

**Case 5: Dred Scott v. Sandford (1857)****Rights of African Americans**

**THE ISSUES** Does the Constitution give an African American the right to sue in federal court? Does the Constitution allow Congress to make a law that takes slaves away from people who bring them into a free territory?

**WHAT'S AT STAKE**

The case was important for all Americans. In 1857, the country was bitterly divided over slavery. Many historians think the Court tried to resolve the slavery question by deciding this case.

**FACTS AND BACKGROUND**

In 1833, John Emerson purchased a slave named Dred Scott. Emerson later took Scott to the Wisconsin Territory. Slavery was illegal in Wisconsin Territory under the Missouri Compromise (1820). Scott believed that because he had lived for years on free soil, he should be free.

In 1848, the United States won the war against Mexico. The boundaries of the nation now stretched clear to California. Clearly, the issue of slavery in new territories had to be settled. In 1852, after six years in the courts, the Supreme Court of Missouri ruled against Scott. By 1856, Scott's case finally went to the Supreme Court. Because the issues it raised were so important, the Court asked the parties to argue the case twice. In *Brown v. Board of Education* (1954), another key case about race in America, the Court also requested two arguments.

**THE DECISION**

The Court ruled that African Americans could not sue in federal court. It also ruled that Congress did not have the power to make a law taking slaves away from people who bring them into a free territory.

**Race and citizenship** Chief Justice Roger Taney wrote the decision for the majority of seven justices. Two other justices *dissented* [disagreed]. Taney's opinion reflected the prejudices of the day. He said that African Americans had "none of the rights and privileges" of citizens. This statement applied not only to slaves, but also to free blacks.

The chief justice ignored an important fact. In many states, blacks were considered state citizens. Under the Constitution, the federal courts have jurisdiction over a number of kinds of suits involving state citizens. Dred Scott's suit involved actions between citizens of different

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states. The chief justice might have reasoned that free blacks in states that considered them state citizens could bring certain kinds of suits in federal courts.

**Slavery** The Fifth Amendment says that nobody may be “deprived of life, liberty, or property, without due process of law.” The chief justice reasoned that because slaves are “property,” slaves cannot be taken away without “due process of law.” That is, slaves cannot be “taken away” without a fair trial before an impartial court. According to the chief justice, a law taking away slaves that have entered a free territory cheats slave owners of their due process rights. Thus the Missouri Compromise was unconstitutional.

**HOW DO BAD DECISIONS GET OVERRULED?**

Historians generally consider *Dred Scott* to be the worst Supreme Court decision of all time. Fortunately, this case is no longer good law. It has been overruled. The Supreme Court has the power to overrule itself. A constitutional amendment can also overrule a decision.

*Dred Scott v. Sandford* was so controversial that it hastened the coming of the Civil War. With the South defeated, Congress passed the 14th Amendment (1868), which guaranteed African Americans citizenship and overruled the *Dred Scott* decision.

**QUESTION**

1. How did Article III of the Constitution contradict Chief Justice Taney’s conclusion that African Americans, whether slave or free, could not bring suits in federal courts?

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2. How might Taney’s opinion have been different if the Supreme Court had ruled that African Americans were entitled to the rights and privileges of citizens?

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**FIND OUT**

What kinds of suits involving state citizens can federal courts hear?