

The Legal Precedent Argument

Answer the 3 judicial questions based on precedents decisions by the Supreme Court or state court rulings in cases that dealt with similar slavery issues to Dred Scott occurring before 1857.

Rachel v. Walker (1836 Missouri Supreme Court case) -- Missouri's law prior to the Dred Scott case showed that in the cases where slave owners took slaves to free territory and then returned to the slave state, the slaves were actually emancipated (freed) upon arrival in the free state. This was based on an informal legal precedent called "**comity**" (one court recognizing the jurisdiction of another.) This particular case determined that even an officer residing on a military post in a free state was obligated to follow that state's rules. Dred Scott's owner was a military officer from the south who was sent to a northern free territory and state.

U.S. v. The Amistad (1841 U.S. Supreme Court case) -- In this case, kidnapped Africans were transported from Guinea to Cuba on a Portuguese slave ship in violation of Spanish laws forbidding the international slave trade. The slaves were sold to two Spaniards who were overpowered by the Africans while transporting them on the Amistad. The Africans were attempting to return to Africa, but the ship landed near Long Island, New York and they were taken to New London, Connecticut. The Supreme Court ruled in favor of the Africans stating that there was no evidence that the Africans were in fact slaves (they found that the documents that the Cubans had given were falsified.) However, even though the Court did rule in the Africans favor, they did not use the language of the defense argument which stated that because the Africans were brought into the free states of New York and Connecticut they were legally free.

Prigg v. Pennsylvania (1842 U.S. Supreme Court case) -- This case dealt with the constitutionality (with the Constitution) of personal freedom laws in free states. In this case Pennsylvania's 1826 law was used to prosecute a slave-catcher (Prigg) who had taken Margaret Moran to Maryland without the required "certificate of removal." The Supreme Court held that the Pennsylvania act was unconstitutional (against the Constitution) and that a master had the right to recapture runaway slaves based on law or because of the fugitive-slave clause in the Constitution. (The basis of the right of recapture was disputed by the judges).

Strader v. Graham (1851 U.S. Supreme Court case) -- In that case two slave musicians were taken into Ohio and then later escaped from Kentucky to Canada. The slave-owner captured them back and it was argued in court that they were freed the minute they set foot on free soil. The Kentucky Court of Appeals decided in favor of the slave-owner. The Supreme Court dismissed the case since the Northwest Ordinance did not apply to Ohio since it was already a state and had a state law. The case did not present a federal question since it was based upon state law and not federal law. Chief Justice of the Supreme Court, Roger Taney's opinion in this case outlined the idea that once the slaves were returned to Kentucky, Kentucky law applied and Ohio law could not be considered.

1. Did Scott have the right to sue?
2. Was Scott free as a result of living in a state and territory where slavery was illegal?
3. Was it constitutional for the Congress to limit slavery in the territories?