

Korematsu v. United States (1944)

Argued: October 11–12, 1944

Decided: December 18, 1944

Background and Facts

World War II officially began on September 1, 1939 when Germany invaded Poland. The two sides of the war were the Allied Powers and the Axis Powers. On December 7, 1941, the Japanese military attacked the U.S. naval base at Pearl Harbor in Hawaii. At the time of the attack, Hawaii was a territory of the United States and not yet a state. The next day, the U.S. declared war on Japan (an Axis Power) and entered World War II as a part of the Allied Powers.

Two months after the attack on Pearl Harbor, President Franklin D. Roosevelt issued Executive Order 9066 in response to the fear that Japanese Americans may assist Japan and the Axis Powers by sharing intelligence or aiding in an attack. The United States government pointed to a law, the Alien Enemies Act of 1798, that allowed the president to imprison citizens of enemy countries during a time of war. Roosevelt argued that Japan invaded a territory of the United States and posed a threat to the country, especially the West Coast.

This executive order forced over 110,000 Japanese immigrants and Japanese Americans who were born in the United States on the West Coast into internment camps. Internment camps were facilities away from the coast that imprisoned large groups of Japanese Americans. They were given very little time to pack up a few belongings and to sell the rest of their possessions. Internment camps were often converted fair grounds and some people had to sleep in horse stalls. They were not charged with or found guilty of a crime. There was no evidence that any Japanese Americans intended to harm the U.S. military effort by aiding the Axis Powers.

Fred Korematsu was a Japanese American who refused to move to an internment camp. He was arrested and found guilty of violating the executive order. Korematsu appealed, arguing that the executive order was unconstitutional. He believed he was denied due process, which is protected by the Fifth Amendment and requires the government to use the courts to prove that an individual committed a crime before that person can be sent to prison. Korematsu also said that the executive order did not treat Japanese Americans the same as other citizens.

The Court of Appeals agreed with the lower court. Korematsu then asked the U.S. Supreme Court to hear his case, and it agreed.

Issue

Is an executive order requiring Japanese immigrants and Japanese Americans to move to internment camps during World War II constitutional?

Arguments for Korematsu (petitioner)

- Korematsu is a citizen of the United States, not of a foreign country. This means that the Alien Enemies Act of 1798 does not apply to him.
- The Fifth Amendment stops the government from taking away a citizen’s freedom without due process. The executive order is unconstitutional because it forces Japanese Americans into internment camps without charging them or finding them guilty of crimes.
- There is no evidence that any Japanese Americans, including Korematsu, intended to harm the U.S. military effort by helping the Axis Powers.
- The **Equal Protection Clause** of the 14th Amendment requires the government to provide equal rights to all citizens. The executive order violates the Equal Protection Clause because it unfairly targets Japanese American citizens.

Arguments for the United States (respondent)

- The Alien Enemies Act of 1798 allows the president to order the executive branch to imprison citizens of foreign countries during war. The U.S. was involved in World War II. It was reasonable for the government to imprison Japanese Americans because Japan was an enemy country.
- Korematsu and the other Japanese Americans have not been sentenced and imprisoned, only forcibly relocated away from the West Coast and held for national security reasons. The Due Process Clause does not apply to this case.
- The president is the commander in chief of the military. This means that the president must use military powers to protect the safety and security of the country. The executive order did that by limiting the movement of people who might threaten the country.
- The government has a very strong interest in enforcing this executive order. It was intended to protect national security during a time of war.

Decision

In a 6–3 decision, the Supreme Court found that President Roosevelt’s executive order was constitutional.

Writing for the **majority** of the Court, Justice Black found that it was constitutional for the government to force Japanese immigrants and Japanese Americans into internment camps. Although the 14th Amendment requires the government to treat all people equally, a law that treats a certain racial group differently can still be constitutional if there is a “pressing public necessity.” The government was worried that individuals of Japanese descent might be spies or might try to harm the U.S. war effort. During war, the government does not have the resources to decide whether every single person is a threat so they can treat groups of citizens who may pose a threat the same.

The Supreme Court stated that it was appropriate to make a general decision regarding all Japanese Americans because of the important government interest in national security.

Justice Roberts' **dissent** found that the executive order was unconstitutional. The total internment of all Japanese Americans on the West Coast was a very extreme measure that violated the Constitution.

Impact

This case helped to define the president's powers as commander in chief during war. Many people today believe that *Korematsu* was wrongly decided. President Reagan and President Clinton officially apologized to the survivors of the camps on behalf of the U.S. government and **reparations** of about \$20,000 per person were offered.

The decision in *Korematsu v. United States* raises questions about how cases involving the detention of terrorists and undocumented immigrants in modern times might be decided. In *Trump v. Hawaii* (2018), Chief Justice Roberts' stated, "*Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—has no place in law under the Constitution."

Glossary

- **Allied Powers:** the side of World War II that included the United States, the United Kingdom, the Soviet Union, and China.
- **Appealed:** to formally request that a lower court decision be examined and reconsidered by a higher court.
- **Axis Powers:** the side of World War II that included Germany, Japan, and Italy.
- **Dissent:** an opinion written by the justices who disagree with the majority's decision
- **Due process:** the rule that states that the government cannot take someone's life, freedom, or property without a trial.
- **Equal Protection Clause:** the part of the 14th Amendment that guarantees that individuals are treated equally regardless of their race, gender, religion, nationality, or other characteristics.
- **Executive order:** an order to the executive branch by the president. This has the same effect as a law, except it is not passed by Congress.
- **Internment camps:** a place that imprisons large groups of people who have not been charged with or found guilty of a crime.
- **Majority:** the opinion signed by more than half of the Supreme Court.
- **Reparations:** paying money to those who have been wronged.

- **Unconstitutional:** not allowed by or contained in the Constitution. If a law is unconstitutional, it will be struck down, meaning it is no longer a law.

Additional information about *Korematsu v. United States*, including background at three reading levels, opinion quotes and summaries, teaching activities, and additional resources, can be found at <https://www.landmarkcases.org/>.