NAME\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Dred Scott v. Sandford (1857): *Slavery, Due Process, the Missouri Compromise***

|  |  |
| --- | --- |
| David Blight on the Dred Scott decision |   |
| **Q: Please discuss the significance of the Dred Scott decision.** |
| David BlightDavid W. BlightProfessor of History and Black StudiesAmherst College | **A:**The significance of the Dred Scott decision is that it comes in the wake of Bleeding Kansas, it comes three years after the Kansas-Nebraska Act. The country has now struggled for three years to understand the implications of popular sovereignty in the West and how the West would be settled, free or slave. And now this case of old Dred Scott finally gets to the Supreme Court, and the Supreme Court says not only did Dred Scott not have the right to even sue in a federal court because he's black and [not] a citizen, but it goes one step further. It goes for a much broader decision, and in Chief Justice Taney's words, blacks had no rights which whites had to recognize.In the wake of the Dred Scott decision, spring of 1857, to be black in America was to live in the land of the Dred Scott decision, which, in effect, said, "You have no future in America." So, for the next three to three and a half years, down to the outbreak of the Civil War -- and we must remember, nobody knew that war was coming when it was coming -- to be black in America in the late 1850s was to live in a land that said you didn't have a future.In the North, legislatures and Republican politicians responded to the Dred Scott decision by questioning whether this was a Supreme Court decision that they should abide by -- one of the issues that was clearly at stake in the Lincoln-Douglas debates. Stephen Douglas pressed Lincoln on this, of course, and Lincoln, in effect, ultimately said that the Republican Party would remain hostile to the Dred Scott decision.The Dred Scott decision did cause a genuine level of despair in northern black communities by the summer of 1856, and for some years after that. In speech after speech, in 1857 and '58, Frederick Douglass would do his customary thing: He would begin with hope in his speech, but he usually ended his speeches in 1857 and '58 with that Biblical line that said, uh, "I walk by faith and not by sight." He was struggling by that point to make the argument to his fellow blacks that they had a future in America. That period between 1857 and the outbreak of the war in 1861 is a time of increasing desperation among northern black leadership. They begin to struggle even with each other over how to define their futures. They have bitter debates over immigration schemes and whether to stay in America, whether to join this Republican Party, or find some way to join it, whether to organize even some kind of third political party movement. There had been a movement in the '50s called the Radical Abolition Party. It's a desperate time for black leaders because they've been told now that their people have no future in the country, and their struggle now is to define a future.The Dred Scott decision, the birth of the Republican Party, this whole new political crisis over slavery, is also important in the South among slaves themselves. We have plenty of evidence that shows us that, beginning in 1856, with the presidential election campaign of 1856, and again in '58 Congressional elections, and certainly in 1860, there's a lot of reaction in the Southern white press, saying that slave owners should keep their slaves away from political meetings, because the more slaves gather around these political meetings, the more they're going to become aware of the political crisis over slavery.And from 1856 to the outbreak of the Civil War, there's a great deal of talk in the southern press about what were called "insurrection scares". There were insurrection scares particularly in Texas in 1860. Now, often these were plots about which people knew next to nothing. These were fears as much as they were reality. But there's no question that among the slaves in the South, in certain areas, they were becoming completely aware that there was a larger political crisis out there in the land over them, over slavery. |

***BACKGROUND SUMMARY***

Had he filed his lawsuit a few years earlier, Dred Scott probably never would have become a giant figure in U.S. history. Many people in Scott's position had won their lawsuits in state trial courts. However, by the time Scott's case made it to trial, U.S. political sentiments had changed and it took 11 years for his case to reach the Supreme Court of the United States. The Court's decision in *Dred Scott* v. *Sandford* remains among its most controversial.

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.

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. In 1847, Emerson was able to win in Missouri Circuit court on a technicality; Scott's lawyers failed to prove to the jury that Emerson was holding Scott as a slave. Scott's lawyers successfully argued for a retrial with additional witnesses that could prove Emerson's ownership of Scott.

By the time the case went to trial in 1850, Mrs. Emerson had moved to Massachusetts and left John F.A. Sanford, her brother, in charge of her financial matters, including the Scott case. 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.

Dred Scott's lawyers could have appealed the decision to the Supreme Court of the United States, but they feared that a majority of the justices would simply endorse the state court decision without considering its merits. 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.

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. Events of this period that increased conflicts 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 in the U.S. Senate (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.

Classifying Arguments in the Case: Read through each argument and decide whether it supports Dred Scott's side in favor of his freedom (DS) or Sanford's position in favor of Scott's continued slavery (SAN).

\_\_\_\_\_\_1. The Missouri Compromise of 1820 outlawed slavery forever in certain areas. Dred Scott's owner took him to these free areas. Thus, Scott became free forever.

\_\_\_\_\_\_2. 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.

\_\_\_\_\_\_3. Even before the Constitution, some states allowed blacks to vote. The Constitution does not say explicitly that blacks cannot be citizens.

\_\_\_\_\_\_4. 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.

\_\_\_\_\_5. 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.

\_\_\_\_\_6. 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.

\_\_\_\_\_\_7. The Missouri Compromise of 1820 that outlawed slavery in some future states was unconstitutional because Congress does not have the authority to deny property rights of law-abiding citizens. Thus, Scott was always a slave in areas that were free.

\_\_\_\_\_\_8. At the time of the Dred Scott case, women and minors could sue in federal court even though they could not vote.