# LANDMARK COURT DECISIONS

## EVERY AMERICAN SHOULD KNOW

### DISCRIMINATION BASED ON RACE & ETHNICITY

- **Dred Scott v. Sandford, 60 U.S. 393 (1857)** People of African descent that are slaves or were slaves and subsequently freed, along with their descendants, cannot be United States citizens. Consequently, they cannot sue in federal court. Also, slavery cannot be outlawed in the western territories before they access statehood. After the Civil War, this decision was voided by the Thirteenth and Fourteenth Amendments to the Constitution.
- **Civil Rights Cases, 109 U.S. 3 (1883)** Neither the Thirteenth nor the Fourteenth Amendment empower Congress to safeguard blacks against the actions of private individuals.
- **Plessy v. Ferguson, 163 U.S. 537 (1896)** Segregated facilities for blacks and whites are constitutional under the doctrine of separate but equal, which holds for close to 60 years. (Overruled by Brown v. Board of Education (1954))
- **Smith v. Allwright, 321 U.S. 649 (1944)** Primary elections must be open to voters of all races.
- **Korematsu v. United States, 323 U.S. 214 (1944)** President Franklin D. Roosevelt's Executive Order 9066 is constitutional; therefore, American citizens of Japanese descent can be interned and deprived of their basic constitutional rights. This case featured the first application of strict scrutiny to racial discrimination by the government.
- **Morgan v. Virginia, 328 U.S. 373 (1946)** A Virginia law that enforces segregation on interstate buses is unconstitutional.
- **Shelley v. Kraemer, 334 U.S. 1 (1948)** Courts may not enforce racial covenants on real estate.
- **Henderson v. United States, 339 U.S. 816 (1950)** The Interstate Commerce Act of 1887 makes it unlawful for a railroad that engages in interstate commerce to subject any particular person to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.
- **Brown v. Board of Education, 347 U.S. 483 (1954)** Segregated schools in the states are unconstitutional because they violate the Equal Protection Clause of the Fourteenth Amendment. The Court found that the separate but equal doctrine adopted in Plessy v. Ferguson (1896) "has no place in the field of public education."
- **Bolling v. Sharpe, 347 U.S. 497 (1954)** Segregated schools in the District of Columbia violate the Due Process Clause of the Fifth Amendment.
- **Sarah Keys v. Carolina Coach Company, 64 MCC 769 (1955)** According to the Interstate Commerce Commission, the non-discrimination portion of the Interstate Commerce Act of 1887 bans the segregation of black passengers on buses traveling across state lines. The Supreme Court adopted and expanded this decision in Boynton v. Virginia (1960).
- **Browder v. Gayle, 142 F. Supp. 707 (M.D. Ala. 1956)** Bus segregation is unconstitutional under the Equal Protection Clause.

- **Gomillion v. Lightfoot, 364 U.S. 339 (1960)** Electoral district boundaries drawn only to disenfranchise blacks violate the Fifteenth Amendment.
- **Boynton v. Virginia, 364 U.S. 454 (1960)** Racial segregation in all forms of public transportation is illegal under the Interstate Commerce Act of 1887.
- **Garner v. Louisiana, 368 U.S. 157 (1961)** Peaceful sit-in demonstrators protesting segregationist policies cannot be arrested under a state's "disturbing the peace" laws.
- **Loving v. Virginia, 388 U.S. 1 (1967)** Laws that prohibit interracial marriage (anti-miscegenation laws) are unconstitutional.
- **Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968)** The federal government may prohibit discrimination in housing by private parties under the Civil Rights Act of 1968.
- **Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971)** The busing of students to promote racial integration in public schools is constitutional.
- **Gates v. Collier, 501 F. 2d 1291 (5th Cir. 1974)** This decision brought an end to the trusty system and flagrant inmate abuse at the Mississippi State Penitentiary in Parchman, Mississippi. It was the first body of law developed in the Fifth Circuit that abolished racial segregation in prisons and held that a variety of forms of corporal punishment against prisoners is considered cruel and unusual punishment in violation of the Eighth Amendment.
- **Regents of the University of California v. Bakke, 438 U.S. 265 (1978)** Race-based set-asides in educational opportunities violate the Equal Protection Clause. This decision leaves the door open for the possibility of some use of race in admission decisions.
- **Adarand Constructors, Inc. v. Peña, 515 U.S. 200 (1995)** Race-based discrimination, including discrimination in favor of minorities (affirmative action), must pass strict scrutiny.
- **Grutter v. Bollinger, 539 U.S. 306 (2003)** A narrowly-tailored use of race in student admission decisions may be permissible under the Equal Protection Clause because a diverse student body is beneficial to all students. This was hinted at in Regents v. Bakke (1978).
- **Schuette v. Coalition to Defend Affirmative Action, 572 U.S. ___ (2014)** A Michigan state constitutional amendment that bans affirmative action does not violate the Equal Protection Clause.

