

**Section 7:
Judicial Review and
Landmark Cases**

**FLREA Lesson
Packet**



Created and Provided by:

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Table of Contents

Judicial Review!.....	3
Handout A – What is the importance of judicial review ?.....	5
Handout B – Constitution and Judiciary Act of 1789.....	6
The First 45 Words.....	7
Handout A – Facts of the Case: More v. Frederick	9
Handout B – Case Precedent and School Speech.....	10
Handout C – Structure of Courts	11
Landmark Cases!.....	12
Handout A – Case Grid.....	14
Handout B – Case One: Gideon v. Wainwright.....	15
Handout B – Case Two: Miranda v. Arizona.....	16
Handout B – Case Three: In re Gault.....	17
U.S. v. Nixon.....	18
D.C. v. Heller	20
Outcome v. Significance.....	21

Lesson Overview

Overview: This lesson will introduce students to landmark US Supreme Court cases and the outcome and significance of these cases. Students will learn about the history and role of the US Supreme Court and the power of the Court to invalidate acts of the legislative and executive branches.

Objectives: Students will be able to...

- Analyze the outcome and significance of US Supreme Court decisions;
- Identify the US Constitution as the supreme law of the land;
- Recognize the importance of judicial review.

Time Required:

- One 50 minute class period

Materials Needed:

- Two 50 minute class periods
- Handout A: Judicial Review
- Handout B: Article III of the US Constitution and the Judiciary Act of 1789
- PowerPoint Marbury v Madison and Judicial Review

JUDICIAL REVIEW!

Procedures

1. Using the PowerPoint presentation, ask students what might happen if their school made a rule stating that students would not be allowed to ask any questions at school. Would this be fair? What impact would this rule have on students? You could not ask to go to the bathroom or ask for help with your class work. What if there was no way to change the rule. Discuss. Suppose you and your family wanted to challenge the rule but the authorities would not listen to your complaint. Now ask students what happens if the legislature passes a law that is unfair or goes against the Constitution. Students may or may not know. When the US Constitution was written and ratified it did not contain a lot of detailed information about the courts. The Supreme Court of the United States is the highest court in the judicial branch and plays an important role in our system of checks and balances. The power of judicial review allows the Court to determine if acts of the legislative or executive branches are unconstitutional if challenged.
2. Yet the power of judicial review is not written expressly in the US Constitution. It was embedded in a landmark US Supreme Court decision in 1803, *Marbury v Madison*. If the judicial branch did not have the power to check the actions of the legislative and executive branches, what impact could this have on our country? Could laws that are unconstitutional be required by the majority if there was no power to review such actions?
3. Review with students the slides which tell the story of *Marbury v Madison*. Define judicial review. Students should take notes using Handout A. Highlight the term “jurisdiction” and tell students that this term refers to the power of the courts to hear certain types of cases. Determine which cases the US Supreme Court has original jurisdiction to hear according to the US Constitution. Now compare to the Judiciary Act. Are there any differences?
4. Have students work individually to answer the questions before the Court as shown in the slide presentation and then assemble in small groups of six to come to a decision of the Court. Ask students to try and come to a unanimous decision. Have students compare Article III of the US Constitution and the Judiciary Act of 1789 provisions in Handout B. Then finish completing Handout A as a small group. . Based on the slide presentation, have students work in groups to prepare a short performance/case reenactment of *Marbury v. Madison* as time permits.
5. Remind students that the US Supreme Court is the court of last resort in our country. It has the final say in interpreting the law and in making decisions about disputes.

Next Generation Sunshine State Standards:

SS.7.C.3.12 Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *In re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*.

Assessment

- **Worksheet** – Students will work in groups to complete Handout A.
- **Observation** - Observation of group work and the theatrical performance will be assessed based on the student's cooperation, participation, and discussion of ideas when working in a small group. All students should contribute to the group's efforts and proactively engage in conversation in a respectful manner.

Suggested Scoring Rubric

Assignment	Scoring	Total
Handout A and Student Performance	50 points for accurate completion of Handout A and 50 points for the student performance/case reenactment.	100 points

What is the importance of judicial review in our governmental structure?

<u>QUESTION</u>	<u>POWERPOINT</u>	<u>TEXT OR GROUP DISCUSSION/HANDOUTS</u>	<u>RESPONSE</u>
What is judicial review?			
How did the Supreme Court acquire the power of judicial review?			
What was the conflict in the Marbury v. Madison case?			
What is the significance of the Marbury v. Madison case?			

The Constitution of the United States – Article III

Section 1.

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;-to all Cases affecting Ambassadors, other public ministers and Consuls;- to all Cases of admiralty and maritime Jurisdiction;- to Controversies to which the United States shall be a Party;- to Controversies between two or more States;- between a State and Citizens of another State;-between Citizens of different States;-

between Citizens of the same State claiming Land under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects. In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make. The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in

the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

The Judiciary Act of 1789

September 24, 1789.

1 Stat. 73.

CHAP. XX. –

An Act to establish the Judicial Courts of the United States.

