

Name:

Date:

Period:

Dred Scott v. Sandford (1857)

slave

Define:

sued (to sue)

Define:

jury

Define:

appealed (to appeal)

Define:

federal court

Define:

Dred Scott was born a *slave* in Virginia around 1799. In 1834, a man named Dr. Emerson bought Dred Scott and they moved to Illinois, a non-slave (free) state. In 1836, they moved to Minnesota, also a non-slave state. There, Scott married another slave named Harriet. In 1838, the Emersons and the Scotts moved to Missouri, a slave state. In 1843, Dr. Emerson died, leaving his wife possession of the Scotts.

Dred Scott *sued* Mrs. Emerson. He claimed that he was no longer a slave because he had become free when he lived in a free state. The *jury* decided that Scott and his family should be free. The Emersons did not like the decision and *appealed* to the Missouri Supreme Court in 1852. That court said that Missouri does not have to follow the laws of another state. As a slave state, Missouri's laws meant that Scott and his family were not free.

Sanford moved to New York and left the Scotts in Missouri. Scott sued Sanford again in a *federal court*. Federal courts decide cases where the citizens live in different states. In 1854, the U.S. Court for the District of Missouri heard the case. Sanford won the case and Scott then appealed to the Supreme Court of the United States, the highest court in the country.

When the case came to the Supreme Court of the United States, the country was in deep conflict over slavery. In the past, some slaves had successfully sued their owners for freedom. However, by the 1850's, many states were hardening their positions on slavery, making such cases more difficult to win. It would not be long before the country was in a civil war over the issue of slavery.

Notes

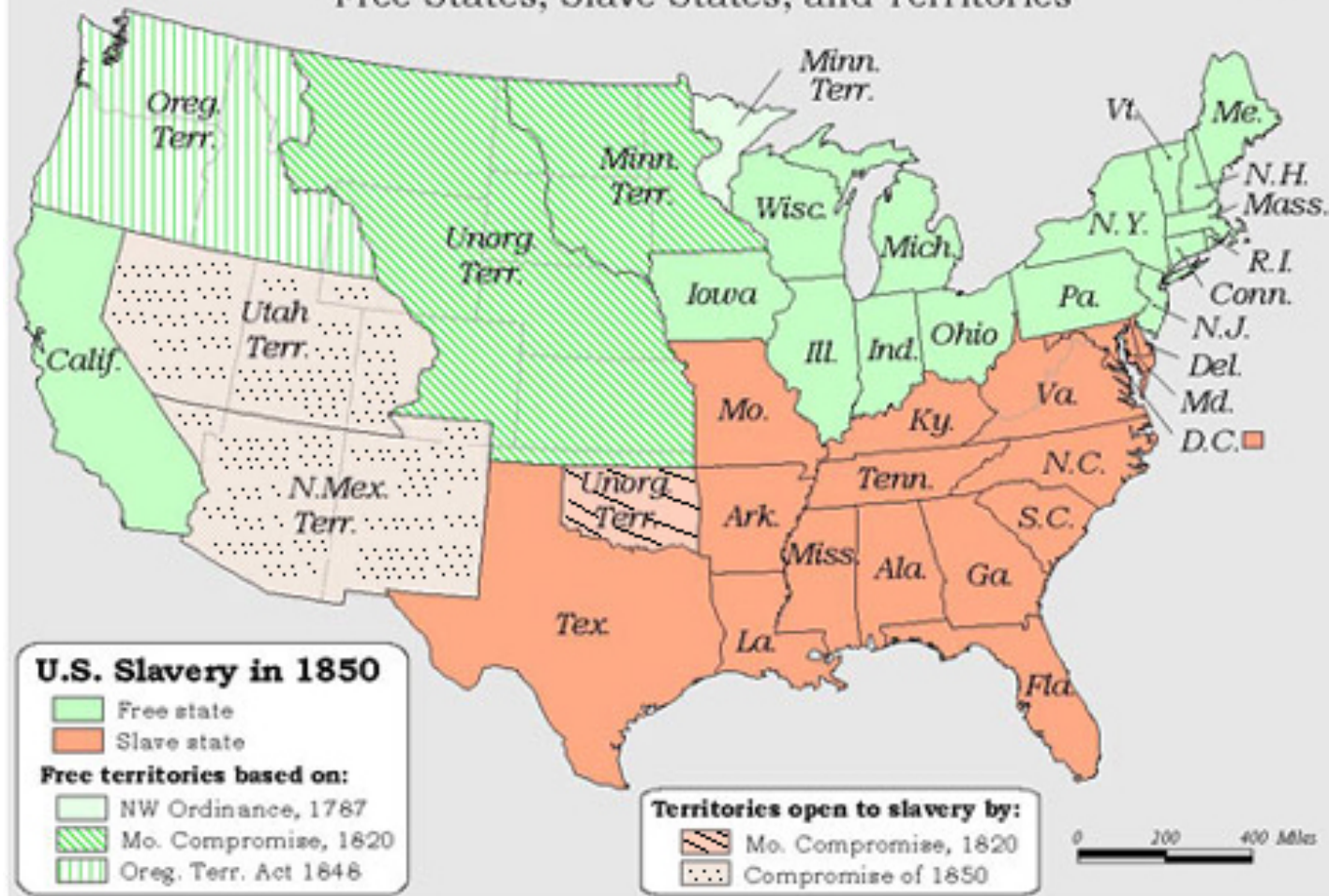
1. Why did Dred Scott take Emerson and Sanford to court?