## DISCRIMINATION BASED ON SEX

- **Muller v. Oregon, 208 U.S. 412 (1908)** Oregon's restrictions on the working hours of women are constitutional under the Fourteenth Amendment because they are justified by the strong state interest in protecting women's health.
- **Phillips v. Martin Marietta Corp., 400 U.S. 542 (1971)** An employer may not, in the absence of business necessity, refuse to hire women with preschool-age children while hiring men with such children.
- **Frontiero v. Richardson, 411 U.S. 677 (1973)** Sex-based discriminations are inherently suspect. A statute that gives benefits to the spouses of male members of the uniformed services, but not to the spouses of female members, (on the assumption that only the former are dependent) is unconstitutional.
- **Craig v. Boren, 429 U.S. 190 (1976)** Setting different minimum ages for females (18) and males (21) to be allowed to buy beer is unconstitutional sex-based discrimination contrary to the Equal Protection Clause of the Fourteenth Amendment.
- **United States v. Virginia, 518 U.S. 515 (1996)** Sex-based "separate but equal" military training facilities violate the Equal Protection Clause.

## DISCRIMINATION BASED ON SEXUAL ORIENTATION

- **Bowers v. Hardwick, 478 U.S. 186 (1986)** A Georgia law that criminalizes certain acts of private sexual conduct between homosexual persons does not violate the Fourteenth Amendment. (Overruled by Lawrence v. Texas (2003))
- **Romer v. Evans, 517 U.S. 620 (1996)** A Colorado state constitutional amendment that prevents homosexuals and bisexuals from being able to obtain protections under the law is a violation of the Equal Protection Clause of the Fourteenth Amendment.
- **Lawrence v. Texas, 539 U.S. 558 (2003)** A Texas law that criminalizes consensual same-sex sexual conduct furthers no legitimate state interest and violates homosexuals' right to privacy under the Due Process Clause of the Fourteenth Amendment. This decision invalidates all of the remaining sodomy laws in the United States.
- **Goodridge v. Department of Public Health, 440 Mass. 309 (2003)** The denial of marriage licenses to same-sex couples violates provisions of the state constitution guaranteeing individual liberty and equality and is not rationally related to a legitimate state interest. This was the first state court decision in which same-sex couples won the right to marry.
- **United States v. Windsor, 570 U.S. ___ (2013)** Section 3 of the Defense of Marriage Act, which defines—for federal law purposes—the terms "marriage" and "spouse" to apply only to marriages between one man and one woman, is a deprivation of the equal liberty of the person protected by the Due Process Clause of the Fifth Amendment. The federal government must recognize same-sex marriages that have been approved by the states.