SECTION 1.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

That the supreme court of the United States shall consist of a chief justice and five associate justices, any four of whom shall be a quorum, and shall hold annually at the seat of government two sessions, the one commencing the first Monday of February, and the other the first Monday of August. That the associate justices shall have precedence according to the date of their commissions, or when the commissions of two or more of them bear date on the same day, according to their respective ages.

SEC. 13.

And be it further enacted, That the Supreme Court shall have exclusive jurisdiction of all controversies of a civil nature, where a state is a party, except between a state and its citizens; and except also between a state and citizens of other states, or aliens, in which latter case it shall have original but not exclusive jurisdiction. And shall have exclusively all such jurisdiction of suits or proceedings against ambassadors, or other public ministers, or their domestics, or domestic servants, as a court of law can have or exercise consistently with the law of nations; and original, but not exclusive jurisdiction of all suits brought by ambassadors, or other public ministers, or in which a consul, or vice consul, shall be a party. And the trial of issues in fact in the Supreme Court, in all actions at law against citizens of the United States, shall be by jury. The Supreme Court shall also have appellate jurisdiction from the circuit courts and courts of the several states, in the cases herein after specially provided for; and shall have power to issue writs of prohibition to the district courts, when proceeding as courts of admiralty and maritime jurisdiction, and writs of *mandamus*, in cases warranted by the principles and usages of law, to any courts appointed, or persons holding office, under the authority of the United States.

APPROVED , September 24, 1789

Lesson Overview

Overview: This lesson will introduce students to landmark US Supreme Court cases and the outcome and significance of these cases. Students will learn to apply landmark cases to contemporary scenarios to understand how precedent applies to judicial decision making.

Objectives: Students will be able to...

- Analyze the outcome and significance of US Supreme Court decisions;
- Evaluate the judicial decision making process;
- Apply the US Constitution to current and historical issues before the Court.

Time Required:

- One to two- 50 minute class periods

Materials Needed:

- Handout A Facts of the Case;
- Handout B Precedent;
- Handout C Trace the Case;
- PowerPoint : 45 Words

THE FIRST 45 WORDS



Procedures

1. Ask students what the first 45 words in the Bill of Rights are known as. (The correct answer is the First Amendment.) Let students know that freedom is a defining trait of our country but our rights are not absolute. There are limits on our rights. In this lesson, students will learn more about the first 45 words in the Bill of Rights and how they apply today. Students will examine landmark First Amendment cases and how they may apply to more current dilemmas. (Let students know that a landmark case is a legal decision of great importance or a case that establishes a new or important precedent.)
2. Using the PowerPoint entitled *The First Amendment and Free Speech*, review up until slide 26 which reads *Today's Case*. After reviewing the First Amendment and the various First Amendment landmark cases provided, distribute copies of Handout A, the Facts of the Case for *Morse v Frederick*. Have students read silently and circle important facts. Let students know that judges make decisions based on the facts and the law, not how they feel about a case. Walk around the class and call upon students to give you a fact that they learned. Be sure not to allow for student opinions based on what they read, just focus on the facts of the case. Make sure all facts are highlighted including school policies.
3. Frederick was suspended for ten days. After losing his appeal to the school board, he filed suit in federal court against Principal Morse and the school district. He filed the suit under 42 U.S.C. 1983, the federal civil rights statute, alleging violation of his First Amendment rights. Frederick lost in the federal trial court. The US Court of Appeals for the Ninth Circuit reversed the trial court decision, finding that the school had violated the student's First Amendment rights. Principal Morse and the school district appealed to the U.S. Supreme Court.

Next Generation Sunshine State Standards:

SS.7.C.3.12 Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *In re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*.

Procedures, *continued*

4. Using Handout C, have students trace the case through the courts. Highlight the case was in the federal courts and emphasize the name of the courts and how students can tell. (US District Court would be a federal trial court.)
5. Now assign students in groups of five to develop arguments on behalf of the student and on behalf of the school to answer the following question in relation to this case:

Did the school principal violate the First Amendment by prohibiting the banner promoting illegal drug use during a school supervised event?

Allow students to volunteer to present arguments to the Court on behalf of the student and the school. Ensure you have balanced time and arguments for each side. Ask students which case precedent they relied upon in their arguments.

Then provide each student with Handout B. As judges they must now individually answer the question before the Court and give three reasons. Remind students that as judges they can only make decisions based on the facts and the law. So they should look at the First Amendment, the cases provided as precedent, and the facts of the case. After each student has written down their answer without discussing with anyone else, reassemble students in new groups of five. In each group they should select a Chief Justice who will facilitate the group discussion. The rule will be “Everyone speaks once in the group before anyone speaks twice.” That is a US Supreme Court rule in the court conference component.

The Chief Justice should poll each judge in the group to keep track of the votes and their reasoning. Then each group should try to come to a unanimous decision by discussing their reasoning. Allow for approximately ten to fifteen minutes of discussion. Then the Chief Justice should poll the justices in their group again and write down the vote of the court and their reasoning even if they do not all agree.

Bring each Chief Justice to the front of the room to announce the decision of their Court. Write down the votes/decisions in the front of the room and keep a tally from each Court. Allow for majority and dissenting opinions to be expressed.

