

Pushing the Limits

Safeguards and limits on
individual rights

Benchmarks

SS.7.C.2.5 Distinguish how the
Constitution safeguards
and limits individual rights.



What are rights?

- Rights are claims that are protected by law
 - What are some rights you have?
- Are rights unlimited?
 - Why are there limits on our rights?
 - Safety
 - To protect the rights of others

Where are our rights outlined?

- **The U.S. Constitution!**
 - In addition to outlining some of our rights...
 - The Constitution **limits the power of the government.**
 - What does that have to do with OUR rights?
 - It tells the government what they **cannot do** as it would violate the rights of the people.

For example:

Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof;
or abridging the freedom of speech,
or of the press;
or the right of the people to peaceably assemble,
and to petition the Government for a redress of grievances.”

Examples of Limits on Government Power: Article I, Section 9

- **Prohibition of ex post facto laws:** used to refer to a criminal law that applies retroactively, thereby criminalizing conduct that was legal when originally performed; found in the U.S. Constitution
- **Habeas corpus:** used to bring a prisoner or other detainee before the court to determine if the person's imprisonment or detention is lawful

How would prohibition of ex post facto laws and habeas corpus limit government power?

Discuss with your group.

What are some of your rights as an individual that are safeguarded in the Constitution?

- Religion
- Assembly
- Speech
- Press
- Petition
- Bear arms
- Vote
- Trial by jury

And more!!

The Judicial Branch!

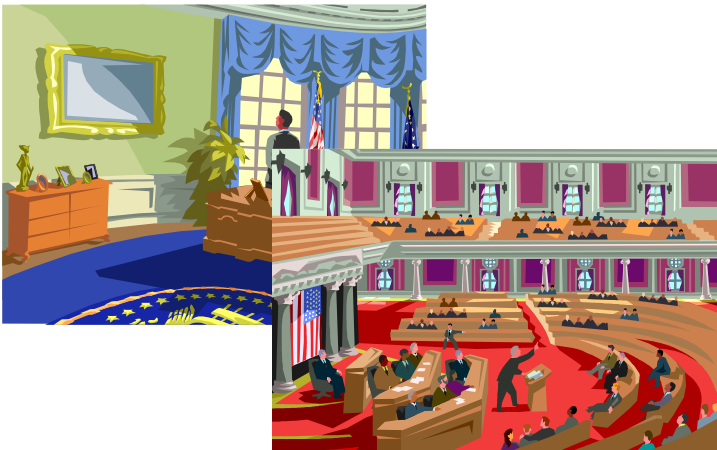
**WHO SAFEGUARDS OUR
INDIVIDUAL RIGHTS?**

What does the **judicial branch** (courts) do?

- Protects our individual rights...
- ...by interpreting and applying the law...
- ...without outside influences like politics, money, public opinion, or personal opinion.
 - This also describes an **independent judiciary**.

How are judges different from other elected officials?

Other elected officials make decisions based on the needs/desires of their constituents or voters, their own beliefs, or their political party's agenda.



Judges must follow the law and should not be influenced by politics, special interest groups, money, public opinion or their own personal beliefs.



They should be fair and impartial (no bias).

