

Dred Scott v. Sandford (1857)

When it was written in 1787, the constitution, in effect, permitted slavery. Many of the founders owned slaves. Others opposed slavery.

They hotly contested the issue of how to deal with slavery during the Constitutional Convention, and the problem of slavery continued to plague the new nation. By the 1850's some states had forbidden slavery while others still protected it.

In 1834, Dred Scott, a slave, was taken by his master to Rock Island, Illinois, a town in a free state. His master later took him to the Wisconsin Territory, where the Missouri Compromise of 1820, a federal law, had forbidden slavery. His master then brought Scott back to Missouri, a slave state. Scott brought suit against his master claiming himself a free man because he had resided in areas that had banned slavery.

The Constitutional Issue

The case involved three issues: (1) Scott had lived in the free state of Illinois. Did he become free while living there? Should Missouri have to recognize that freedom? (2) Scott had traveled to the Wisconsin territory, which Congress had declared a free territory in the Northwest Ordinance of 1787 and prohibited slavery in all of the American territories north and west of the Ohio River. This region, called the Northwest Territory, consisted of land now occupied by the states of Ohio, Indiana, Illinois, Michigan, Wisconsin and the eastern portion of Minnesota.. Did he become free while living there, and should Missouri have to recognize that freedom? (3) Did the Supreme Court have the power or jurisdiction to hear this case?

Scott's Claim

Scott claimed that by bringing him to Illinois, his master had freed him. Illinois did not allow slavery. Therefore, any slave brought there became free. Once Scott became free in Illinois no Missouri Law could turn him into a slave

again. Scott's lawyers further argued that Missouri should recognize the laws of another state in the Union.

Scott also claimed that he was free under the Missouri Compromise. Passed by Congress and recognized as the law of the land since 1820, the Missouri Compromise prohibited slavery in all the federal territories north of the 36°30' latitude, the southern boundary of Missouri. When Scott's master brought him to Fort Snelling, (in the Wisconsin Territory) in what would become the State of Minnesota, Scott had also become free. Even if Missouri chose not to recognize the laws of Illinois, the constitution required all states to recognize the laws of Congress, as the supremacy clause of the Constitution (Article VI, Paragraph 2) clearly stated.

Finally, Scott's lawyers argued that the Supreme Court had the power to hear this case. Article III, Section 2 of the Constitution established the jurisdiction (authority to hear cases) of the federal courts. This jurisdiction extended to cases "between citizens of different states." Scott's master was now dead, leaving him technically under the control of his dead master's brother-in-law, John F.A. Sandford, who lived in New York (notice that the case is called Scott V. Sandford because during the proceedings a clerk misspelled the name of the defendant). Scott claimed that if he was free then he had to be a citizen of Missouri. As such, he could sue a citizen of New York in federal court.

The Decision

By a 7 to 2 vote, the Supreme Court ruled against Scott on all three issues. In an extraordinary decision, all nine judges wrote opinions that totaled 248 pages. Chief Justice Roger B. Taney's fifty-five page "Opinion of the Court" expressed the collective view of the majority.