At the conclusion of the exercise, go to the Oyez web site and play the opinion of the Court under expanded view so that students can learn the decision of the Court and their reasoning.

http://www.oyez.org/cases/2000-2009/2006/2006_06_278

Debrief with students and discuss how Court decisions can impact their lives.

Handout A: Facts of the Case

On January 24, 2002, the Olympic Torch Relay passed through Juneau, Alaska, on its way to the winter games in Salt Lake City, Utah. The torchbearers were to proceed along a street in front of Juneau-Douglas High School (JDHS) while school was in session. Deborah Morse, the school principal, decided to allow staff and students to observe the Torch Relay as an approved supervised activity. Students were allowed to leave class to observe the relay from either side of the street. Teachers and administrative officials monitored the students during the event. Joseph Frederick, a JDHS senior, was late to school that day. When he arrived, he joined his friends (all but one of whom were JDHS students) across the street from the school to watch the event. Not all the students waited patiently. Some became rambunctious, throwing plastic cola bottles and snowballs and scuffling with their classmates. As the torchbearers and camera crews passed by, Frederick and his friends unfurled a 14 foot banner bearing the phrase: “BONG HiTS 4 JESUS.”

The large banner was easily readable by the students on the other side of the street. Principal Morse immediately crossed the street and demanded that the banner be taken down. Everyone but Frederick complied. Morse took away the banner and told Frederick to report to her office, where she suspended him for 10 days.

Morse later explained that she told Frederick to take the banner down because she thought it encouraged illegal drug use, in violation of established school policy. Juneau School Board Policy No. 5520 states: “The Board specifically prohibits any assembly or public expression that . . . advocates the use of substances that are illegal to minors” In addition, Juneau School Board Policy No. 5850 subjects “[p]upils who participate in approved social events and class trips” to the same student conduct rules that apply during the regular school program. Frederick appealed his suspension to the school district, but the Superintendent upheld the suspension, limiting it to time served (8 days). In a memorandum setting forth his reasons, the superintendent determined that Frederick had displayed his banner “in the midst of his fellow students, during school hours, at a school-sanctioned activity.” He further explained that the principal thought the speech appeared to advocate the use of illegal drugs.”

Frederick was suspended for ten days. After losing his appeal to the school board, he filed suit in federal court against Morse and the school district, arguing that his First Amendment rights had been violated. Frederick lost in the US District trial court. The US Court of Appeals for the Ninth Circuit reversed the trial court, finding that the school had violated the student’s First Amendment rights. Principal Morse and the school district appealed to the US Supreme Court.

Handout B: Case Precedent and School Speech

Tinker v. Des Moines Independent Community School District (1969)

Students John and Mary Beth Tinker and their family opposed the war in Vietnam. To show their opposition, the students and another friend planned to wear black armbands to school. Having found out about the Tinkers' plan, the Des Moines principals adopted a new policy prohibiting armbands. Despite the policy, the Tinkers wore the armbands to school as a means to silently protest the war. They refused to remove the armbands and were suspended from school.

The Supreme Court ruled in favor of the students. It made clear that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." To restrict speech, a school must demonstrate that the speech would "materially and substantially interfere" with the work of the school or interfere with the rights of other students. School officials in Des Moines, the Court explained, could not "reasonably forecast" that the Tinkers' speech would cause a substantial disruption or invade the rights of others. This was a form of political expression.

Bethel School District No. 403 v. Fraser (1986)

During a school assembly at Bethel High School in Washington, Matthew Fraser gave a speech to nominate a classmate for student government. The short speech was filled with sexual references and innuendoes. There was mixed reaction from the audience. Some students greeted the speech with hoots, cheers, and laughter while others were embarrassed and thought it was vulgar. The friend who Fraser nominated won the student elections. Fraser was suspended for three days and his name was removed from the list of graduation speakers.

Ruling 7-2 in favor of the school district, the US Supreme Court emphasized that students do not have the same First Amendment rights as adults. It explained that school officials may prohibit the use of lewd, indecent, or plainly offensive language, even if it is not obscene. Schools have an interest in preventing speech that is inconsistent with the school's "basic educational mission" and in "teaching students the boundaries of socially inappropriate behavior." In addition, the First Amendment should not prevent school officials from maintaining order during a school-sponsored educational program. Chief Justice Burger wrote for the majority. He pointed out that there was a huge difference between the protest in *Tinker*, which dealt with a major issue of public policy, and the lewdness of Fraser's speech. "The purpose of public education in America is to teach fundamental values," he wrote.