Judicial Decision Making

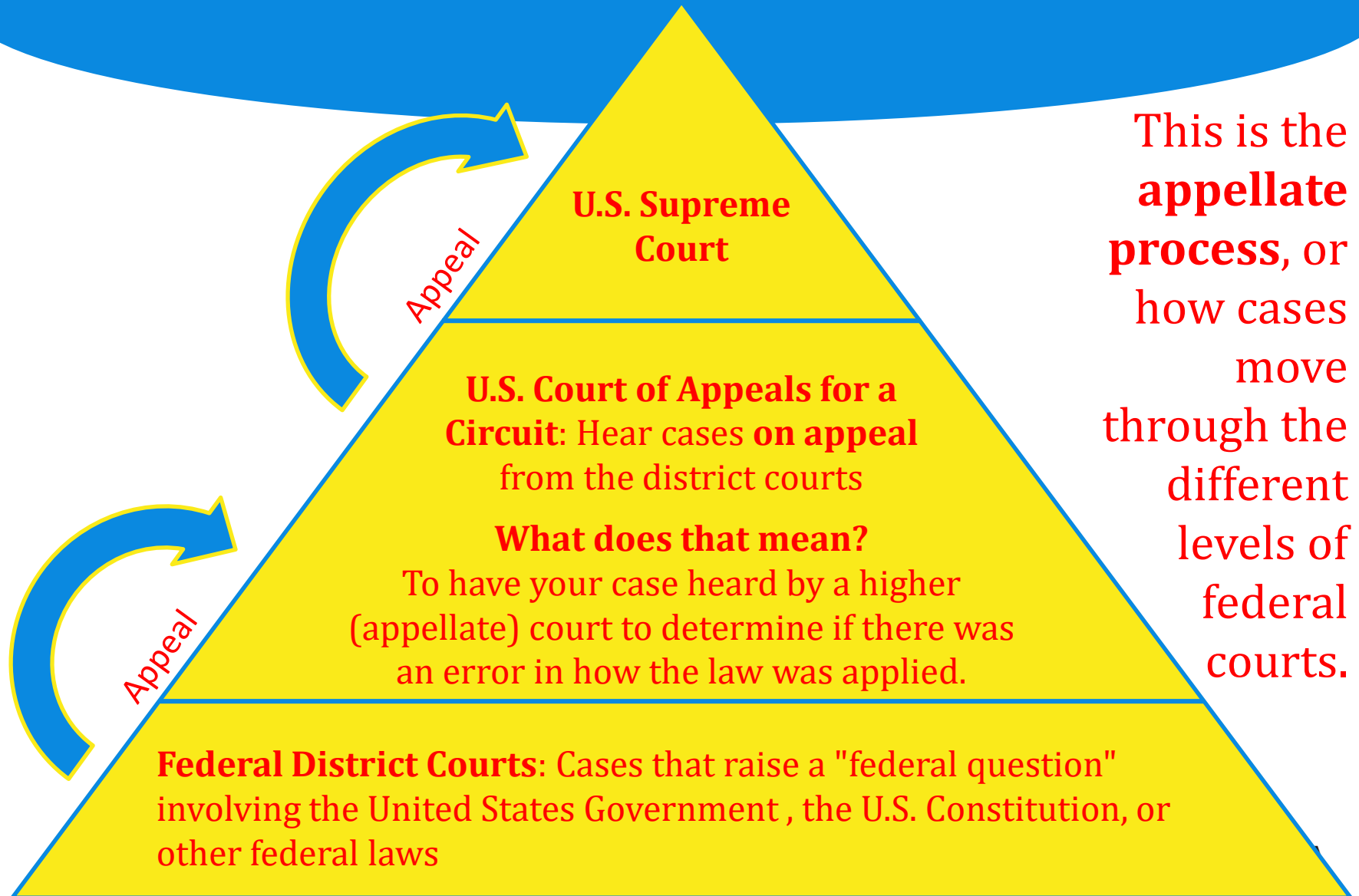
- Judges cannot make decisions based on their feelings...
- Decisions have to be based **on the law**.
 - Legal reasoning
 - **Precedent**: prior cases
 - Constitution
 - Statutes



Take It To the Court

- Rights and the courts:
 - Speedy and public trial...
 - ...by an impartial jury...
 - ...informed of the charges against you...
 - ...able to confront witnesses against you...
 - ...and have an attorney.
- If you think there has been a violation of your rights, you can take your case to the appropriate court.

Cases Through the Courts



Are our rights unlimited?

UNLIMITED RIGHTS?

Are our rights unlimited?

- NO!
- Our rights are limited in order to:
 - Keep people safe
 - Promote the common good
 - Protect the rights of others



Protecting the Rights of Others

My rights end...

...where your rights begin.



