

New Jersey v. TLO

Case #1

The two freshman girls heard footsteps approaching and the creak of the bathroom door opening. Figuring it was just another student, they didn't put out their cigarettes. They were smoking in the bathroom, which they knew was in violation of school rules. But a moment later it was a teacher who was now standing across from them in the smoky bathroom air, arms folded. The teacher brought them to the office where a vice-principal met them.

When one of the two girls, T.L.O., denied that she had been smoking, the vice principal demanded to see her purse. He found a pack of cigarettes, and also noticed a packet of rolling papers, which he believed were an indication of marijuana use. This led him to search her purse, where he discovered a small amount of marijuana, drug paraphernalia, and a large sum of money. The school called her mother to bring her to the police station, where T.L.O. admitted to selling drugs at school. Later, T.L.O. was convicted in juvenile court.

T.L.O. appealed her conviction. She believed that the school had acted illegally in searching her purse, and therefore the evidence against her should not have been allowed to be used against her in Court. This is known as the exclusionary rule – illegally obtained evidence is inadmissible.

The Supreme Court had to consider whether a Bill of Rights amendment applied in her favor within the case.

Questions

1. What amendment(s) does this incident deal with?
2. According to that Amendment you should have for number 1's answer, "probable cause" of a crime is required when police conduct a search. The Supreme Court has said that school officials, on the other hand, must have "reasonable suspicion" that laws or school policies are being broken by students. How do these standards differ? Why is "reasonable suspicion" the standard school officials follow?

Winner:

A= TLO, The female whose purse was searched

B= The Principal

Bill of Rights

Case # 2--Yearbook

Students in a public high school publish a school yearbook as part of a publications course. They have a teacher who acts as an advisor to the yearbook. The school district pays for the yearbook and pays the salary of the teacher-advisor.

At the end of a school year, the principal of the school angers many students by firing a popular teacher. The yearbook staff retaliates by publishing a page in the yearbook honoring the fired teacher and condemning the principal's actions. The teacher-advisor approved of the page before publication.

The principal, however, orders the page to be torn out of the yearbook before it is distributed, and gives additional consequences to the teacher-advisor for allowing such a page to be published.

Questions:

1. Which amendment(s) does this incident deal with?
2. Is the principal allowed to order the page to be torn out of the yearbook, or does this violate the students' freedom?
Keep in mind the page was primarily to honor a popular teacher, and that the yearbook was paid for with school money.

Winner:

A = the yearbook staff and the teacher-advisor
B = the school principal

Bill of Rights

Case # 3—The Pentagon Papers

A newspaper called the *New York Times* is well known for its quality reporting on issues with foreign nations. Just after the Vietnam War, an employee of the *Times* is sent a report about the US's involvement in that war. The employee learns that the report came from a secret place in the Department of Defense at the Pentagon. The report was taken from an official's desk, photocopied, and returned to the desk. The copies were then sent to the *New York Times*.

The newspaper decides to publish the report a few pages at a time. (It is much too long to print all in one issue.) After the first part is published, the US government asks the courts to stop the newspaper from publishing any more parts.

Questions:

1. How should the judge rule in this case? Should he allow the *New York Times* to continue to publish parts of this stolen secret report? Is this a violation of freedom of the press?

Winner:

A = The government can stop the *NYT* from printing the report

B = The *NYT* can print the report, even though stolen.

Native American Drug Use Case

Employment Division v. Smith

Case #4

The state of Oregon faces a wrongful firing suit against a former employee, Alfred Smith. Alfred is a Native American that has been fired for a failed drug test that revealed his use of peyote. Alfred objects that his peyote use is part of his religious ceremonies and that this would constitute a wrongful firing. The previous court decisions that have pertained to Native American religious ceremony generally backed their belief sets stating that:

- The long history of peyote as the sacred object of the Native American Church, entitling members to a First Amendment exemption from its prohibition, was reviewed by Justice Tobriner 24 years ago in the case *People v. Woody*.
- As well, the court concluded that peyote "plays a central role in the ceremony and practice of the Native American Church" and that its religious use was known in the 16th century. "Although peyote serves as a sacramental symbol similar to bread and wine in certain Christian churches, it is more than a sacrament. Peyote constitutes in itself an object of worship; prayers are devoted to the Holy Ghost. On the other hand, to use peyote for nonreligious purposes is sacrilegious."
- Even more emphatically, in 1978, Congress by law made it "the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites."

Where should the jury side? Was it wrong for Alfred to be fired?

Questions

1. What amendment(s) does this incident deal with?
2. In the majority opinion released by the Supreme Court, Justice Scalia stated that "To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself." What does this mean about the relationship of church and government?

Winner:

A= The Employment Division of the State of Oregon

B= Alfred Smith, the Native American

Bill of Rights

Case # 5—The Minnesota Newspaper

A newspaper in Minnesota uncovers some illegal activity going on in the state government. The activity involves bribery. The newspaper begins to publish its evidence against the officials after carefully making sure it is correct. The paper prints the names and positions of the officials involved, and explains their crimes.

The government in Minnesota shuts down the newspaper and will not allow it to reopen until it promises not to print any more stories about this illegal activity.

The newspaper sues; saying it has freedom of the press.

Questions:

1. Should freedom of the press include publishing articles about illegal activity? Why or why not?
2. Can the government close down a newspaper that publishes stories that embarrass the government? Why or why not?
3. Who should the judge rule in favor of—the paper or the government?

