

The Supreme Court and Religious Liberty

Directions: In your small group, answer questions 1-5 for your assigned case. Then choose a partner who studied the other case and brief each other on the facts and ruling so you become experts on both. You will then discuss questions 6-14 with your class.

1. What are the facts of this case?
2. What constitutional question did this case center on?
3. How did the Court rule?
4. What is the text of the First Amendment? BONUS: What is the origin of the phrase “Separation of church and state”?
5. Read the following excerpt from the *Catechism of the Catholic Church*. Why do all human beings have equal rights? What is the origin of our natural rights?

Respect for the human person entails respect for the rights that flow from his dignity as a creature. These rights are prior to society and must be recognized by it...Created in the image of the one God and equally endowed with rational souls, all men have the same nature and the same origin. Redeemed by the sacrifice of Christ, all are called to participate in the same divine beatitude: all, therefore, enjoy an equal dignity. The equality of men rests essentially on their dignity as persons and the rights that flow from it... (CCC 1929-1935).

Kennedy v. Bremerton School District, 2022

6. Writing for the majority in this case, Justice Neil Gorsuch wrote, “Respect for religious expressions is indispensable to life in a free and diverse Republic. Here a government entity sought to punish an individual for engaging in a brief, quiet, personal religious observance doubly protected by the Free Exercise and Free Speech Clauses of the First Amendment.” What are some ways you see people using their freedom of speech and/or religion to

express a viewpoint? How do freedom of speech and religion help promote a more peaceful society?

7. We read in the *Catechism* that “The rights that flow from man’s dignity ... are prior to society and must be recognized by it. They are the basis of the moral legitimacy of every authority: by flouting them, or refusing to recognize them in its positive legislation, a society undermines its own moral legitimacy. If it does not respect them, authority can rely only on force or violence to obtain obedience from its subjects” (CCC 1930). It is a First Amendment principle that government may not censor speech because the people in power disagree with its message. Why should citizens support these freedoms even if it means they might hear messages that offend them?
8. How did the coach at the center of the *Kennedy v. Bremerton School District* case exercise his religious freedom? Constitutionally speaking, what is the difference between a public school coach saying a Christian prayer, and a public school coach requiring students to say a Christian prayer? What might be some arguments on either side of the question if the coach had required students to pray with him?
9. To what extent is showing respect for the religious traditions of others, even if one does not share them, a mark of a civilized society?

Carson and Nelson v. Makin, 2022

10. Why was Maine’s school choice program challenged in this case?
11. Why did supporters of the program object to taxpayer money being given to parents who chose religious schools?
12. How did the Supreme Court rule?
13. Is there such a thing as a values-free or faith-free education? To what extent do public schools strive to inculcate specific values in their students? To what extent do they encourage students to have faith in certain institutions?
14. Under the US Constitution, the people in each state reserve the power to provide educational options for their citizens. What are some creative ways states might do that that, besides requiring children attend school through a certain age and providing taxpayer-funded schools? Be creative in your response!