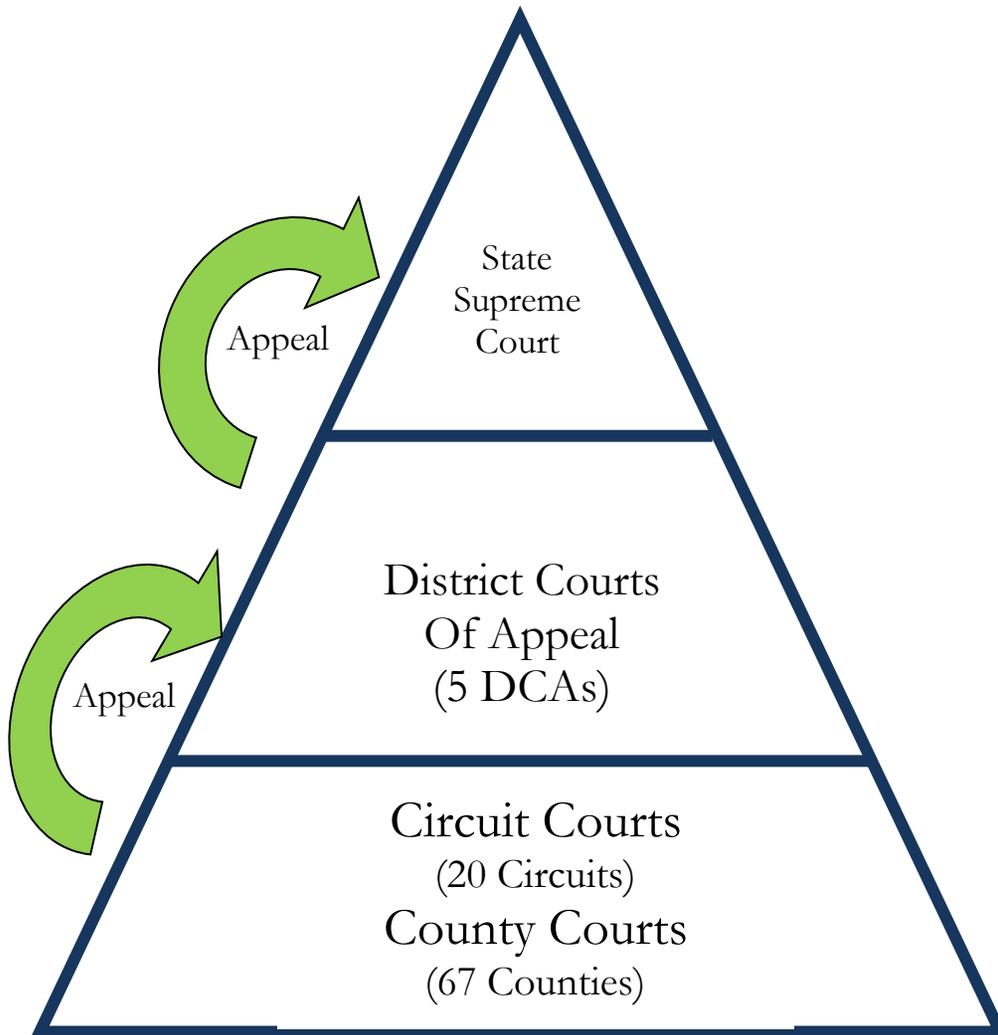
Hazelwood School District v. Kuhlmeier (1988)

Hazelwood East High School's school newspaper was written and edited by students in a journalism class. In May 1983, the students created a final edition of the newspaper, which was submitted to the principal for approval. The principal objected to two of the paper's articles: (1) an article about teen pregnancy discussed sex and birth control and also hinted at the identities of pregnant students; (2) an article about divorce included a student's complaints about her father without giving him a chance to defend himself. It was too late to revise the articles so the principal decided to delete the pages.

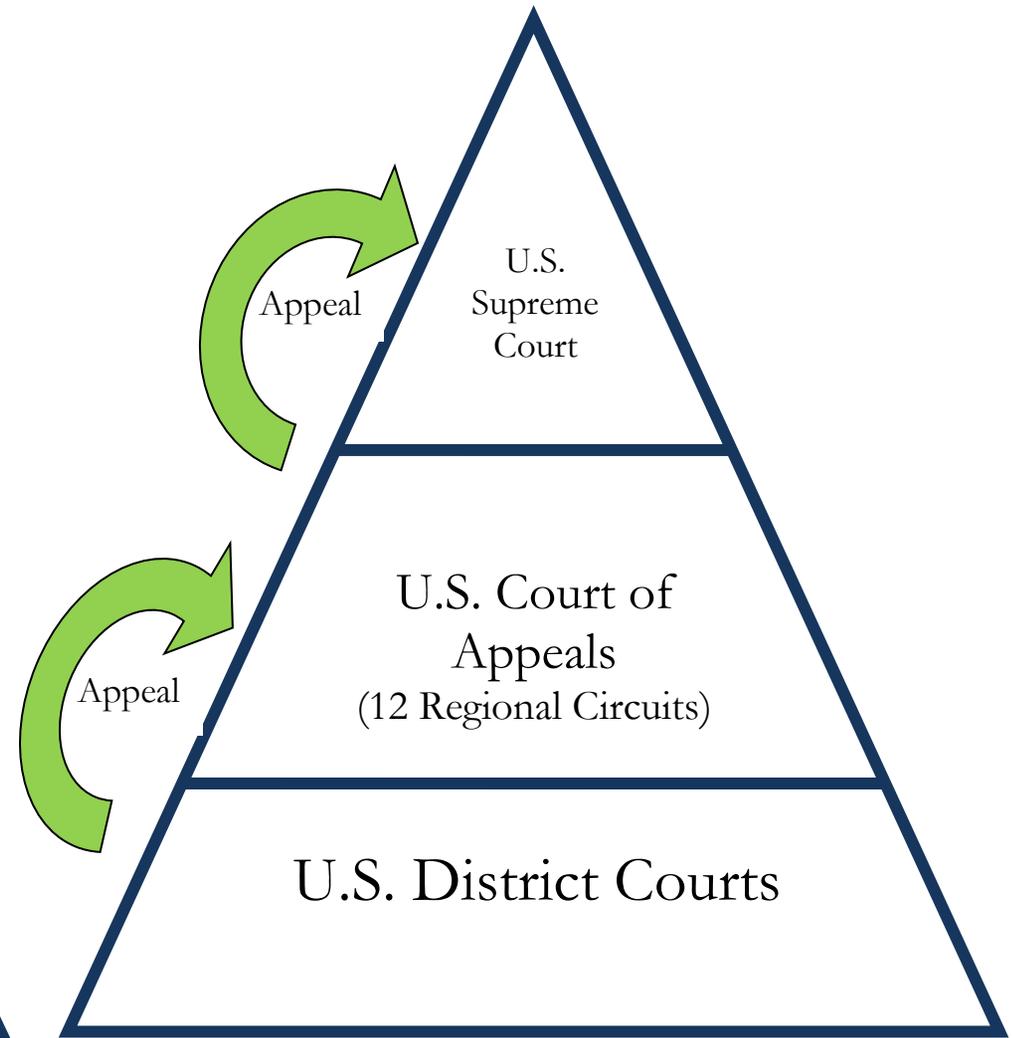
The Supreme Court ruled in favor of the school district. It said a school principal could censor a student newspaper that is produced as part of journalism class. A school has a right to censor speech in activities – like student newspapers or theatrical productions – that others may believe the school is endorsing. In these school-sponsored activities, school officials can limit speech so long as their actions are "reasonably related to legitimate pedagogical concerns."

