



## KOREMATSU v. UNITED STATES (1944)

**ORIGINS OF THE CASE** Following the Japanese attack on Pearl Harbor on December 7, 1941, U.S. military officials argued that Japanese Americans posed a threat to the nation's security. Based on recommendations from the military, President Franklin Roosevelt issued Executive Order 9066, which gave military officials the power to limit the civil rights of Japanese Americans. Military authorities began by setting a curfew for Japanese Americans. Later, they forced Japanese Americans from their homes and moved them into detention camps. Fred Korematsu was convicted of defying the military order to leave his home. At the urging of the American Civil Liberties Union (ACLU), Korematsu appealed that conviction.

**THE RULING** The Court upheld Korematsu's conviction and argued that military necessity made internment constitutional.

### LEGAL REASONING

Executive Order 9066 was clearly aimed at one group of people—Japanese Americans. Korematsu argued that this order was unconstitutional because it was based on race. Writing for the Court majority, Justice Hugo Black agreed “that all legal restrictions which curtail the civil rights of a single racial group are immediately suspect.” However, in this case, he said, the restrictions were based on “a military imperative” and not “group punishment based on antagonism to those of Japanese origin.” As such, Justice Black stated that the restrictions were constitutional.

“Compulsory exclusion of large groups, . . . except under circumstances of direct emergency and peril, is inconsistent with our basic governmental institutions. But when under conditions of modern warfare our shores are threatened by hostile forces, the power to protect must be commensurate with the threatened danger.”

Justice Frank Murphy, however, dissented—he opposed the majority. He believed that military necessity was merely an excuse that could not conceal the racism at the heart of the restrictions.

“This exclusion . . . ought not to be approved. Such exclusion goes over ‘the very brink of constitutional power’ and falls into the ugly abyss of racism.”

Two other justices also dissented, but Korematsu's conviction stood.

### LEGAL SOURCES

#### LEGISLATION

##### U.S. CONSTITUTION, FIFTH AMENDMENT (1791)

“No person shall . . . be deprived of life, liberty, or property, without due process of law.”

##### EXECUTIVE ORDER 9066 (1942)

“I hereby authorize and direct the Secretary of War . . . to prescribe military areas in such places and of such extent as he . . . may determine, from which any or all persons may be excluded.”