## BIRTH CONTROL AND ABORTION

- **Griswold v. Connecticut, 381 U.S. 479 (1965)** A Connecticut law that criminalizes the use of contraception by married couples is unconstitutional because all Americans have a constitutionally protected right to privacy.
- **Eisenstadt v. Baird, 405 U.S. 438 (1972)** A Massachusetts law that criminalizes the use of contraception by unmarried couples violates the right to privacy established in Griswold as well as the Equal Protection Clause of the Fourteenth Amendment.
- **Roe v. Wade, 410 U.S. 113 (1973)** Laws that restrict a woman's ability to have an abortion prior to viability are unconstitutional. Most restrictions during the first trimester are prohibited, and only health-related restrictions are permitted during the second trimester.
- **Carey v. Population Services International, 431 U.S. 678 (1977)** Laws that restrict the sale, distribution, and advertisement of contraceptives to both adults and minors are unconstitutional.
- **Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992)** A woman is still able to have an abortion before viability, but several restrictions are now permitted during the first trimester. The strict trimester framework of Roe is discarded and replaced with the more vague "undue burden" test.
- **Stenberg v. Carhart, 530 U.S. 914 (2000)** Laws that ban partial-birth abortion are unconstitutional if they do not make an exception for the woman's health or if they cannot be reasonably construed to apply only to the partial-birth abortion procedure and not to other abortion methods.
- **Gonzales v. Carhart, 550 U.S. 124 (2007)** Congress can prohibit a specific abortion procedure, in this case intact dilation and extraction, which is also known as partial-birth abortion, on the grounds that it "implicates additional ethical and moral concerns that justify a special prohibition."

- **Burwell v. Hobby Lobby Stores, Inc., 573 U.S. ___ (2014)** Closely held, for-profit corporations have free exercise rights under the Religious Freedom Restoration Act of 1993. As applied to such corporations, the requirement of the Patient Protection and Affordable Care Act that employers provide their female employees with no-cost access to contraception violates the Religious Freedom Restoration Act.

## POWER OF CONGRESS TO ENFORCE CIVIL RIGHTS

- **Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964)** The Civil Rights Act of 1964 applies to places of public accommodation patronized by interstate travelers by reason of the Commerce Clause.
- **Katzenbach v. McClung, 379 U.S. 294 (1964)** The power of Congress to regulate interstate commerce extends to a restaurant that is not patronized by interstate travelers but which serves food that has moved in interstate commerce. This ruling makes the Civil Rights Act of 1964 apply to virtually all businesses.
- **South Carolina v. Katzenbach, 383 U.S. 301 (1966)** The Voting Rights Act of 1965 is a valid exercise of Congress's power under Section 2 of the Fifteenth Amendment.
- **Katzenbach v. Morgan, 384 U.S. 641 (1966)** Congress may enact laws stemming from Section 5 of the Fourteenth Amendment that increase the rights of citizens beyond what the judiciary has recognized.
- **City of Boerne v. Flores, 521 U.S. 507 (1997)** Section 5 of the Fourteenth Amendment does not permit Congress to substantially increase the scope of the rights determined by the judiciary. Congress may only enact remedial or preventative measures that are consistent with the Fourteenth Amendment interpretations of the Supreme Court.
- **Shelby County v. Holder, 570 U.S. ___ (2013)** Section 4(b) of the Voting Rights Act of 1965, which contains the coverage formula that determines which state and local jurisdictions are subjected to federal pre-clearance from the United States Department of Justice before implementing any changes to their voting laws or practices based on their histories of racial discrimination in voting, is unconstitutional because it no longer reflects current societal conditions.