Adapted from Street Law

Structure of Florida State Courts*



Structure of Federal Courts



*Titles of courts in other state courts may vary by state. However, there are sufficient similarities to provide an example of what a typical state court system looks like. The bottom tier is composed of trial courts.

Lesson Overview

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Objectives: Students will be able to...

- Analyze the outcome and significance of US Supreme Court decisions;
- Evaluate the judicial decision making process;
- Apply the US Constitution to current and historical issues before the Court.

Time Required:

- Two- 50 minute class periods

Materials Needed:

- Handout A Case Jigsaw;
- Handout B Factual Scenarios;
- Access to Internet and computer stations.

LANDMARK CASES!

Procedures

1. Ask students what a landmark case is. Answers may include cases or court decisions which establish important legal precedent. Define precedent as an important judicial decision or one that serves as a standard for deciding similar cases in the future. Divide the room into three stations for each of the three cases listed in Handout A. If possible have one computer per station for each group. Provide students with copies of Handout A to utilize at each station. Factual case materials should be assembled at each station with supplemental materials as identified.
2. Each group should work together to review their case materials and complete Handout A for their case only. If computer access is available for each group, allow groups to visit the web site, www.oyez.org, and search for their assigned case at each respective station. Once they have located their case, allow students in their small groups to listen to the oral arguments in the US Supreme Court (under audio and expanded player). Each student should complete their handout and discuss their case as a group.
3. After each group has finished, assign each student in each group a number from 1-3 until everyone in the group has a number. Then jigsaw the students so that you have new groups (1-3) with several students from each previous group assembled in a new group. There will be three new groups with more than one student from each of the previous groups.
4. Within the newly assembled groups, ask students to teach each other about their original group's case. While the students from each case are presenting, the remaining students in each small group should be writing down appropriate information on Handout A. After all students have presented within each small group, the students should have completed the handout with information on each case.
5. Next as a full class, review the cases to ensure students have accurate information on their charts.

Next Generation Sunshine State Standards:

SS.7.C.3.12 Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *In re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*.

Procedures, *continued*

6. Let students know that these cases serve as precedent for future cases. Using www.oyez.org, see what other more current cases have cited these landmark decisions as precedent for their decisions.
7. This model can be replicated for all other landmark cases. However this unit will incorporate a variety of methodologies to teach the multiple cases cited in the benchmarks.

Assessment

- **Worksheet** – Students will work in groups to complete Handout A. Extra credit should be awarded for Glogster posters.
- **Observation** - Observation of group work will be assessed based on the student's cooperation, participation, and respectfulness of ideas when working in a small group. All students should contribute to the group's efforts and proactively engage in conversation in a respectful manner.

Suggested Scoring Rubric

Assignment	Scoring	Total
Handout A	10 points for each case accurately completed on Handout A	10 points

Name: _____ Date: _____

Handout A – Case Jigsaw

Instructions: Read your assigned case on Landmark Cases Handout B. Provide a summary of the facts in the “Facts” box. Next, decide which Amendment in the U.S. Constitution the case is based upon and write the number and key words of the Amendment in the Constitutional Connection box. You will then determine the question presented before the court, the significance of the case, and the final outcome as decided by the US Supreme Court.

