

United States v. Nixon / Summary of Decision

In a unanimous decision, the Court ruled in favor of the United States and against President Nixon. Chief Justice Burger, wrote the opinion for the Court, which concluded that presidents do enjoy a constitutionally protected executive privilege, but that the privilege was not absolute. The Court decided that in this case, the president's interest in keeping his communications secret was outweighed by the interests of the judiciary in providing a fair trial with full factual disclosure.

President Nixon's attorneys first argued that the doctrine of separation of powers prevented the Supreme Court from hearing this case at all. They asserted that because the judicial and executive branches are separate, each with its own functions, the judicial branch should not be allowed to interfere with the functioning of the executive branch. The Court rejected this argument, responding that the case raised a constitutional question, and, therefore, clearly fell within the functions of the judicial branch as interpreter of the Constitution. To support this ruling, the justices cited the Court's decision in *Marbury v. Madison*, in which the Court declared that "it is emphatically the province and duty of the judicial department to say what the law is."

President Nixon's lawyers also asserted that the Court should find the president was entitled to absolute executive privilege. This meant that he could not be forced to reveal any of his confidential communications unless he chose to. The lawyers set out two reasons to support their argument. First, the president needed honest advice from his advisers, and these advisers might be uncomfortable giving advice if they knew that it could become public. Second, these confidential communications were essential for the president to carry out the duties assigned to the executive branch by the Constitution.

The Court acknowledged the validity of these interests and that the president was entitled to a degree of executive privilege. This privilege was not determined to be absolute. In this case, the interest of President Nixon in keeping his communications secret conflicted with the interests of the judicial branch in providing a full and fair trial. A fair trial required full disclosure of all facts and relevant information. The justices asserted that the interests of the president must be balanced against the interests of the judicial branch when these interests conflict.

The justices reasoned that the judiciary's interest in the "fair administration of criminal justice" outweighed President Nixon's interest in keeping the content of his tapes secret. One reason for this was that the only issue before the Court was whether the trial judge could privately inspect the tapes to determine whether they were essential to a fair trial. The justices further stated that there would be cases in which the president's need for confidentiality would outweigh the interests of the judicial branch, such as when the secret communication involved "military, diplomatic or sensitive national security secrets."