## CITIZENSHIP, SEARCH, EVIDENCE, WARRANTS, LEGAL COUNSEL

- **Afroyim v. Rusk, 387 U.S. 253 (1967)** The right of citizenship is protected by the Citizenship Clause of the Fourteenth Amendment. Congress has no power under the Constitution to revoke a person's United States citizenship unless he or she voluntarily relinquishes it.
- **O'Connor v. Donaldson, 422 U.S. 563 (1975)** The states cannot involuntarily commit individuals if they are not a danger to themselves or others and are capable of living by themselves or with the aid of responsible family members or friends.
- **Terry v. Ohio, 392 U.S. 1 (1968)** Police may stop a person if they have a reasonable suspicion that the person has committed or is about to commit a crime and frisk the suspect for weapons if they have a reasonable suspicion that the suspect is armed and dangerous without violating the Fourth Amendment.
- **Vernonia School District 47J v. Acton, 515 U.S. 646 (1995)** Schools may implement random drug testing upon students participating in school-sponsored athletics.
- **Board of Education v. Earls, 536 U.S. 822 (2002)** Coercive drug testing imposed by school districts upon students who participate in extracurricular activities does not violate the Fourth Amendment.
- **Georgia v. Randolph, 547 U.S. 103 (2006)** Police cannot conduct a warrantless search in a home where one occupant consents and the other objects.

- **United States v. Jones, 565 U.S. ___ (2012)** Attaching a GPS device to a vehicle and then using the device to monitor the vehicle's movements constitutes a search under the Fourth Amendment.
- **Riley v. California, 573 U.S. ___ (2014)** Police must obtain a warrant in order to search digital information on a cell phone seized from an individual who has been arrested.
- **Glasser v. United States, 315 U.S. 60 (1942)** A defense lawyer's conflict of interest arising from a simultaneous representation of codefendants violates the Assistance of Counsel Clause of the Sixth Amendment.
- **Betts v. Brady, 316 U.S. 455 (1942)** Indigent defendants may be denied counsel when prosecuted by a state. (Overruled by Gideon v. Wainwright (1963))
- **Gideon v. Wainwright, 372 U.S. 335 (1963)** All defendants have the right to an attorney and must be provided one by the state if they are unable to afford legal counsel.
- **Escobedo v. Illinois, 378 U.S. 478 (1964)** A person in police custody has the right to speak to an attorney.
- **Miranda v. Arizona, 384 U.S. 436 (1966)** Police must advise criminal suspects of their rights under the Constitution to remain silent, to consult with a lawyer, and to have one appointed to them if they are indigent. A police interrogation must stop if the suspect states that he or she wishes to remain silent.
- **In re Gault, 387 U.S. 1 (1967)** Juvenile defendants are protected under the Due Process Clause of the Fourteenth Amendment.
- **Michigan v. Jackson, 475 U.S. 625 (1986)** If a police interrogation begins after a defendant asserts his or her right to counsel at an arraignment or similar proceeding, then any waiver of that right for that police-initiated interrogation is invalid. (Overruled by Montejo v. Louisiana (2009))
- **Montejo v. Louisiana, 556 U.S. 778 (2009)** A defendant may waive his or her right to counsel during a police interrogation even if the interrogation begins after the defendant's assertion of his or her right to counsel at an arraignment or similar proceeding.
- **Strickland v. Washington, 466 U.S. 668 (1984)** To obtain relief due to ineffective assistance of counsel, a criminal defendant must show that counsel's performance fell below an objective standard of reasonableness and that counsel's deficient performance gives rise to a reasonable probability that, if counsel had performed adequately, the result of the proceeding would have been different.

## RIGHT TO REMAIN SILENT

- **Berghuis v. Thompkins, 560 U.S. ___ (2010)** The right to remain silent does not exist unless a suspect invokes it unambiguously.
- **Salinas v. Texas, 570 U.S. ___ (2013)** The Fifth Amendment's protection against self-incrimination does not protect an individual's refusal to answer questions asked by law enforcement before he or she has been arrested or given the Miranda warning. A witness cannot invoke the privilege by simply standing mute; he or she must expressly invoke it.

## CRIMINAL SENTENCES

- **Graham v. Florida, 560 U.S. ___ (2010)** A sentence of life imprisonment without the possibility of parole may not be imposed on juvenile non-homicide offenders.
- **Miller v. Alabama, 567 U.S. ___ (2012)** A sentence of life imprisonment without the possibility of parole may not be a mandatory sentence for juvenile offenders.