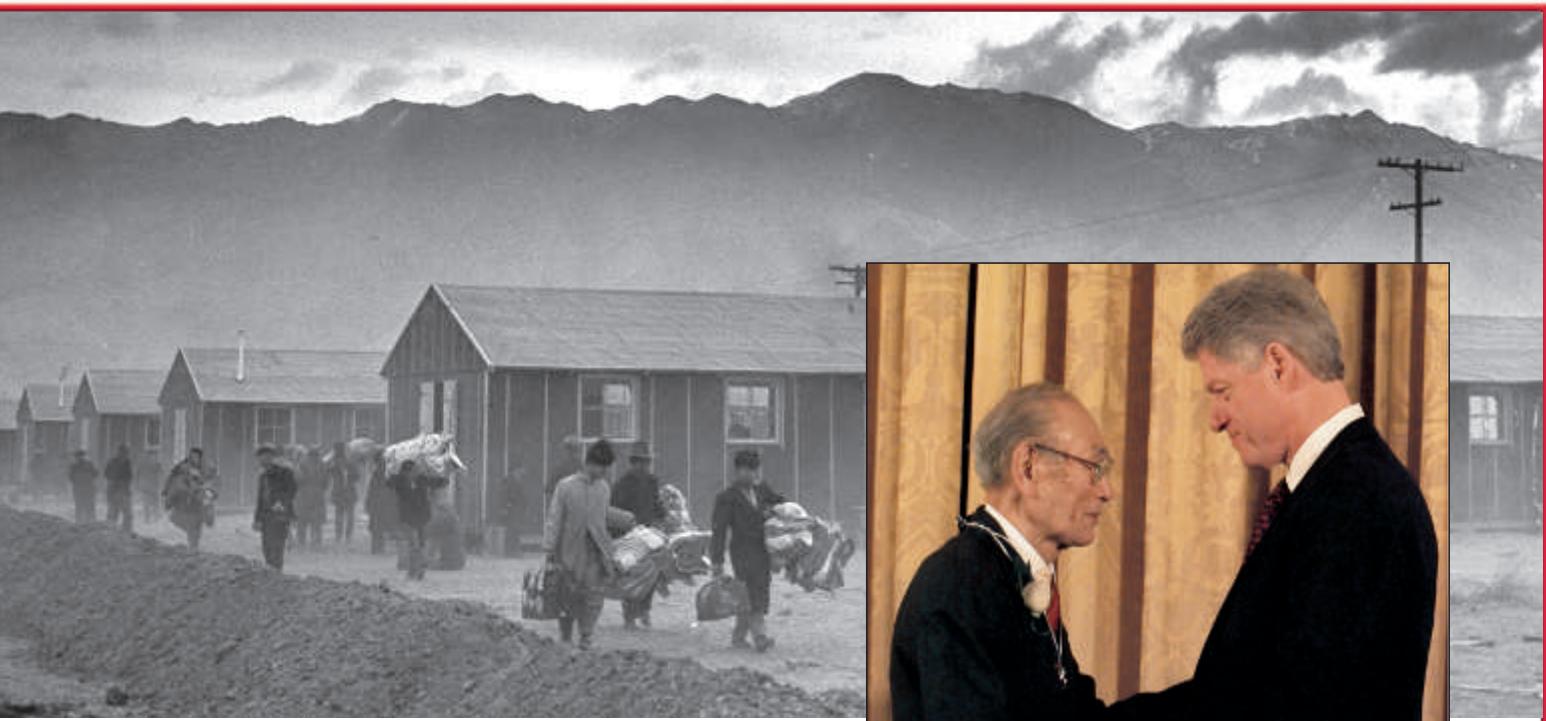
#### RELATED CASES

##### HIRABAYASHI v. UNITED STATES (JUNE 1943)

The Court upheld the conviction of a Japanese-American man for breaking curfew. The Court argued that the curfew was within congressional and presidential authority.

##### EX PARTE ENDO (DECEMBER 1944)

The Court ruled that a Japanese-American girl, whose loyalty had been clearly established, could not be held in an internment camp.



## WHY IT MATTERED

About 110,000 Japanese Americans were forced into internment camps, as shown above, during World War II. Many had to sell their businesses and homes at great loss. Thousands were forced to give up their possessions. In the internment camps, Japanese Americans lived in a prison-like setting under constant guard.

The Court ruled that these government actions did not violate people's rights because the restrictions were based on military necessity rather than on race. But the government treated German Americans and Italian Americans much differently. In those instances, the government identified potentially disloyal people but did not harass the people it believed to be loyal. By contrast, the government refused to make distinctions between loyal and potentially disloyal Japanese Americans.

## HISTORICAL IMPACT

In the end, the internment of Japanese Americans became a national embarrassment. In 1976, President Gerald R. Ford repealed Executive Order 9066.

▲ President Clinton presents Fred Korematsu with a Presidential Medal of Freedom during a ceremony at the White House on January 15, 1998.

Similarly, the Court's decision in *Korematsu* became an embarrassing example of court-sanctioned racism often compared to the decisions on *Dred Scott* (1857) and *Plessy v. Ferguson* (1896). In the early 1980s, a scholar conducting research obtained copies of government documents related to the *Hirabayashi* and *Korematsu* cases. The documents showed that the army had lied to the Court in the 1940s. Japanese Americans had not posed any security threat. Korematsu's conviction was overturned in 1984. Hirabayashi's conviction was overturned in 1986. In 1988, Congress passed a law ordering reparations payments to surviving Japanese Americans who had been detained in the camps.

## THINKING CRITICALLY

### CONNECT TO HISTORY

- 1. Hypothesizing** The internment of Japanese Americans during World War II disrupted lives and ripped apart families. What do you think can be done today to address this terrible mistake? How can the government make amends?



SEE SKILLBUILDER HANDBOOK, PAGE R13.

### CONNECT TO TODAY



- 2.** Visit the links for Historic Decisions of the Supreme Court to locate the three dissenting opinions in *Korematsu* written by Justices Frank Murphy, Robert Jackson, and Owen Roberts. Read one of these opinions, and then write a summary that states its main idea. What constitutional principle, if any, does the opinion use?

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