

A Collection of U.S. Supreme Court Cases: Freedom of Speech

Instructions: Review the assigned cases at the links provided to identify the “Decision” (answer to the “Question”) and the “Free Speech Principle” it provides. Also use the information provided in the Timeline for Free Speech by Justice Learning at <http://www.justicelearning.org/ViewIssue.aspx?IssueID=4>.

	Background Facts	Question	Case	Decision	Free Speech Principle
1.	During World War I, Charles Schenck mailed circulars to draftees. The circulars suggested that the draft was a monstrous wrong motivated by the capitalist system. The circulars urged "Do not submit to intimidation" but advised only peaceful action such as petitioning to repeal the Conscription Act. Schenck was charged with conspiracy to violate the Espionage Act by attempting to cause insubordination in the military and to obstruct recruitment.	Were Schenck's actions (words, expression) protected by the free speech clause of the First Amendment?	<i>Schenck v. United States</i> , 249 U.S. 47 (1919) http://www.oyez.org/cases/1901-1939/1918/1918_437		
2.	The defendants were convicted on the basis of two leaflets they printed and threw from windows of a building. One leaflet signed "revolutionists" denounced the sending of American troops to Russia. The second leaflet, written in Yiddish, denounced the war and U.S. efforts to impede the Russian Revolution. The defendants were charged and convicted for inciting resistance to the war effort and for urging curtailment of production of essential war material. They were sentenced to 20 years in prison.	Did the amendments to the Espionage Act or the application of those amendments in this case violate the free speech clause of the First Amendment?	<i>Abrams v. United States</i> , 250 U.S. 616 (1919) http://www.oyez.org/cases/1901-1939/1919/1919_316		
3.	Benjamin Gitlow, a socialist, was arrested for distributing copies of a "left-wing manifesto" that called for the establishment of socialism through strikes and class action of any form. Gitlow was convicted under a state criminal anarchy law, which punished advocating the overthrow of the government by force. At his trial, Gitlow argued that since there was no resulting action flowing from the manifesto's publication, the statute penalized utterances without propensity to incitement of concrete action. The New York courts had decided that anyone who advocated the doctrine of violent revolution violated the law.	Was the New York law punishing the advocacy of overthrowing the government an unconstitutional violation of the free speech clause of the First Amendment?	<i>Gitlow v. New York</i> , 268 U.S. 652 (1925) http://www.oyez.org/cases/1901-1939/1922/1922_19		
4.	Charlotte Anita Whitney, a member of the Communist Labor Party of California, was prosecuted under that state's Criminal Syndicalism Act. The Act prohibited advocating, teaching, or aiding the commission of a crime, including "terrorism as a means of accomplishing a change in industrial ownership . . . or effecting any political change."	Did the Criminal Syndicalism Act violate the First or Fourteenth Amendments?	<i>Whitney v. California</i> , 274 U.S. 357 (1927) http://www.oyez.org/cases/1901-1939/1925/1925_3		

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5.	A 19-year-old member of the Young Communist League was convicted for displaying a red flag as "an emblem of opposition to the United States government."	Did a California statute that makes the display of a red flag as a statement of "opposition to organized government" violate the First & Fourteenth Amendments?	<i>Stromberg v. People Of State Of California</i> , 283 U.S. 359 (1931) http://www.oyez.org/cases/1901-1939/1930/1930_584		
6.	Byron Thornhill joined a picket line that was protesting against his former employer. Section 3448 of Alabama state law made it an offense to picket. Pursuant to the law, Thornhill was arrested and fined \$100. Thornhill, a union president, was the only picketer to be arrested and tried under the law.	Did the Alabama law violate Thornhill's right to free expression under the First Amendment?	<i>Thornhill v. Alabama</i> , 310 U.S. 88 (1940) http://www.oyez.org/cases/1901-1939/1939/1939_514		
7.	Jesse Cantwell and his son were Jehovah's Witnesses; they were proselytizing a predominantly Catholic neighborhood in Connecticut. The Cantwells distributed religious materials by traveling door-to-door and by approaching people on the street. After voluntarily hearing an anti-Roman Catholic message on the Cantwells' portable phonograph, two pedestrians reacted angrily. The Cantwells were subsequently arrested for violating a local ordinance requiring a permit for solicitation and for inciting a breach of the peace.	Did the solicitation statute or the "breach of the peace" ordinance violate the Cantwells' First Amendment free speech or free exercise rights?	<i>Cantwell v. State of Connecticut</i> , 310 U.S. 296 (1940) http://www.oyez.org/cases/1901-1939/1939/1939_632		
8.	Lillian and William Gobitis were expelled from the public schools of Minersville, Pennsylvania, for refusing to salute the flag as part of a daily school exercise. The Gobitis children were Jehovah's Witnesses; they believed that such a gesture of respect for the flag was forbidden by biblical commands.	Did the mandatory flag salute infringe upon liberties protected by the First and Fourteenth Amendments?	<i>Minersville School District v. Gobitis</i> , 310 U.S. 586 (1940) http://www.oyez.org/cases/1901-1939/1939/1939_690		
9.	Walter Chaplinsky, a Jehovah's Witness, called a city marshal a "God-damned racketeer" and "a damned fascist" in a public place. He was arrested and convicted under a state law for violating a breach of the peace.	Did the application of the statute violate Chaplinsky's freedom of speech protected by the First Amendment?	<i>Chaplinsky v. State of New Hampshire</i> , 315 U.S. 568 (1942) http://www.oyez.org/cases/1940-1949/1941/1941_255		