Case	Facts	Constitutional Connection	Question before the Court	Outcome
Gideon v. Wainwright				
			Significance	
Miranda v. Arizona				
			Significance	
In re Gault				
			Significance	

US Supreme Court Landmark Cases

Instructions: After your teacher has placed you in your groups, use the following case summary and research links to complete Handout A. Be certain to include information from the websites provided to you. Only complete the section on Handout A that applies to your case.

Case One: Gideon v. Wainwright

•Gideon v. Wainwright – http://www.pbs.org/wnet/supremecourt/rights/landmark_gideon.html

After being arrested in Panama City, Florida in 1961 and accused of breaking and entering a pool hall and stealing money from vending machines, Mr. Gideon was charged with a felony. In trial court, Mr. Gideon appeared without funds and without an attorney and asked the judge to appoint a lawyer to represent him as he could not afford one. The judge said he could not appoint an attorney because Florida law only allowed for the appointment of free legal counsel to persons charged with crimes that could lead to the death penalty. So Mr. Gideon represented himself in the trial court and was found guilty. He was sentenced to five years in a Florida state prison.

Mr. Gideon studied law in the prison library and then filed a *writ of habeas corpus* (a legal petition requesting release from unjust imprisonment and to be brought before a judge) to the Florida Supreme Court. He claimed that his conviction was unconstitutional under the US Constitution (Sixth Amendment) because he did not have assistance of legal counsel in his defense. The Florida Supreme Court denied all relief.

Ultimately Mr. Gideon did not give up. He wrote a handwritten note to the US Supreme Court and they agreed to hear his case to determine if poor defendants should be provided with an attorney if they could not afford one in state criminal trials.

Listen to podcast:

<http://www.uscourts.gov/multimedia/podcasts/Landmarks/GideonvWainwright.aspx>

Question: Did the state court's failure to appoint counsel for Gideon violate his right to a fair trial and due process of law as protected by the Sixth and Fourteenth Amendments?

Decision of US Supreme Court: In a unanimous decision, the United States Supreme Court ruled that the right of an indigent (poor) defendant in a criminal trial to have the assistance of counsel (an attorney) is a fundamental right essential to a fair trial, and petitioner's trial and conviction without the assistance of counsel violated the Fourteenth Amendment. *Betts v. Brady*, 316 U.S. 455, overruled.

Follow Up: Mr. Gideon's case was sent back to the state courts to be tried this time with assistance of legal counsel. He was acquitted of the charges.

Note: As time permits, students may listen to the oral arguments from the actual case as it was argued in the United States Supreme Court. Use the following link:

http://www.oyez.org/cases/1960-1969/1962/1962_155

Students may also read or view the video *Gideon's Trumpet* as a good literature connection to this case.

US Supreme Court Landmark Cases

Instructions: After your teacher has placed you in your groups, use the following case summary and research links to complete Handout A. Be certain to include information from the websites provided to you. Only complete the section on Handout A that applies to your case.

Case Two: Miranda v. Arizona

Miranda v. Arizona - http://www.pbs.org/wnet/supremecourt/rights/landmark_miranda.html

Prior to this case, many people did not know what their rights were while in police custody. In this case, Ernesto Miranda, a Mexican immigrant living in Phoenix, Arizona, was identified in a police lineup by a woman, who accused him of kidnapping and raping her. Miranda was arrested and questioned by the police for two hours. He eventually confessed to the crimes. Miranda had not completed ninth grade and had a history of mental instability. During the interrogation, police did not tell Miranda that he had the right to an attorney. They also did not tell him of his right of protection against self-incrimination. He was not informed of his Fifth Amendment or Sixth Amendment rights during the police interrogation.

In a state trial court in Arizona, the prosecutor used the confession as evidence against Miranda. He was convicted and sentenced to 20 to 30 years in prison.

Miranda's attorney appealed to the Arizona Supreme Court, stating that the police had unconstitutionally obtained the confession. The Arizona Supreme Court upheld the conviction. Then he appealed to the United States Supreme Court, which agreed to hear the case in 1966 along with four similar cases.

Constitutional Question: Does the police practice of interrogating suspects in police custody without notifying them of their right to remain silent or their right to an attorney, violate their constitutional rights?

Listen to podcast:

<http://www.uscourts.gov/multimedia/podcasts/Landmarks/MirandavArizona.aspx>

Decision of the Court:

http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZS.html

Decision: In 1966, the United States Supreme Court ruled 5-4 that prosecutors could not use statements stemming from interrogation of defendants in police custody unless they demonstrated the use of procedural safeguards "effective to secure the privilege against self- incrimination." The Court specifically outlined the necessary aspects of police warnings to suspects, including warnings of the right to remain silent and the right to have counsel present during interrogations favor of Miranda. This decision gave rise to what has become known as the Miranda Warning. While jurisdictions have their own regulations as to the precise warning given to a person interrogated in police custody, the typical warning states:

You have the right to remain silent. Anything you say or do can and will be held against you in a court of law. You have the right to speak to an attorney. If you cannot afford an attorney, one will be appointed for you. Do you understand these rights as they have been read to you?

Case Follow Up:

Mr. Miranda was retried without the evidence obtained from the confession. He was found guilty by a jury.