## FEDERALISM

- **Chisholm v. Georgia, 2 U.S. 419 (1793)** The Constitution prevents the states from exercising sovereign immunity. Therefore, the states can be sued in federal court by citizens of other states. This decision was voided by the Eleventh Amendment in 1795, just two years after it was handed down.
- **Hylton v. United States, 3 U.S. 171 (1796)** A tax on the possession of goods is not a direct tax that must be apportioned among the states according to their populations. This case featured the first example of judicial review by the Supreme Court.
- **Ware v. Hylton, 3 U.S. 199 (1796)** A section of the Treaty of Paris supersedes an otherwise valid Virginia statute under the Supremacy Clause. This case featured the first example of judicial nullification of a state law.
- **Marbury v. Madison, 5 U.S. 137 (1803)** Section 13 of the Judiciary Act of 1789 is unconstitutional because it attempts to expand the original jurisdiction of the Supreme Court beyond that permitted by the Constitution. Congress cannot pass laws that contradict the Constitution. This case featured the first example of judicial nullification of a federal law.
- **Fletcher v. Peck, 10 U.S. 87 (1810)** A state legislature can repeal a corruptly made law, but the Contract Clause of the Constitution prohibits the voiding of valid contracts made under such a law. This was the first case in which the Supreme Court struck down a state law as unconstitutional.
- **Martin v. Hunter's Lessee, 14 U.S. 304 (1816)** Federal courts may review state court decisions when they rest on federal law or the federal Constitution. This decision provides for the uniform interpretation of federal law throughout the states.
- **McCulloch v. Maryland, 17 U.S. 316 (1819)** The Necessary and Proper Clause of the Constitution grants to Congress implied powers for implementing the Constitution's express powers, and state actions may not impede valid exercises of power by the federal government.
- **Gibbons v. Ogden, 22 U.S. 1 (1824)** The power to regulate interstate navigation is granted to Congress by the Commerce Clause of the Constitution.
- **Barron v. Baltimore, 32 U.S. 243 (1833)** The Bill of Rights cannot be applied to the state governments. This decision has essentially been rendered moot by the Supreme Court's adoption of the incorporation doctrine, which uses the Due Process Clause of the Fourteenth Amendment to apply portions of the Bill of Rights to the states.
- **Cooley v. Board of Wardens, 53 U.S. 299 (1852)** When local circumstances make it necessary the states can regulate interstate commerce as long as such regulations do not conflict with federal law. State laws related to commerce powers can be valid if Congress is silent on the matter.
- **Ableman v. Booth, 62 U.S. 506 (1859)** State courts cannot issue rulings that contradict the decisions of federal courts.
- **Texas v. White, 74 U.S. 700 (1869)** The states that formed the Confederate States of America during the Civil War never actually left the Union because a state cannot unilaterally secede from the United States.
- **Pollock v. Farmers' Loan & Trust Co., 157 U.S. 429 (1895)** Income taxes on interest, dividends, and rents are, in effect, direct taxes that must be apportioned among the states according to their populations. This decision was voided by the Sixteenth Amendment in 1913, allowing income taxes to be implemented without apportionment.