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10.	The West Virginia Board of Education required that the flag salute be part of the program of activities in all public schools. All teachers and pupils were required to honor the flag; refusal to salute was treated as "insubordination" and was punishable by expulsion and charges of delinquency.	Did the compulsory flag salute for public schoolchildren violate the First Amendment?	<i>West Virginia State Board of Ed. v. Barnette</i> , 319 U.S. 624 (1943) http://www.oyez.org/cases/1940-1949/1942/1942_591		
11.	Father Arthur Terminiello, in an auditorium in Chicago, delivered a vitriolic speech in which he criticized various political and racial groups and viciously condemned the protesting crowd that had gathered outside the auditorium. Policemen assigned to the event were unable to prevent several disturbances by the "angry and turbulent" crowd. The police arrested Terminiello for "breach of the peace." He was then tried and convicted for his central role in inciting a riot.	Did the Chicago ordinance violate Terminiello's right of free expression guaranteed by the First Amendment?	<i>Terminiello v. Chicago</i> , 337 U.S. 1 (1949) http://www.oyez.org/cases/1940-1949/1948/1948_272		
12	In 1948, the leaders of the Communist Party of America were arrested and charged with violating provisions of the Smith Act. The Act made it unlawful to knowingly conspire to teach and advocate the overthrow or destruction of the U.S. government. Party leaders were found guilty and lower courts upheld the conviction.	Did the Smith Act's restrictions on speech violate the First Amendment?	<i>Dennis v. United States</i> , 341 U.S. 494 (1951) http://www.oyez.org/cases/1950-1959/1950/1950_336		
13.	Joseph Beauharnais, president of White Circle League, Inc., was arrested on January 7, 1950, for distributing leaflets on Chicago street corners. The leaflets called in part upon the mayor and aldermen of Chicago "to halt the further encroachment, harassment and invasion of white people...by the Negro." Beauharnais was charged with violating an Illinois law making it illegal to distribute any publication that "exposes the citizens of any race, color, creed or religion to contempt, derision, or obloquy." A jury found him guilty, and he was fined \$200. The Illinois Supreme Court affirmed his conviction.	Did Beauharnais' conviction under the Illinois statute violate his constitutional right to free speech under the First and Fourteenth Amendments?	<i>Beauharnais v. Illinois</i> , 343 U.S. 250 (1952) http://www.oyez.org/cases/1950-1959/1951/1951_118		

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14.	Samuel Roth operated a book-selling business in New York and was convicted of mailing obscene circulars and an obscene book in violation of a federal obscenity statute. Roth's case was combined with <i>Alberts v. California</i> , in which a California obscenity law was challenged by Alberts after his similar conviction for selling lewd and obscene books in addition to composing and publishing obscene advertisements for his products.	Did either the federal or California's obscenity restrictions, prohibiting the sale or transfer of obscene materials through the mail, impinge upon the freedom of expression as guaranteed by the First Amendment?	<i>Roth v. United States</i> , 354 U.S. 476 (1957) http://www.oyez.org/cases/1950-1959/1956/1956_582		
15.	Five African Americans staged a peaceful sit-in at a Louisiana restaurant that catered to both white and black patrons. When the demonstrators sat at the counters where only white persons were customarily served, they were asked to leave by police officers. When they refused, they were arrested charged with "disturbing the peace" and convicted.	Were the free speech rights of the demonstrators denied?	<i>Garner v. Louisiana</i> , 368 U.S. 157 (1961) http://www.oyez.org/cases/1960-1969/1961/1961_26		
16.	Decided together with <i>Abernathy v. Sullivan</i> , this case concerns a full-page ad in the New York Times that alleged that the arrest of the Rev. Martin Luther King Jr. for perjury in Alabama was part of a campaign to destroy King's efforts to integrate public facilities and encourage blacks to vote. L. B. Sullivan, the Montgomery city commissioner, filed a libel action against the newspaper and four black ministers who were listed as endorsers of the ad, claiming that the allegations against the Montgomery police defamed him personally. Under Alabama law, Sullivan did not have to prove that he had been harmed; and a defense claiming that the ad was truthful was unavailable since the ad contained factual errors. Sullivan won a \$500,000 judgment.	Did Alabama's libel law, by not requiring Sullivan to prove that an advertisement personally harmed him and dismissing the same as untruthful due to factual errors, unconstitutionally infringe on the First Amendment's freedom of speech and freedom of press protections?	<i>New York Times v. Sullivan</i> , 376 U.S. 254 (1964) http://www.oyez.org/cases/1960-1969/1963/1963_39		