2. Why did Scott believe he should be free?

3. Why did Scott take his case from the state court to the federal court?

United States in 1850

Free States, Slave States, and Territories



Name:

Date:

Period:

Classifying Arguments in the Case

The following is a list of arguments used in *Dred Scott v. Sandford*. Read through each argument and decide whether it supports Dred Scott's side in favor of his freedom (DS), Sanford's position in favor of Scott's continued slavery (SAN), or both sides (BOTH). Label each argument next to the number.

1. The Missouri Compromise of 1820 outlawed slavery forever in certain areas. Dred Scott's owner took him to these free areas.
2. In 1788, the US Constitution was ratified. No power, however, was granted to Congress on governing territories.
3. Dred Scott is not a citizen because if he were he would be entitled to all of the privileges and immunities of a citizen, one of which is the right of free movement. It is clear that the laws governing slavery do not permit this, thus he cannot be a citizen.
4. Even before the Constitution, some states allowed blacks to vote. At the time of the ratification, black men could vote in 10 states (of which 5 had restrictions).
5. In 1828, the US Supreme Court unanimously ruled in *American Insurance Company v. Canter* that the Federal government has the power to govern territories.
6. The 5th Amendment prevents the taking of "life, liberty or property without due process of the law."
7. The U.S. Constitution is the supreme law of the land. Neither Congress nor states can pass laws that conflict with the Constitution.
8. It was law in many states and had been common law in Europe for centuries that a slave who legally traveled to a free area automatically became free.
9. In the case of *Strader v. Graham* (1850), the Supreme Court of the United States heard the case of three slaves who had been taken from Kentucky to Indiana and Ohio and then back to Kentucky. The Court declared that the status of the slave depended on the laws of Kentucky, not Ohio.
10. The Constitution recognized the existence of slavery. Therefore, the men who framed and ratified the Constitution must have believed that slaves and their descendants were not to be citizens.
11. According to Article III, Section 2, Clause 1, judicial power extends only to citizens of a state.
12. At the time of the *Dred Scott* case, women and minors could sue in federal court even though they could not vote. The Constitution does not say explicitly that blacks cannot be citizens.
13. Naturalization is a power of the US Congress in Article I, Section 8, Clause 4, of the US Constitution. States do not have the power to grant US Citizenship to individuals.

Citizenship Issues

For Dred Scott

Against Dred Scott

Territory Issues

For Dred Scott

Against Dred Scott

Dred Scott v. Sandford (1857)

Dred Scott was born a slave in Virginia around 1799. In 1834, Dr. John Emerson, a surgeon in the U.S. army, bought Scott in Missouri and moved him to Illinois. Illinois was a free state. In 1836, Scott and Emerson moved to Fort Snelling, in present-day Minnesota. In the Missouri Compromise of 1820, Congress had prohibited slavery in the area that included Fort Snelling. Emerson bought a slave named Harriet and Scott married her in 1836. In 1838, Emerson and the Scotts moved back to Missouri. The Scotts had two daughters, Eliza, born around 1843, and Lizzie, born around 1850.

Emerson died in 1843 and he left his possessions, including the Scotts, to his widow, Irene. They lived in St. Louis, Missouri. In 1846, Dred Scott asked Mrs. Emerson if he could work for money. If he could earn and save money, he could buy his freedom from Mrs. Emerson. According to Scott, she refused.

