

Literacy and the Law

Lesson Title: Lesson 6: The Appellate Court Speaks



Context of the lesson within the project: This lesson concludes the unit by giving students the “actual” finding of the ninth circuit Court of Appeal for this case. Students discuss their opinions, and evaluate the decision. The unit closes with the reminder of the power and importance of civil argument, and our rights as well as responsibilities given through the first amendment. (Power point slides 30-33)

Standards Addressed:

California History Social Science Content Standards

8.2 Students analyze the political principles underlying the U.S. Constitution and compare the enumerated and implied powers of the federal government.

5. Understand the significance of Jefferson’s Statute for Religious Freedom as a forerunner of the First Amendment and the origins, purpose, and differing views of the founding fathers on the issue of the separation of church and state.

12.2 Students evaluate and take and defend positions on the scope and limits of rights and obligations as democratic citizens, the relationships among them, and how they are secured.

1. Discuss the meaning and importance of each of the rights guaranteed under the Bill of Rights and how each is secured (e.g., freedom of religion, speech, press, assembly, petition, privacy).

Essential Questions/Issues:

Why are the constitutional protections to Freedom of Religion essential to our democracy?

How can citizens ensure their religious liberty is protected?

Is argument important, why or why not?

Objective(s):

Students will summarize their understanding of the importance of civil argument, especially as it relates to court cases.

Students will evaluate the findings of a court case on the basis of the free exercise clause of the First Amendment rights of freedom of religion.

Assessment: This will be assessed through teacher observation.

Materials and Resources Needed: Power point, Three Questions handout from Lesson 4, Finding by Court of Appeal

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Learning Activity Steps: (45-50 minutes)

Hook: (3 minutes)

Slide 30: Present the slide and ask students to indicate to a partner what they believe the was the final decision of the U.S. Court of Appeal?

U.S. Court of Appeal Decision (15 minutes)

Slide 33: Ask students to look at their handout on the **three questions** involving free exercise. Which question did the Justices apply to this case as they reversed the decision of the trial court?

(Question #3: Is there any way the government can be satisfied about this important issue without restricting the religious liberty? If answer is “No”, the law is constitutional.

Ask students what they believe was the thinking on the part of the justices.

The court decided that the district had **not** tried to make changes so that the student’s religious rights did not have to be taken away (least restrictive). They made the following rules about the kirpans, and allowed the Cheema’s to return to school.

Students allowed to wear the kirpans subject to strict limitations such as:

- No longer than 3.5 inches
- Dulled and sewn securely into a sheath and also a cloth pouch
- Limited inspection rights by the school district

These cases are not uncommon across the nation - just last year the Jurupa Unified School District created a policy similar to the above - without going to court.

Students may read (with your assistance) the Finding by the U.S. 9th Circuit Court of Appeals. It is more detailed than this slide and may be discussed.

Note: There has not been one case reported where a student of the Sikh religion has used a kirpan in an aggressive manner toward another child!

Oral Reflection (15 minutes)

Slide 32 Small group: Discuss the questions on this slide and take the opportunity to talk about the importance of a civil argument and the right to do so .

Whole group: Small groups share their discussion points.

This is a great opportunity for a **discussion on respect, equity and fairness, and the importance of following the Constitution, and the Rule of Law** it presents. Ask for follow-up to these questions: why, why not, and examples.

It is challenging for everyone involved to be **impartial**, and not to “rush” to judgment, especially when something or someone is not familiar to them. All people are equal under the law, and we must work to understand one another, and develop understanding

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for all points of view! Reminder: Legislature writes the laws, Executive enforces or implements, and the Judicial interprets when there is a conflict.

The law is complicated. For example, all three questions that must be considered in order to decide if the action taken was constitutional or unconstitutional may not all have a “yes”, or all have a “no” answer. All must be considered before a final decision is decided.

Closure:

Slide 33 : We must remember that our Constitution determines rights and responsibilities of citizens. We all have the **right** to free exercise - or to practice our religion. We also have a **responsibility** to respect the rights of all. When conflicts arise, we must turn to our judicial branch to help interpret and apply the laws fairly.