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17.	In 1952, three escaped convicts took James Hill, his wife, and their five children hostage in their Whitemarsh, Pennsylvania, home. After nineteen hours, the family was released unharmed. The convicts were later apprehended in a violent clash with police during which two of them were killed. In 1953, Joseph Hays published a novel based on the Hill family's ordeal. When the novel was subsequently made into a play, Life Magazine ("Life") printed an article about the play that mirrored many of its inaccuracies concerning the Hill family's experience. Alleging that it deliberately misrepresented his story, Hill sought damages against Life. On appeal from an adverse ruling, the Appellate Division of the New York Supreme Court remanded for a new trial where a reduced adverse ruling was imposed on Life. Following an unsuccessful appeal in the New York Court of Appeals, the Supreme Court granted Life's owner, Time Inc. ("Time") certiorari.	Is a publication, containing misrepresentations about the subject of its coverage, protected under the First Amendment's freedom of speech guarantees?	<i>Time Inc. v. Hill</i> , 385 U.S. 374 (1967) http://www.oyez.org/cases/1960-1969/1965/1965_22		
18.	David O'Brien burned his draft card at a Boston courthouse. He said he was expressing his opposition to war. He was convicted under a federal law that made the destruction or mutilation of draft cards a crime.	Is the law an unconstitutional infringement of O'Brien's freedom of speech?	<i>United States v. O'Brien</i> , 391 U.S. 367 (1968) http://www.oyez.org/cases/1960-1969/1967/1967_232		
19.	A teacher was fired for writing a letter to the newspaper criticizing how money was divided between athletics and academics.	Was the teacher's right to free speech violated?	<i>Pickering v. Board of Education</i> , 391 U.S. 563 (1968) http://www.oyez.org/cases/1960-1969/1967/1967_510		
20.	John Tinker, 15 years old, his sister Mary Beth Tinker, 13 years old, and Christopher Eckhardt, 16 years old, decided along with their parents to protest the Vietnam War by wearing black armbands to their Des Moines schools during the Christmas holiday season. Upon learning of their intentions, and fearing that the armbands would provoke disturbances, the principals of the Des Moines school district resolved that all students wearing armbands be asked to remove them or face suspension. When the Tinker siblings and Christopher wore their armbands to school, they were asked to remove them. When they refused, they were suspended until after New Year's Day.	Did a prohibition against the wearing of armbands in public school, as a form of symbolic protest, violate the First Amendment's freedom of speech protections?	<i>Tinker v. Des Moines Ind. Comm. School Dist.</i> , 393 U.S. 503 (1969) http://www.oyez.org/cases/1960-1969/1968/1968_21		

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21.	Law enforcement officers, under the authority of a warrant, searched Robert Stanley's home pursuant to an investigation of his alleged bookmaking activities. During the search, the officers found three reels of eight-millimeter film. The officers viewed the films, concluded they were obscene, and seized them. Stanley was then tried and convicted under a Georgia law prohibiting the possession of obscene materials.	Did the Georgia statute infringe upon the freedom of expression protected by the First Amendment?	<i>Stanley v. Georgia</i> , 394 U.S. 557 (1969) http://www.oyez.org/cases/1960-1969/1968/1968_293		
22.	Clarence Brandenburg, a leader in the Ku Klux Klan, made a speech at a Klan rally and was later convicted under an Ohio criminal syndicalism law. The law made illegal advocating "crime, sabotage, violence, or unlawful methods of terrorism as a means of accomplishing industrial or political reform," as well as assembling "with any society, group, or assemblage of persons formed to teach or advocate the doctrines of criminal syndicalism."	Did Ohio's criminal syndicalism law, prohibiting public speech that advocates various illegal activities, violate Brandenburg's right to free speech as protected by the First and Fourteenth Amendments?	<i>Brandenburg v. Ohio</i> , 395 U.S. 444 (1969) http://www.oyez.org/cases/1960-1969/1968/1968_492		
23.	A 19-year-old department store worker expressed his opposition to the Vietnam War by wearing a jacket emblazoned with an antiwar message that included a four-letter expletive. The young man, Paul Cohen, was charged under a California statute that prohibits "maliciously and willfully disturb[ing] the peace and quiet of any neighborhood or person [by] offensive conduct." Cohen was found guilty and sentenced to 30 days in jail	Did California's statute, prohibiting the display of offensive messages such as Cohen's, violate freedom of expression as protected by the First Amendment?	<i>Cohen v. California</i> , 403 U.S. 15 (1971) http://law.jrank.org/pages/112820/Cohen-v-California.html		
24.	Individuals sought to distribute handbills in the interior mall area of a large privately owned shopping center. The owner of the mall had a strict no-handbill rule. Security guards asked them to stop, under threat of arrest, and suggested they could resume their activities on the public streets and sidewalks adjacent to but outside the center, which they did.	By preventing the distribution of handbills in the mall, did the owner of the mall deny the free speech rights of those distributing the handbills?	<i>Lloyd Corp. v. Tanner</i> , 407 U.S. 551 (1972) http://www.oyez.org/cases/1970-1979/1971/1971_71_492		