Oral arguments from the case in the United States Supreme Court may be heard at the Oyez web site:

http://www.oyez.org/cases/1960-1969/1965/1965_759

US Supreme Court Landmark Cases

Instructions: After your teacher has placed you in your groups, use the following case summary and research links to complete Handout A. Be certain to include information from the websites provided to you. Only complete the section on Handout A that applies to your case.

Case Three: In re Gault

Gerald Francis Gault, fourteen years old, was taken into custody for allegedly making an obscene phone call. He was arrested and taken to a Children's Detention Home in Arizona. He was not informed of the charges against him. His mother was not at home when he was arrested. She had to search to find her son in custody. Gault had been on probation for six months prior to this arrest for being in the company of a friend who had stolen a wallet from a woman's purse.

The following day, a petition was filed in juvenile court. After proceedings before a juvenile court judge, Gault was sentenced to the State Industrial School until he reached the age of 21. During the hearing, no witnesses were sworn, no attorney was present for Gault, and the officer stated that the youth admitted to making the obscene remarks after he was questioned. Gault's parents had not been present during the questioning of their son. He had not been informed of his rights during the process.

At the time, adults if charged in similar circumstances would have likely received a sentence of 60 days. Gault was sentenced to the State Industrial School until the age of majority which was 21.

Listen to an interview with Gerry Gault now age 60:

<http://www.npr.org/templates/story/story.php?storyId=10279166>

Constitutional Question: In this case, the Court considered whether the Due Process Clause of the 14th Amendment applies to juvenile delinquency proceedings. Were the procedures used to commit Gault in violation of the US Constitution?

Decision:

In the 8-1 decision of the US Supreme Court, the Justices ruled that legal procedures for juveniles had to comply with the requirements of the Fourteenth Amendment. These included adequate notice of charges, notification of the parent and the juvenile, right to legal counsel, opportunity to confront and cross-examine witnesses, and the right not to incriminate yourself. The Court found that the procedures used in the Gault case did not meet these requirements.

Students should listen to oral arguments of the In re Gault US Supreme Court case at the Oyez web site:

http://www.oyez.org/cases/1960-1969/1966/1966_116

In re Gault, 387 U.S. 1 (1967): The *Gault* case established that juveniles are persons under the Fourteenth Amendment and as such are entitled to its procedural protections. The case examined the constitutional rights of juveniles under the Fifth, Sixth, and Fourteenth Amendments.

Quote from US Supreme Court Justice Abe Fortas: "Neither the Fourteenth Amendment nor the Bill of Rights is for adults alone".

Lesson Overview

Overview: This lesson will introduce students to landmark US Supreme Court cases and the outcome and significance of these cases. Students will learn to apply landmark cases to contemporary scenarios to understand how precedent applies to judicial decision making.

Objectives: Students will be able to...

- Analyze the outcome and significance of US Supreme Court decisions;
- Evaluate the judicial decision making process;
- Apply the US Constitution to current and historical issues before the Court.

Time Required:

- One 50 minute class period

Materials Needed:

- PowerPoint: United States v Nixon

U.S. V. NIXON

Procedures

1. Review with students the first three slides of the PowerPoint *United States v Nixon*. Ask the human continuum questions in the slide presentation and have students write down their answers individually along with their reasoning. Then have students line up on either side of the room based upon whether they answered Yes or No. In providing directions, let students know that they will listen to each other's positions and select one argument on the opposing side that they feel is most persuasive. They do not have to necessarily agree with the opposing view but they do have to select a position on the opposing side that is the best, most persuasive argument. Let the yes side go first. All students who said yes should individually state one reason they said yes. Then the other side has to listen carefully and write down the one argument on the opposing side that is most persuasive. Let all students on the yes side speak. Then each student on the opposing side has to tell which person gave the most persuasive argument. They cannot say anything other than the name of the student that gave the most persuasive argument and what the argument was briefly. They cannot say they disagreed or that all arguments were bad. They have to select one most persuasive argument with no "buts" added. Then repeat with the No side providing their arguments and the yes side stating which arguments they found most persuasive.
2. Go through the PowerPoint presentation with the students. Show the clip from *Newseum*. (Teachers will have to sign up for a free account to access the educational videos.) The video is embedded in the PowerPoint.
3. Review the facts of the case, the case precedent, and the question before the Court. Allow students to discuss the question and answer it as judges. Remember that judges have to make decisions based on the law (US Constitution is the supreme law of the land.) Now assign students in groups of five to develop arguments on behalf of the government and on behalf of President Nixon. Should President Nixon be required to turn over the tapes? Why or why not? Allow some students to actually present their arguments in class.

Next Generation Sunshine State Standards:

SS.7.C.3.12 Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *In re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*.

Procedures, *continued*

Review the United States Supreme Court decision on www.oyez.org. See link in PowerPoint. Allow students to listen to the audio delivery of the decision. http://www.oyez.org/cases/1970-1979/1974/1974_73_1766

Ask students to write a paragraph as a United States Supreme Court Justice highlighting the decision and its importance. Include the important facts, question before the Court, and the significance and outcome of the case.

