**. This means that a person has the right to fair judicial hearings before their property is taken away. Therefore, the enslaved people owned by Emerson could not be taken away without due process because they were considered property.
- The Constitution recognized the existence of slavery, particularly in the **Three-Fifths Compromise**. By classifying enslaved people differently than free individuals, the Framers must not have intended for those who are enslaved to be considered citizens.
- One of the rights guaranteed by the Constitution is the right of free movement, meaning citizens can travel wherever they want within the United States. Enslaved people obviously do not have the right to travel where they want; therefore, they cannot be citizens.

Decision

In a 7–2 decision, the Supreme Court ruled that enslaved people were not citizens of the United States and that the Missouri Compromise was unconstitutional. The majority opinion was written by Chief Justice Taney. Justices Wayne, Campbell, Catron, Daniel, Nelson, and Grier wrote concurrences. Justices McLean and Curtis both wrote dissenting opinions.

Majority

Writing for the majority of the Court, Chief Justice Taney concluded that enslaved people and their descendants were not considered citizens of the United States. To reach this decision, the Court looked at who were considered citizens at the time the Constitution was adopted. Based on history,

legislation, and the language of the Constitution itself, the Court found that the Framers did not intend for enslaved people to be citizens. The Court pointed specifically to two clauses of the Constitution—Article I, Section 2 and Article I, Section 9—that referred to people who were enslaved as a “separate class of people.” This meant they were not included in the definition of “citizens,” and they did not have the same rights that citizens were guaranteed by the Constitution. Therefore, Scott was not a citizen, which means he could not sue in federal court. Furthermore, Taney wrote that black people “had no rights which the white man was bound to respect.”

In addition, the Supreme Court also ruled that the Missouri Compromise was unconstitutional. At the time, enslaved people were considered the property of their owners. By setting enslaved people free, the Missouri Compromise deprived slaveowners of their property rights. The Fifth Amendment to the U.S. Constitution states that no citizen can be deprived of their property without due process. Therefore, the Missouri Compromise violated the Fifth Amendment and was unconstitutional. Because the Missouri Compromise was unconstitutional, Scott could not rely on it to free him.

Dissents

In his dissent Justice McLean wrote that once the Court determined it did not have jurisdiction to hear the case, it should not have decided any of the issues. Justice Curtis also dissented, reasoning that women and children, who also did not have the right to vote, could bring suits in federal court; therefore, the requirements to sue were less than the requirements to vote or run for office. He also noted that free black men had been citizens in five states in 1787 when the Constitution was ratified. Even if Scott was not a full citizen, he at least had the ability to sue.