

## **Dred Scott v John F. A. Sandford 60 U.S. 393 (1856)**

### **1) Reference Details**

Jurisdiction: United States of America, Supreme Court

Date of Decision: 16 March 1857

Case status: Concluded

Link to full case:

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=60&invol=393>

### **2) Facts**

The applicant, Dred Scott born in 1795, was a slave, who was sold to U.S. army surgeon Dr. John Emerson. Due to the nature of his slave master's job, the applicant lived in several different States. In 1836 Dr. Emerson took Dred Scott to a military post at Fort Snelling, situated in Upper Louisiana – a free territory according to the Wisconsin Enabling Act and the Missouri Compromise. In 1836, with the consent of Dr. Emerson, Dred Scott married a fellow slave, Harriet. They had two children, Eliza and Lizzie. In 1838, Dr. Emerson accompanied by the applicant and his family moved to the State of Missouri. Dred Scott and his family were then sold to the respondent, John F. A. Sandford.

Dred Scott filed suit for his freedom in the Circuit Court of St. Louis county claiming that his residence in a free territory had made him legally free. At first instance Scott was successful.

The respondent appealed and in May 1854 a jury found that Dred Scott and his family were slaves and the “lawful property” of Sandford.

### **3) Law**

*National legislation (non exhaustive)*

- Wisconsin Enabling Act
- Missouri Compromise
- Northwest Ordinance
- The Constitution of the United States of America

### **4) Legal Arguments**

*The Applicant*

The applicant submitted that as his and his family's place of residence was in both a free state and a free territory (Missouri) he was no longer a slave and had become legally free.

*The Respondent*

The respondents argued that Dred Scott, as a slave, did not have standing or the right to bring a suit and that Dred Scott and his family were slaves belonging to John F.A. Sandford

## 5) Decision

The judgment favoured the respondent, John F.A. Sandford by a 7:2 majority. Curtis and McLean JJ. dissented.

### *The Majority Decision*

All nine of the judges in *Dred Scott v. Sandford* delivered separate opinions. In the leading opinion of Chief Justice Taney the following question was considered:

*“Can a negro, whose ancestors were imported into this country, and sold as slaves, become a member of the political community formed and brought into existence by the Constitution of the United States, and as such become entitled to all the rights, and privileges, and immunities, guaranteed by that instrument to the citizen? One of which rights is the privilege of suing in a court of the United States in the cases specified in the Constitution.”*

The Court decided that slaves could not have citizenship conferred on them, even if State legislation purported to do so. The Court commented:

*“[N]o State, since the adoption of the Constitution, can by naturalizing an alien invest him with the rights and privileges secured to a citizen of a State under the Federal Government... It cannot make him a member of this community by making him a member of its own. And for the same reason it cannot introduce any person, or description of persons, who were not intended to be embraced in this new political family, which the Constitution brought into existence, but were intended to be excluded from it.... the language used in the Declaration of Independence, show, that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument.”*

In light of the above the Court, backed by six justices, struck down the Missouri Compromise, giving freedom to slaves in certain territories, on the grounds that it was unconstitutional.

### *The Dissenting Opinions*

Curtis J stated:

*“I dissent, therefore, from that part of the opinion of the majority of the court, in which it is held that a person of African descent cannot be a citizen of the United States; and I regret I must go further, and dissent both from what I deem their assumption of authority to examine the constitutionality of the act of Congress commonly called the Missouri compromise act, and the grounds and conclusions announced in their opinion.”*

Contrary to the majority opinion Curtis J also argued that on deciding that Scott’s case could not be heard no ruling should have been made and the action should have been dismissed:

*“I feel obliged to say that, in my opinion, such an exertion of judicial power transcends the limits of the authority of the court.”*

Both Curtis J and his fellow dissenter McLean challenged the majority's ruling on the Missouri Compromise. Firstly they contended that it was not necessary for the Court to rule on the question. As the constitutional framers did not object to anti-slavery provisions such as, the Northwest Ordinance, and therefore it cannot be said that they objected in total to the prospect of slaves being granted citizenship.