Winner:

A = the government officials

B = the newspaper

Bill of Rights

Case # 6 Medicinal Marijuana- Gonzalez v. Raich **(2004)**

California voters passed the Compassionate Use Act in 1996. This law made California the ninth state to legalize marijuana for medical use. It became legal for “seriously ill” people to possess or grow a small amount of marijuana with the recommendation of a doctor. Angel Raich was a California resident. She had an inoperable brain tumor, nausea, and other disabling disorders. Marijuana eased her symptoms. Raich’s doctor testified that stopping the marijuana would cause Raich “excruciating pain and could very well prove fatal.”

Raich was able to use marijuana under the California law. However, a federal law conflicted with the state law. The federal 1970 Controlled Substances Act—among many other regulations banned possession of marijuana. This law was passed under Congress’s authority under the Commerce Clause. In Article I, Section 8 of the Constitution, the Commerce Clause gives Congress the power to “To regulate commerce...among the several states...”

Raich and several other seriously ill residents of California challenged the constitutionality of this part of the federal Controlled Substances Act. They claimed that growing marijuana for personal, medical use was not related to interstate commerce and therefore Congress had no authority to ban it. Further, they argued that “The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.” The case eventually went to the Supreme Court.

Questions

1. Which amendment(s) does this incident deal with?
2. What laws are coming into conflict in this case?
3. In his dissent Justice Thomas argued that “Respondents Diane Monson and Angel Raich use marijuana that has never been bought or sold, that has never crossed state lines, and that has had no demonstrable effect on the national market for marijuana. If Congress can regulate this under the Commerce Clause, then it can regulate virtually anything....” Do you agree? Why or why not?

A = Congress B = California

Bill of Rights

Case # 7—Fighting words

Two men are arguing over a parking space in a crowded parking lot. The first man was waiting for a car to back out of a space. Just as the car backed out, the second man pulled into the space ahead of the man who was waiting.

The two men got out of their cars and began to argue. The first man thought he had a right to the space since he was already there waiting. The second man thought no one had a right to a parking space—they were filled on a first-come, first-served basis.

After several minutes of arguing, the first man called the second man an offensive word. The second man punched the first man, cutting his eye and breaking his glasses. The first man then called the police and had the second man arrested for assault. When the second man complained to the police that the first man had insulted him, the first man claimed he was only exercising his freedom of speech, therefore he could call the second man anything he wanted.

Questions:

1. Can the first man use freedom of speech to defend himself?
Why or why not?
2. Can the second man be cleared of the assault charges
because the first man called him a bad word?

Winner:

A = second man is responsible for the first man's injuries completely because he threw a punch

B = second man is only partially responsible for the first man's injuries because the first man used an offensive word

Bill of Rights

Case # 8—Search warrant

A man who lives in Cleveland is suspected of having drugs in his apartment. The police tail him for several days, and finally decide there is enough evidence to arrest him. They obtain a legal search warrant from a judge to search his apartment for drugs. At three o' clock in the morning, the police raid the apartment.

The police conduct a thorough search but find no drugs. While they are looking, however, one of the policemen goes into the basement of the building where the man has some possessions. This officer finds a trunk and opens it. He finds no drugs, but he does find some other illegal items. The officer returns upstairs and arrests the man for possession of the illegal items, but not for possession of drugs.

In court, the judge throws out the charges and the man is set free. The judge rules that one of the amendments to the Constitution has been violated by the police.

Questions:

1. Which amendment is the judge referring to?
2. What limits should there be on police searches of private property?

Winner:

A = the man who lived in the apartment

B = the police who found illegal items

Bill of Rights

Case # 9—The crowded theater

A man is sitting in a crowded theater watching a performance. His date dares him to have a little fun by standing up and shouting “FIRE!!!” just to see what people will do. The man does, and the audience of several hundred people goes running. The performance is ruined, and several people are injured in the stampede.

The man who shouted “Fire” is identified by the police, and he is arrested for causing a public disturbance. The man argues that he has a first amendment right to free speech. It is not his fault that people were hurt, he was only exercising his rights.

Questions:

1. Should a judge rule this man to be responsible for the injuries to the crowd members?
2. Should a judge rule this man is responsible for the money the theater lost by having to refund tickets for the ruined performance?

Winner:

A = the man does have a right to shout “fire” in a crowded theater because of freedom of speech

B = the man does not have freedom of speech to shout “fire” in a crowded theater when others might be hurt.

Bill of Rights

Case # 10—The jewelry store

Late one night a policeman on duty notices something strange, so he hides where he can observe what is going on.

Three men dressed in long black coats are standing on a city corner in a business district. All of the shops are closed. One at a time, each of the three men leaves the corner, walks half a block down to a jewelry store, and looks in the window. He returns to the corner and whispers to the other two men.

A few minutes later the second man walks to the jewelry store window and looks in. He then returns to the corner to talk to the other men. Finally, the third man repeats the process.

After watching this for about 20 minutes, the policeman approaches the men and orders them to stand against the wall of the building with their hands up. He searches the three men's coats, and finds guns on two of them and a knife on the third. The policeman confiscates the weapons and arrests the three men for attempted robbery.

The three men sue for false arrest, illegal search, and for seizure of their weapons. They argued that they had not committed any crime, they had only stood on a street corner and looked in the window of a store at which they might like to purchase an item the next day.

Questions:

1. How should the judge rule in this case? Should he find in favor of the policeman, who has possibly prevented a robbery from taking place? Or should he find in favor of the men, who have not yet broken any laws?
2. What part of the Bill of Rights does this case involve?

Wimmer: A = 3 men
NN

B = policeman