

Texas v. Johnson / Background •

As you read the background summary of the case below, look for the **important vocabulary terms**. You can find definitions for these terms on the separate vocabulary handout.

In 1984, the Republican National Convention was held in Dallas, Texas. Gregory Lee Johnson took part in a demonstration there. He and his group were **protesting** against nuclear weapons, among other things. They marched through the streets shouting.

Johnson was carrying an American flag. When he reached Dallas City Hall, Johnson poured kerosene on the flag. Then he set it on fire. While the flag burned, people shouted, “America, the red, white, and blue, we spit on you.” No one was hurt, but some people who were there said they were very upset.

Johnson was arrested. He was charged with **desecrating** a Texas law that said people could not vandalize a respected object. He was **convicted**, sentenced to one year in prison, and fined \$2,000.

Johnson **appealed** his case to the Texas Court of Criminal Appeals, which agreed with him. The court said that the First Amendment protection of free speech included “**symbolic** speech,” which is an action that expresses an idea. It said that flag burning was a form of symbolic speech so Johnson could not be punished.

The state of Texas wanted to maintain order and to preserve the flag as a symbol of national unity. The state argued its interests were more important than Johnson’s symbolic speech rights. The court did not agree with the state’s arguments.

The court said the government cannot “carve out a symbol of unity and prescribe a set of approved messages to be associated with that symbol” The court also said that the flag burning did not cause or threaten to cause a **breach of the peace**.

The state of Texas asked the Supreme Court of the United States to hear the case. In 1989, the Court made a decision.

Questions to Consider

1. What did Gregory Johnson do? What happened to him as a result?

2. What does the First Amendment say about freedom of speech? Why did Johnson say his First Amendment rights had been violated?

3. What argument could you make that flag burning is likely to cause violence and therefore should be against the law?

4. What argument could you make that flag burning is symbolic speech protected by the First Amendment?

5. The Texas Court of Criminal Appeals said the government cannot “carve out a symbol of unity and prescribe a set of approved messages to be associated with that symbol” What does this mean? Do you agree that the government should not be able to do this? Explain your reasons.

6. How should the Supreme Court of the United States decide this case? Why?