

# The "Supreme" in Supreme Court

Name: \_\_\_\_\_



**PART ONE: Ben's Case.** Use your experience playing the game *Supreme Decision* to help you match the question and the correct answer.



1. Why did the justices argue about whether Ben's t-shirt was speech?



2. Why did the justices argue about whether political speech gets more protection than cultural speech?



3. Why did the justices argue about what happened in the *Tinker* case?



4. Why did the justices care whether the t-shirts were disruptive?

- A. The right to freedom of speech has limits, and people might have more freedom with some kinds of speech than with others.
- B. The First Amendment says people have "freedom of speech," so if something isn't speech, there is no right.
- C. *Tinker* was a precedent case about freedom of speech in schools. If Ben's case was just like the *Tinker* case, the Court would have to decide the same way as *Tinker*. If Ben's case was different, the Court could decide differently.
- D. The *Tinker* case gave one factor for deciding when students have freedom of speech in schools: whether the speech is disruptive to school activities. This factor is part of the law because the Supreme Court had already decided *Tinker*, so the justices had to look at that factor in Ben's case.



**PART TWO: Savana's Case.** Read how the Court decided a different case involving a student, then follow your teacher's color-coding instructions.

## What Happened

Savana Redding's school principal heard Savana had been giving pills to other students. He talked to Savana, then ordered the school nurse and a female school employee to search Savana. They told Savana to take off her outer clothing and shake out her underwear. They didn't find any pills.

## How the Supreme Court Decided

The Fourth Amendment protects people from "unreasonable searches." Nobody argued that what happened to Savana was not a search. But the Constitution puts a limit on the right to not be searched: it only protects people from unreasonable searches.

How does the Court know when a search is unreasonable? It looks for a similar case that was already decided, called a precedent case. A **precedent case** usually gives factors that must be considered in future cases.

To decide Savana's case, the Court looked at a case called *New Jersey v. T.L.O.*, where a school was allowed to search a high school student's purse after she was caught smoking. In the *T.L.O.* case, the Supreme Court had said that whether a search in school is unreasonable depends on two factors:

- 1) whether the school had a good reason to believe the search needed to be done
- 2) whether the search went too far.

Using these factors, the Court decided that the school did have a good reason to believe they should search Savana, but that a strip search went too far.

## Comparing Constitutional Rights

Ben's Case

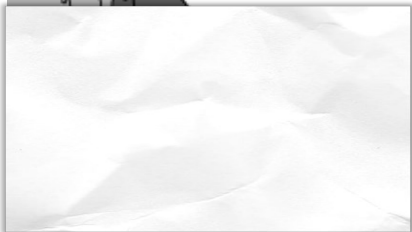
Savana's Case



What right does the Amendment give?



This right doesn't apply if what's happening is not ...



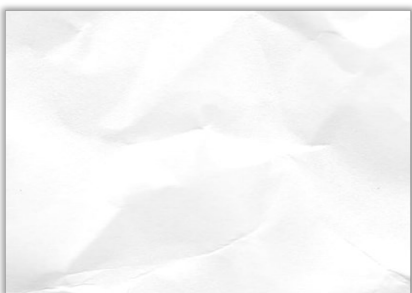
How is this right limited?



Which case was used as precedent?



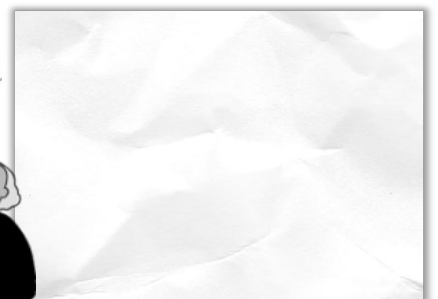
How many factors were used from the precedent case?



List the factor(s).



What happened in the precedent case?



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## Why "Supreme"?

When the Supreme Court decides a case like Savana's, it doesn't just make a decision for the people involved in that one case. Savana's case is now a precedent case for future situations where a kid gets searched at school! All courts in the country must now follow not only T.L.O., but also Savana's case in similar situations. Why? Because the Supreme Court has a very special function that nobody else in the country has: The Supreme Court has the last word on what is constitutional. If someone tries to make a rule that is unconstitutional, the Supreme Court can strike that rule down. This power is called **judicial review**.

Why is that a big deal? Because lots of cases the Supreme Court decides have a big impact on peoples' everyday lives!

**A. Even My Life?** Yes! Complete the following exercise to see how. Read the description of each case and use what you know about the court system complete the sentences.

CASE	IT AFFECTS YOU!
<p><b>Marbury v. Madison</b> (1803).</p> <p>Said the Supreme Court and other courts have the power to decide whether something is unconstitutional. Courts can strike down government actions that violate the Constitution.</p>	<p><i>This case protects my constitutional rights by:</i></p>
<p><b>Plessy v. Ferguson</b> (1896).</p> <p>Said it <i>was constitutional</i> for places like schools, buses and restaurants to keep people of different races apart, as long as the services offered were "equal." For example, it was okay to make black and white people ride on separate train cars.</p>	<p><i>If this case was still the law (it's not), then the government could require me to:</i></p>
<p><b>Meyer v. Nebraska</b> (1923).</p> <p>Said it's unconstitutional for a state to ban the teaching of foreign languages.</p>	<p><i>If it weren't for this case, I might not have the choice to:</i></p>
<p><b>Brown v. Board of Education</b> (1954).</p> <p>Overruled Plessy by saying it's unconstitutional for the government to require students of different races to go to different schools. The Court said separate schools for students of different races are not equal.</p>	<p><i>If it weren't for this case, I might get a different quality of education than:</i></p>

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CASE	IT AFFECTS YOU!
<p><b>Gideon v. Wainwright</b> (1963). Said that people accused of a crime must be given a lawyer even if they cannot afford one. It's unconstitutional to deny them a lawyer just because they're poor.</p>	<p><i>If it weren't for this case and I got accused of a crime, I might have a problem because:</i></p>
<p><b>Tinker v. Des Moines School Dist.</b> (1969) Said it's unconstitutional to deny students the right to free speech at school, unless the students' speech disrupts school activities.</p>	<p><i>If it weren't for this case, things might be different at school because:</i></p>
<p><b>New Jersey v. T.L.O</b> (1985). Said it's unconstitutional for principals and teachers to search students and their belongings, unless there is a good reason (like safety and discipline) and the search doesn't go too far.</p>	<p><i>If it weren't for this case, and a teacher decided to go through everyone's backpack without a reason, then:</i></p>

I don't get it! Why does the Supreme Court get to decide what's constitutional? People can read the Constitution themselves, can't they? Why would they need a court to decide?"

**B. Can you explain it?** Max is confused about the Supreme Court. Straighten him out using what you have learned from playing the game "Supreme Decision" and from this lesson.

Think about it, Max! Here are some reasons the people who wrote the Constitution might have wanted courts to have the power to decide what's constitutional:



Max