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25.	State officials in Georgia sought to enjoin the showing of allegedly obscene films at the Paris Adult Theatre. The Theatre clearly warned potential viewers of the sexual nature of the films and required that patrons be at least 21 years of age. The Georgia Supreme Court held that the films were "hard core" pornography unprotected by the Constitution.	Did the Georgia injunction against the films violate the First Amendment's guarantee of freedom of expression?	<i>Paris Adult Theatre v. Slaton</i> , 413 U.S. 49 (1973) http://www.oyez.org/cases/1970-1979/1972/1972_71_105_1		
26.	Marvin Miller, after conducting a mass mailing campaign to advertise the sale of "adult" material, was convicted of violating a California statute prohibiting the distribution of obscene material. Some unwilling recipients of Miller's brochures complained to the police, initiating the legal proceedings.	Are the sale and distribution of obscene materials by mail protected under the First Amendment's freedom of speech guarantee?	<i>Miller v. California</i> , 413 U.S. 15 (1973) http://www.oyez.org/cases/1970-1979/1971/1971_70_73		
27.	Elmer Gertz was an attorney hired by a family to sue a police officer who had killed the family's son. In a magazine called <i>American Opinion</i> , the John Birch Society accused Gertz of being a "Leninist" and a "Communist-frontier" because he chose to represent clients who were suing a law enforcement officer. Gertz lost his libel suit because a lower court found that the magazine had not violated the actual malice test for libel that the Supreme Court had established in <i>New York Times v. Sullivan</i> (1964).	Does the First Amendment allow a newspaper or broadcaster to assert defamatory falsehoods about an individual who is neither a public official nor a public figure?	<i>Gertz v. Robert Welch Inc.</i> , 418 U.S. 323 (1974) http://www.oyez.org/cases/1970-1979/1973/1973_72_617		

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28.	In the wake of the Watergate affair, Congress attempted to ferret out corruption in political campaigns by restricting financial contributions to candidates. Among other things, the law set limits on the amount of money an individual could contribute to a single campaign and it required reporting of contributions above a certain threshold amount. The Federal Election Commission was created to enforce the statute.	Did the limits placed on electoral expenditures by the Federal Election Campaign Act of 1971, and related provisions of the Internal Revenue Code of 1954 violate the First Amendment's freedom of speech and association clauses?	<i>Buckley v. Valeo</i> , 424 U.S. 1 (1976) http://www.oyez.org/cases/1970-1979/1975/1975_75_436		
29.	Acting on behalf of prescription drug consumers, the Virginia Citizens Consumer Council challenged a Virginia statute that declared it unprofessional conduct for licensed pharmacists to advertise their prescription drug prices. On appeal from an adverse ruling by a three-judge District Court panel, the Supreme Court granted the Virginia State Board of Pharmacy review.	Is a statutory ban on advertising prescription drug prices by licensed pharmacists a violation of "commercial speech" under the First Amendment?	<i>Virginia Pharmacy Bd. v. Virginia Consumer Council</i> , 425 U.S. 748 (1976) http://www.oyez.org/cases/1970-1979/1975/1975_74_895		
30.	When striking members of a union picketed in front of their employer's leased store located in a private shopping center, the shopping center's general manager threatened them with arrest for criminal trespass if they did not depart, and they left.	Were the picketers denied their First Amendment rights?	<i>Hudgens v. NLRB</i> , 424 U.S. 507 (1976) http://www.oyez.org/cases/1970-1979/1975/1975_74_773		
31.	A New Hampshire law required all noncommercial vehicles to bear license plates containing the state motto "Live Free or Die." George Maynard, a Jehovah's Witness, found the motto to be contrary to his religious and political beliefs and cut the words "or Die" off his plate. Maynard was convicted of violating the state law and was subsequently fined and given a jail sentence.	Did the New Hampshire law unconstitutionally interfere with the freedom of speech guaranteed by the First Amendment?	<i>Wooley v. Maynard</i> , 430 U.S. 705 (1977) http://www.oyez.org/cases/1970-1979/1976/1976_75_1453		