

DRED SCOTT v. SANFORD

Dred Scott was a black man. He was born in the Southern state of Virginia. His parents were slaves. They were owned by another person, a white man. Dred Scott, too, was the man's slave. The laws of Virginia said that all the children of slaves were also slaves.

When his master, or owner, moved to Missouri, Dred Scott went with him. The slave had no choice. He had to go wherever and do whatever his owner wanted. In Missouri--as in Virginia--it was not against the law to own slaves. Missouri was a "slave state."

Later, Dred Scott was sold to another man. The next owner, a doctor, took his slave to Illinois. In this Northern state, it was against the law to own slaves. Illinois was a "free state." The doctor and Dred Scott lived here for three years. Then they moved for a year to a "free" territory in the North. Finally, the doctor returned to Missouri, bringing his slave with him.

After the doctor died, Dred Scott's new owners tried to help him win his freedom. Of course, they could have freed him themselves. But they hated slavery--that is, the owning of slaves. They wanted to attack the laws that made slavery possible. So they helped Dred Scott take his case to court. In court they said the slave had lived in a "free" territory, where slavery was against the law. They argued this had made him a free man.

Dred Scott's court battle lasted 11 years. He went from one court to another. Finally, in 1857, the case came before the U.S. Supreme Court.

The Supreme Court ruled against Dred Scott. It said that he was a slave. Chief Justice Roger B. Taney said that slaves were not citizens of the United States so they could not ask federal courts to free them. And, said Taney, Dred Scott was not freed by moving, for a time, with his master to a "free" territory.

Questions for Discussion

1. Why did Dred Scott's new owners take his case to court to win his freedom rather than just freeing him themselves?
2. What was the Supreme Court's decision in the Dred Scott case? According to Chief Justice Taney, could slaves ever be free? Who could free them?
3. Slave families were often separated by a sale. Husband and wife, sometimes even mother and child, might be sold to different owners. How would such a child feel?

DRED SCOTT v. SANFORD (1857)

Dred Scott was a slightly built, rather sickly black slave who belonged to Dr. Emerson, a U. S. Army doctor who was stationed in Missouri. In 1834, Dr. Emerson was transferred to a military post in Illinois, where slavery was against state law. Dr. Emerson took Dred Scott with him, and they lived there two years. Then, Dr. Emerson was transferred to Fort Snelling in what is now Minnesota; that was north of the line where Congress, in 1820, had said slavery was illegal. Almost three years later, Dr. Emerson went back to Missouri, taking Dred Scott with him.

In 1846, Scott sued for his freedom in Missouri state court, saying that he thought his life for several years in a free state or free territory made him a free man and a citizen. He won his case, but the Missouri Supreme Court changed the decision and said he was still a slave. By this time, Dr. Emerson had died and friends of Dred Scott, who hated slavery, decided to help Scott and also strike a blow against slavery. They arranged for Scott to be sold to John Sanford, a citizen of the state of New York and a person who hated slavery. Sanford could simply have freed Dred Scott, but both Scott and Sanford wanted the Supreme Court to answer their questions about slavery. Thus, Scott sued his new owner in a federal trial court, using as his reason his living in a free state and free territory. Dred Scott lost. He then asked the Supreme Court to take the case. By the time all the legal work was over it was 1857, and the civil War was only three years away. The nation was already torn apart over the issue that led to the war. Slavery was one of those issues. The Dred Scott case became one of the most famous decisions of the Supreme Court because of the times.

Dred Scott's lawyers argued that residence in a free state or a free territory freed any slave and that once freed, an ex-slave automatically became a citizen. This was important because if Scott were not a citizen, he had no right to sue in the federal court. The argument of those who supported slavery was that Dred Scott was "property," and the Fifth Amendment said that property could not be taken away from a person without due process of law. To them, this meant that Congress had no right to pass the Missouri Compromise because, by prohibiting slavery, it took away a man's property (his slaves). They also argued that Dred Scott had no real right to sue in a federal court because the Negroes in America were never intended to be citizens. They were able to point out that the Constitution even recognized the fact of slavery in three separate places and that the Constitution had not been amended.

What do you think?

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