Lesson Overview

Overview: The goal of this activity is to explore the courts and the Constitution through a case study. In this lesson, students will apply the Constitution and case precedent to a set of facts to experience judicial decision-making and the function of the courts.

Objectives: Students will be able to...

- Illustrate the hierarchy of the federal courts;
- Analyze the Second Amendment;
- Interpret constitutional provisions;
- Experience the judicial decision-making process.

Time Required:

- Two- 50 minute class periods

Materials Needed:

- Copy of Second Amendment
- PowerPoint
- Case materials (as provided within PDF)



DC V. HELLER

Procedures

1. Using the PowerPoint provided, review with students the Second Amendment and the federal courts. Discuss judicial decision-making and how judges make decisions based on the law and the facts of the case. They cannot base their decisions on how they feel about an issue.
2. Distinguish between the role of the trial courts and the appellate courts. Review the hierarchy and role of the courts at each level. Ask students what the highest court in the country is (U S Supreme Court).
3. Using the PowerPoint, review the DC v Heller case and preparatory materials. Do not provide the students with the decision of the case. Utilize the case study format to explore the facts and applicable law. Introduce the issue before the court and applicable case precedent. In small groups, divide half of the room into groups to develop arguments for the District of Columbia and half for Mr. Heller. Select several students to help present oral arguments to a panel of student justices (Nine justices serve on the US Supreme Court.). Allow each side ten minutes to provide oral arguments. Have the nine justices individually decide the question before the Court and then ask the full Court to meet and try to come to a unanimous decision. Depending on the size of the class, you can have multiple groups of justices decide the case.
4. 6. Debrief the activity and review with students the decision of the United States Supreme Court. See link below. Have students listen to audio of the oral arguments and decision.
5. http://www.oyez.org/cases/2000-2009/2007/2007_07_290/

Next Generation Sunshine State Standards:

- Evaluate the rights contained in the Bill of Rights and other amendments to the Constitution. (SS.7.C.2.4)
- Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *In re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*. (SS.7.C.3.12)

Lesson Overview

Overview: This lesson will introduce students to landmark US Supreme Court cases and the outcome and significance of these cases. Students will learn to research landmark cases, identify the constitutional question before the Court, and to classify arguments for each side of the case. Students will highlight the decision of each case and develop materials to help them remember the important characteristics of each case.

Objectives: Students will be able to...

- Analyze the outcome and significance of US Supreme Court decisions;
- Identify the constitutional question before the Court;

Time Required:

- Two- three 50 minute class periods

Materials Needed:

- Resource materials for case studies;
- Computers for group work and access to the Internet;
- Use of www.oyez.org web site;
- Paper to create visual graphic organizers for each case.

OUTCOME AND SIGNIFICANCE

Procedures

1. Teachers should review the www.oyez.org web site and print copies of select cases to use in learning stations throughout the room. Try to cover at least five cases per day. You will need to set up five stations based on the specific cases you decide to cover in the benchmarks. To help students remember the cases listed in the benchmark listed above, students will need to find creative ways to develop concrete materials to identify the outcome and significance of each case.
2. This exercise should be used as a review of all cases following the introduction of individual cases as cited in preceding activities.
3. Divide students into groups of five. Each group should be assigned to research and develop materials for one of the five selected cases cited in the benchmarks. Each student within each group will be responsible for developing a graphic organizer for the case. Make sure each group covers is assigned a different case.
4. Using a graphic organizer-type strategy, each student will create a tri-fold booklet. See guide for foldable on Foldable Instructions on the next page.
5. On the outside of the booklet (cover), the student should write the name and citation of the landmark case.
6. On the inside front cover, the student should write a factual summary of the case.
7. On the center panel, the student should frame the question before the Court.
8. On the inside back panel, the student should write the outcome and decision of the Court.
9. On the back cover panel, the student should identify the significance of the case.
10. Students will need time to review their notes, and/or research each case. One day is needed for research and the second for the development of the graphic organizer.

Next Generation Sunshine State Standards:

Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *In re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*. (SS.7.C.3.12)

Procedures, *continued*

11. In their original groups, students will review their graphic organizer to ensure they have accurate information. All students in each group should have a trifold booklet representing their case.
12. Then jigsaw the students so that each new group has one person with each case in the group. The students will teach each other about their case. Students should take notes indicating the name of the case, the outcome and significance of each case. As time permits, each student can create graphic organizers for each case to keep throughout the year. Teachers will review for accuracy and students may keep the materials as study guides throughout the year.
13. Repeat for the next five cases in the benchmarks.

Review the United States Supreme Court decisions on www.oyez.org.

Foldable Instructions *Visuals provided below*

Students will be creating an outcome and significance foldable for all Supreme Court cases listed in the benchmark.

1. Students will need three different colors of paper.
2. Stack the paper. Stagger the paper with $\frac{1}{2}$ inch of each color showing at the top.
3. Holding all of the aligned papers, fold the top sheet so $\frac{1}{2}$ inch remains.
4. Label the top flap “Landmark cases” and the tabs beneath with the names of landmark cases.
5. Inside, divide the flap in half, labeling each half as “Outcome” and “Significance”.

Step 1



Step 2



Step 3



Step 4



Step 5

