



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
Joel W. Solomon United States Courthouse
900 Georgia Avenue
Chattanooga, Tennessee 37402

**BLACK HISTORY IS INEXTRICABLY INTERTWINED WITH
AMERICAN LEGAL HISTORY**

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February is Black History Month. In previous years, we have honored Black History Month by highlighting important African American legal figures, many of whom were the first in their respective positions. However, this year, we will use cases to point out some of the ways African American history is inextricably intertwined with American legal history. This small sample of Supreme Court cases demonstrates the ebb and flow of American legal sentiment towards its Black constituency.

As with African American history as a whole, some of the cases we will feature do not paint American legal history in a positive light, while others show the Court striving to rise to its highest calling. We will first look at civil cases involving African Americans' civil rights.

American Civil Law.

***United States v. Schooner Amistad*, 40 U.S. (15 Pet.) 518 (1841).** This was one of the earliest cases before the Supreme Court in which Blacks played a prominent role, and it attracted considerable attention on the subject of race. The Spanish schooner *La Amistad* was a slave ship. While sailing off the coast of Cuba, the enslaved Africans on the ship took over the vessel and killed members of the crew. The ship was apprehended off the coast of New York by American authorities. The Africans were judged to have acted as free men and were held to have been legally entitled to resist their kidnapping and illegal confinement. The Court also ruled the men had been entitled to take whatever legal means required to secure their freedom, including the use of force.

***Dred Scott v. Sandford*, 60 U.S. (19 How.) 393 (1857).** The case of Dred Scott is well known. We are familiar with the language of Chief Justice Taney, who said that Black American men possessed no rights that white American men were bound to respect. But less well known are the words of Justices Benjamin Curtis and John McLean in dissent. Justices Curtis and McLean forcefully answered Justice Taney on the fundamental question of whether any Black man in America could be a citizen of the United States. They looked to the law and practice of the nation at the time of independence and the adoption of the Constitution, and concluded that, indeed, free African Americans who descended from Africans held in slavery had been citizens of the United States under the 1777 Articles of Confederation. Consequently, at the time of the adoption of the

Constitution, they were not only citizens of various States, but also had the right to vote on equal terms with other citizens. This meant that Blacks were included in the body of “the people of the United States” described in the Constitution. These two justices rejected the notion that the Constitution was made exclusively by and for white Americans.

***Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).** Our final civil case is also well known. Following *Plessy v. Ferguson*, which will be discussed in detail in the section below, Black students were denied access to certain public schools based on laws enforcing segregation. The students argued such segregation violated the Constitution. The Supreme Court, led by Chief Justice Warren, agreed, and decided that “separate but equal” schools are inherently unequal. In doing so, it overruled *Plessy* and set the stage for school integration throughout the country.

American Criminal Law.

The role of African Americans in the history and development of American criminal law is especially striking, as American criminal law has been heavily influenced by decisions in a racial context.

***United States v. Cruikshank*, 92 U.S. 542 (1876).** *Cruikshank*, a post-civil war case, explored the role of the federal government in protecting the rights of formerly enslaved people. The case arose after a group of white supremacists murdered approximately 150 Black militia members in the Colfax Massacre—the deadliest single incident of racial violence of the Reconstruction period. Cruikshank was one of the white men charged under a federal law that attempted to ensure Blacks received equal protection under the law. This case shows an example of the Court failing to protect African Americans’ rights, as the Court ultimately held that Congress did not have the power to pass such a law, and Cruikshank was released.

***Plessy v. Ferguson*, 163 U.S. 537 (1896).** This case began when Homer Plessy was arrested for sitting in a train car designated only for white individuals. Plessy argued that the Louisiana law requiring “separate but equal” accommodations was unconstitutional. The Supreme Court disagreed and upheld the law under which Plessy was convicted. The Court said that the Constitution could not fix the fact that one race was viewed as inferior to another. The decision in *Plessy* led to decades of segregation under the guise of “separate but equal.”

***Moore v. Dempsey*, 261 U.S. 86 (1923).** It is no secret that threats of violence often interfered with the pursuit of justice for African Americans falsely accused of crimes. *Moore* arose after twelve Black men were prosecuted for allegedly killing a white man. The state proceedings were dominated by the threat of mob violence, with a violent attempt on the jail before the trial and a mob thronging the courthouse and the surrounding streets during the trial. The trial itself lasted less than an hour. When the defendants sought relief from the Supreme Court, the Court held that a state trial permeated by mob violence and threats of mob violence is not a fair trial and violates the due process clause of the United States Constitution. Out of this case arose many of the protections we now take for granted, including modern habeas corpus litigation and the role of federal courts in ensuring that state criminal prosecutions satisfy the requirements of the Constitution.

***Powell v. Alabama*, 287 U.S. 45 (1932).** In the famous Scottsboro Boys case, nine African American teenagers were accused of raping two white women in Alabama. The trials were rushed—three trials were held in one day. Alabama law required counsel to be appointed to represent defendants in capital cases, but the attorneys did not consult with their clients, and all nine teenagers were sentenced to death. In this case, the Supreme Court decided that all defendants must be given reasonable time and opportunity to secure counsel to defend them. This is true whether the defendant can pay for the attorney or not.

***Brown v. Mississippi*, 297 U.S. 278 (1936).** In our final case, three African American tenant farmers were convicted for the murder of a white planter. Before trial, the defendants were subjected to torture and brutal treatment by police officers, and ultimately confessed to the murder. On appeal, the Supreme Court decided that confessions or admissions procured through torture violated the Constitution and could not be used in court. The Court’s holding in *Brown v. Mississippi* laid the framework for *Miranda v. Arizona*, 384 U.S. 436 (1966), one of the most important cases in our criminal canon.

The decisions in some of these cases are distressing and disappointing. But everyone charged with a crime in an American court today reaps the benefit of legal gains that arose from the horrid treatment of the largely forgotten, disenfranchised African Americans in these cases. Black History Month is a fitting time to commemorate these individuals. It is also a fitting time to remember the importance to our nation of persevering in seeking justice from the courts—the branch of government our nation entrusts with the critical role of interpreting our Constitution and laws and applying them fairly to us all.

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