- **Swift and Company v. United States, 196 U.S. 375 (1905)** Congress can prohibit local business practices in order to regulate interstate commerce because those practices, when combined together, form a "stream of commerce" between the states. (Superseded by National Labor Relations Board v. Jones & Laughlin Steel Corporation (1937))
- **Ex parte Young, 209 U.S. 123 (1908)** Sovereign immunity cannot be used to bar suits against state officials for injunctive relief under the Constitution when said officials were not acting on behalf of the state when they sought to enforce an unconstitutional law.
- **Missouri v. Holland, 252 U.S. 416 (1920)** Treaties made by the federal government are supreme over any concerns brought by the states about such treaties interfering with any states' rights derived from the Tenth Amendment.
- **United States v. Wheeler, 254 U.S. 281 (1920)** The Constitution grants to the states the power to prosecute individuals for wrongful interference with the right to travel.
- **National Labor Relations Board v. Jones & Laughlin Steel Corporation, 301 U.S. 1 (1937)** The National Labor Relations Act and, by extension, the National Labor Relations Board are constitutional because the Commerce Clause applies to labor relations. Therefore, the NLRB has the right to sanction companies that fire or discriminate against workers for belonging to a union. Also, a local commercial activity that is considered in isolation may still constitute interstate commerce if that activity has a "close and substantial relationship" to interstate commerce.
- **Steward Machine Company v. Davis, 301 U.S. 548 (1937)** The federal government is permitted to impose a tax even if the goal of the tax is not just the collection of revenue.
- **United States v. Darby Lumber Co., 312 U.S. 100 (1941)** Control over interstate commerce belongs entirely to Congress. The Fair Labor Standards Act of 1938 is constitutional under the Commerce Clause because it prevents the states from lowering labor standards to gain commercial advantages.
- **Wickard v. Filburn, 317 U.S. 111 (1942)** The Commerce Clause of the Constitution allows Congress to regulate anything that has a substantial economic effect on commerce even if that effect is indirect.
- **Cooper v. Aaron, 358 U.S. 1 (1958)** The states are bound by the decisions of the Supreme Court and cannot choose to ignore them.
- **Oregon v. Mitchell, 400 U.S. 112 (1970)** Congress has the power to regulate requirements for voting in federal elections, but it is prohibited from regulating requirements for voting in state and local elections. This decision led to the ratification of the Twenty-sixth Amendment in 1971, which lowered the minimum voting age to 18 for all elections.
- **South Dakota v. Dole, 483 U.S. 203 (1987)** Congress may attach reasonable conditions to funds disbursed to the states without violating the Tenth Amendment.
- **U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779 (1995)** The states cannot create qualifications for prospective members of Congress that are stricter than those specified in the Constitution. This decision invalidates provisions that had imposed term limits on members of Congress in 23 states.
- **United States v. Lopez, 514 U.S. 549 (1995)** The Gun-Free School Zones Act of 1990 is unconstitutional. The Commerce Clause of the Constitution does not give Congress the power to prohibit the mere possession of a gun near a school because gun possession by itself is not an economic activity that affects interstate commerce even indirectly.
- **Printz v. United States, 521 U.S. 898 (1997)** The interim provision of the Brady Handgun Violence Prevention Act that requires state and local officials to conduct background checks on firearm purchasers violates the Tenth Amendment.
- **Clinton v. City of New York, 524 U.S. 417 (1998)** The Line Item Veto Act of 1996 is unconstitutional because it allows the President to amend or repeal parts of statutes without

the pre-approval of Congress. According to the Presentment Clause of the Constitution, Congress must initiate all changes to existing laws.

- **United States v. Morrison, 529 U.S. 598 (2000)** The section of the Violence Against Women Act of 1994 that gives victims of gender-motivated violence the right to sue their attackers in federal court is an unconstitutional intrusion on states' rights.
- **Gonzales v. Raich, 545 U.S. 1 (2005)** Congress may ban the use of marijuana even in states that have approved its use for medicinal purposes.
- **Arizona v. United States, 567 U.S. ___ (2012)** An Arizona law that authorizes local law enforcement to enforce immigration laws is preempted by federal law. Arizona law enforcement may inquire about a resident's legal status during lawful encounters, but the state may not implement its own immigration laws.
- **National Federation of Independent Business v. Sebelius, 567 U.S. ___ (2012)** The Patient Protection and Affordable Care Act's expansion of Medicaid is unconstitutional as-written—it is unduly coercive to force the states to choose between participating in the expansion or forgoing all Medicaid funds. In addition, the individual health insurance mandate is constitutional by virtue of the Taxing and Spending Clause (though not by the Commerce Clause or the Necessary and Proper Clause).