A Case Before the Court:
Read the facts of the case
you are given and answer
the question with your
group. Be prepared to
defend your answer.

WHAT DO YOU THINK?

First Amendment

“Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the Government for a redress of grievances.”



The Case of the School Newspaper

HAZELWOOD S.D. V. KUHLMEIER



What are the key facts of the case?

THE FACTS

What do you think?

Was this an exercise of free speech/press?
Were the articles appropriate for a school
newspaper?

Should the articles be published?

Yes or No?

Why?



Hazelwood: A Case Through the Courts

U.S. Supreme Court

Appeal

U.S. Court of Appeals: Held that a First Amendment violation *had* occurred; the principal's actions were *not constitutional*.

Appeal

Federal District Court: Held that *no* First Amendment violation had occurred; the principal's actions *were constitutional*.

Question before the court:

- Did the principal's deletion of the articles violate the students' rights under the First Amendment?

Hazelwood S.D. v. Kuhlmeier

- **No. 5-3**
- The US Supreme Court held that no First Amendment violation had occurred.
- A school need not tolerate speech that is inconsistent with its educational mission.





The Case of the Black Armbands

**TINKER V. DES MOINES
INDEPENDENT COMMUNITY
SCHOOL DISTRICT**



What are the key facts of the case?

THE FACTS

What do you think?

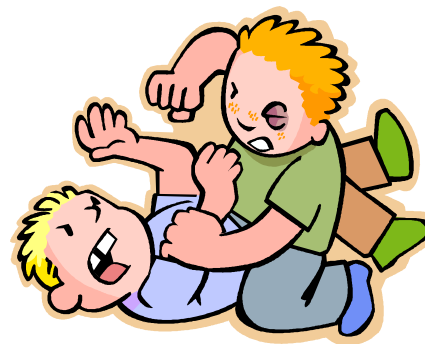
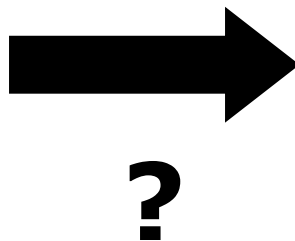
Should the students be allowed to wear the armbands at school?

Was this a form of speech?

Were the students causing a disturbance?

Yes or No?

Why?



Tinker: A Case Through the Courts

U.S. Supreme Court

Appeal

U.S. Court of Appeals: Agreed with (or *affirmed*) the decision of the District Court. The school district's/principal's actions were reasonable.

Appeal

Federal District Court: Dismissed the case and held that that *no* First Amendment violation had occurred; the school district's/principal's actions *were reasonable*.

Question before the Court:

- Did the principals' rule, against wearing armbands in public school, violate the students' First Amendment freedom of speech protections?
- Yes or No?
 - Why or why not?



Tinker v. Des Moines

- **Yes.**
- The US Supreme Court held in a 7-2 decision that the wearing of the armbands **was protected** by the First Amendment.

“...students do not shed their rights at the schoolhouse gate.”



Which case...

- ...safeguarded individual rights?
- ...limited individual rights?



Review: Safeguards and Limits

Constitutional Safeguards

- The Constitution names some of our rights;
- And protects our individual rights from the government.
- Case example: The Case of the Black Armbands

Limits

- There are limits on our rights to:
 - Protect public safety
 - Promote the common good
 - Protect the rights of others
- There are also limits on the power of government in order to prevent abuses of power
- Case Example: The Case of the Student Paper

Checking for Understanding

The passage below about government is from *Federalist No. 51*.

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. . . . the great difficulty lies in this: you must first enable the government to control the governed: and in the next place oblige it to control itself.

Source: Public Domain / Library of Congress

How are the author's views from this passage applied in the U.S. Constitution?

- A. The U.S. Constitution limits the rights of the people.
- ★ B. The U.S. Constitution limits the power of the federal government.
- ~~C. The U.S. Constitution requires the states to provide for the common defense.~~
- ~~D. The U.S. Constitution requires the government to promote the general welfare.~~