Scott sued Mrs. Emerson for "false imprisonment" and for battery. It was common for slaves who had been taken to free land to sue their masters and win their freedom. Scott sued Mrs. Emerson, claiming that Emerson held him illegally. Scott claimed that he had become a free man as soon as he lived in a free territory or state and then was taken against his will to a slave territory or state.

Slavery was at the root of Dred Scott's case. He sued his master to obtain freedom for himself and his family. The argument he used was that because he had lived in a territory where slavery was illegal, he could never again be enslaved. This was a doctrine that was recognized in common law for centuries in Europe. In the state where he filed his suit, Missouri, many people in his situation had sued their masters for their freedom and won.

By the time Scott appealed the Circuit Court ruling, which found in favor of the Emersons, Mrs. Emerson had moved to Massachusetts and left John F.A. Sanford, her brother, in charge of her financial matters, including the Scott case. In the 1850 appeal, the jury agreed that Scott and his family should be free because of the doctrine "once free, always free." Sanford, acting for his sister, appealed to the Missouri Supreme Court. In 1852, two of the three judges found in favor of Mrs. Emerson and John Sanford. The decision consciously reversed earlier precedent. The newly elected proslavery justice, William Scott, wrote the decision, arguing that states like Missouri must have the power to refuse to enforce the laws of other states. Thus, regardless of wherever else Scott had been with his master, slavery was legal in Missouri.

By 1853, John Sanford was legally recognized as the owner of the Scotts. Sanford had moved to New York, leaving the Scotts in Missouri. Since federal courts settle the dispute between citizens of different states, Scott was able to sue Sanford in federal court in a new case. A clerk mistakenly added a letter to Sanford's name, so the case permanently became *Dred Scott v. John F. A. Sandford*.

In 1854, the U. S. Court for the District of Missouri heard the case. Judge Robert W. Wells rejected Sanford's assertion that Scott could not sue because he was not a citizen. However, the judge instructed the jury that, as the Missouri Supreme Court had said, Scott was subject only to the laws of Missouri. The jury found for Sanford. Scott then appealed to the Supreme Court of the United States.

Notes

1. Why did Dred Scott take Emerson and Sanford to court?
2. Summarize the basic argument that Scott's lawyers used to support his case. Did Dred Scott have reason to believe that he would win his case?
3. Why was a new case brought to the federal court system? What circumstances made the case a federal question??

Unfortunately for Scott, the political divisions over slavery worsened from the time that his case first came to trial in 1847 through 1857 when the Supreme Court of the United States finally announced its decision. These included the passage of the Fugitive Slave Act (1850), publication of *Uncle Tom's Cabin* (1852), enactment of The Kansas-Nebraska Act (1854), violence in "bleeding Kansas" (1856), and Representative Brooks's beating of Senator Sumner (1856). Like almost all people of their time, the justices had strong personal views about slavery. One justice, Peter V. Daniel of Virginia, supported slavery so much that he even refused to travel north of the Mason-Dixon Line into a free state. Some historians believe that Chief Justice Taney hoped that his decision in the Dred Scott case would help prevent, not create future disputes over slavery.

4. How do you think the bitter political climate of the day affected Dred Scott's chances of winning his case?

DRED SCOTT'S FREEDOM

1. Slavery is banned in Illinois by state law.
2. Slavery is forbidden in Minnesota Territory as part of the Missouri Compromise of 1820.
3. Slavery is also illegal in both Massachusetts and New York by state law.
4. When Dred Scott moved into free territory, he became a free man.
5. When Dred Scott moved back to Missouri, he was no longer a slave. Since he was not sold into slavery again, he was still free.
6. As the citizen of one state, Dred Scott is suing the citizen of another state, John Sanford. Therefore, according to the U.S. Constitution, the Supreme Court has the right to consider this case.

DRED SCOTT'S FREEDOM

1. Blacks, whether slave or free, are not U.S. citizens.
2. Since Dred Scott is black, he is not a citizen and doesn't have the right to sue in Federal Court.
3. When Dred Scott was taken into free territory, he was still a slave. Slaves are property. The Fifth Amendment states that a person's property cannot be taken away from him without "due process" or proper legal action.
4. When Dred Scott returned to Missouri, he again came under Missouri state slave law.
5. The Missouri Compromise of 1820 prevents slave owners from taking their property into Minnesota territory. This law violates the Fifth Amendment and should be declared unconstitutional.
6. Since the Constitution is the highest law in the land, Congress cannot pass any future laws against slavery in the western territories.