## FIRST AMENDMENT

- **Schenck v. United States, 249 U.S. 47 (1919)** Expressions in which the circumstances are intended to result in crime that poses a clear and present danger of succeeding can be punished without violating the First Amendment.
- **Stromberg v. California, 283 U.S. 359 (1931)** A California law that bans red flags is unconstitutional because it violates the First Amendment's protection of symbolic speech as applied to the states through the Fourteenth Amendment.
- **Chaplinsky v. New Hampshire, 315 U.S. 568 (1942)** Fighting words—words that by their very utterance inflict injury or tend to incite an immediate breach of the peace—are not protected by the First Amendment.
- **Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495 (1952)** Motion pictures, as a form of artistic expression, are protected by the First Amendment.
- **Roth v. United States, 354 U.S. 476 (1957)** Obscene material is not protected by the First Amendment. (Superseded by Miller v. California (1973))
- **Curtis Publishing Co. v. Butts, 388 U.S. 130 (1967)** News organizations may be liable when printing allegations about public figures if the information they disseminate is recklessly gathered and unchecked.
- **United States v. O'Brien, 391 U.S. 367 (1968)** A criminal prohibition against draft-card burning does not violate the First Amendment because its effect on speech is only incidental, and it is justified by the significant governmental interest in maintaining an efficient and effective military draft system.
- **Brandenburg v. Ohio, 395 U.S. 444 (1969)** The mere advocacy of the use of force or of violation of the law is protected by the First Amendment. Only inciting others to take direct and immediate unlawful action is without constitutional protection.
- **Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969)** Wearing armbands as a form of protest on public school grounds is protected by the First Amendment.
- **Cohen v. California, 403 U.S. 15 (1971)** The First Amendment prohibits the states from making the public display of a single four-letter expletive a criminal offense without a more specific and compelling reason than a general tendency to disturb the peace.

- **New York Times Co. v. United States, 403 U.S. 713 (1971)** The federal government's desire to keep the Pentagon Papers classified is not strong enough to justify a violation of the First Amendment.
- **Miller v. California, 413 U.S. 15 (1973)** To be obscene, a work must fail the Miller test, which determines if it has any "serious literary, artistic, political, or scientific value."
- **Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974)** The First Amendment permits the states to formulate their own standards of liability for defamation against private individuals as long as liability is not imposed without fault. If the state standard is lower than actual malice, then only actual damages may be awarded.
- **Buckley v. Valeo, 424 U.S. 1 (1976)** Spending money to influence elections is a form of constitutionally protected free speech, but federal limits on campaign contributions are constitutional.
- **Federal Communications Commission v. Pacifica Foundation, 438 U.S. 726 (1978)** Broadcasting has less First Amendment protection than other forms of communication because of its pervasive nature. The Federal Communications Commission has broad authority to determine what constitutes indecency in different contexts.
- **Bethel School District v. Fraser, 478 U.S. 675 (1986)** The First Amendment permits a public school to punish a student for giving a lewd and indecent speech at a school assembly even if the speech is not obscene.
- **Hustler Magazine v. Falwell, 485 U.S. 46 (1988)** Parodies of public figures, including those intended to cause emotional distress, are protected by the First Amendment.
- **Texas v. Johnson, 491 U.S. 397 (1989)** A Texas law that criminalizes the desecration of the American flag is unconstitutional because it violates the First Amendment's protection of symbolic speech. This decision invalidates laws prohibiting flag desecration in 48 of the 50 states—Alaska and Wyoming are the two exceptions.
- **Citizens United v. Federal Election Commission, 558 U.S. 310 (2010)** Limits on corporate and union political expenditures during election cycles violate the First Amendment. Corporations and labor unions can spend unlimited sums in support of or in opposition to candidates as long as the spending is independent of the candidates.
- **Brown v. Entertainment Merchants Association, 564 U.S. ___ (2011)** Video games are a distinct communications medium protected by the First Amendment.
- **McCutcheon v. Federal Election Commission, 572 U.S. ___ (2014)** Limits on the total amounts of money that individuals can donate to political campaigns during two-year election cycles violate the First Amendment.

## FREEDOM OF ASSOCIATION & OTHER RULINGS

- **National Association for the Advancement of Colored People v. Alabama, 357 U.S. 449 (1958)** The freedom to associate with organizations dedicated to the "advancement of beliefs and ideas" is an inseparable part of the Due Process Clause of the Fourteenth Amendment.
- **Hurley v. Irish-American Gay, Lesbian, and Bisexual Group of Boston, 515 U.S. 557 (1995)** Private citizens organizing a public demonstration have the right to exclude groups whose message they disagree with from participating.
- **Boy Scouts of America v. Dale, 530 U.S. 640 (2000)** Private organizations are allowed to choose their own membership and expel members based on their sexual orientation even if such discrimination would otherwise be prohibited by anti-discrimination legislation designed to protect minorities in public accommodations.
- **Johnson v. M'Intosh, 21 U.S. 543 (1823)** Private citizens cannot purchase lands from Native Americans.

- **Slaughter-House Cases, 83 U.S. 36 (1873)** The Privileges or Immunities Clause of the Fourteenth Amendment applies to the benefits of federal United States citizenship but not to the benefits of state citizenship.
- **Lone Wolf v. Hitchcock, 187 U.S. 553 (1903)** Congress may use its plenary power to unilaterally break treaty obligations between the United States and Native American tribes.
- **Selective Draft Law Cases, 245 U.S. 366 (1918)** The Selective Service Act of 1917 and, more generally, conscription do not violate the Thirteenth Amendment's prohibition of involuntary servitude or the First Amendment's protection of the freedom of thought.
- **Brown v. Mississippi, 297 U.S. 278 (1936)** A defendant's confession that is extracted by police violence cannot be entered as evidence and violates the Due Process Clause.
- **Coleman v. Miller, 307 U.S. 433 (1939)** A proposed amendment to the Constitution is considered pending before the states indefinitely unless Congress establishes a deadline by which the states must act. Furthermore, Congress—not the courts—is responsible for deciding whether an amendment has been validly ratified.
- **Reid v. Covert, 354 U.S. 1 (1957)** The Constitution supersedes all treaties ratified by the Senate.
- **Williams v. Lee, 358 U.S. 217 (1959)** State courts do not have jurisdiction on Indian reservations without the authorization of Congress.
- **Harper v. Virginia State Board of Elections, 383 U.S. 663 (1966)** A state's conditioning of the right to vote on the payment of a fee or tax violates the Equal Protection Clause of the Fourteenth Amendment.
- **Menominee Tribe v. United States, 391 U.S. 404 (1968)** Native American treaty rights are not repealed without a clear and unequivocal statement to that effect from Congress.
- **Goldberg v. Kelly, 397 U.S. 254 (1970)** The termination of welfare benefits must be preceded by a full evidentiary hearing under the Due Process Clause.
- **Oneida Indian Nation of New York v. County of Oneida, 414 U.S. 661 (1974)** There is federal subject-matter jurisdiction for possessory land claims brought by Indian tribes based upon aboriginal title, the Nonintercourse Act, and Indian treaties.
- **United States v. Nixon, 418 U.S. 683 (1974)** The doctrine of executive privilege is legitimate; however, the President cannot invoke it in criminal cases to withhold evidence.
- **Nixon v. General Services Administration, 433 U.S. 425 (1977)** Congress has the power to pass a law that directs the seizure and disposition of the papers and tapes of a former president that are within the control of the executive branch.
- **Clinton v. Jones, 520 U.S. 681 (1997)** The President has no immunity that could require civil law litigation against him or her involving a dispute unrelated to the office of President to be stayed until the end of his or her term. Such a delay would deprive the parties to the suit of the right to a speedy trial that is guaranteed by the Sixth Amendment.
- **Bush v. Gore, 531 U.S. 98 (2000)** The recount of ballots in Florida during the 2000 presidential election violated the Equal Protection Clause because different standards of counting were used in the counties that were subjected to the recount. This decision effectively resolved the election in favor of the Republican nominee, George W. Bush.