**Gibbons v. Ogden---1824**

**People Involved**

* Gibbons – a man who wanted to sail his steam ships in the waters of New York state for his business and was denied
* Ogden – Given the right by Robert Livingston to sail his ships in New York waters (in accordance with NY law)
* Livingston & Fulton – the only two men who were given the right to sail the waters of New York for their business(es) by the state of New York

**How the case went down**

* Gibbons decides to sail his ships in the waters that were off-limits to him according to NY law
* Ogden (working for Livingston) is able to get an injunction against Gibbons to keep him off of the waters
* Gibbons appeals, saying that Congress’ laws supersede state laws and that Congress has the right to regulate trade/commerce (which applied to them)
* Gibbons is denied in two more courts, but the Supreme Court saw the case by granting *certiorari*.
	+ *“a writ issuing from a superior court calling up the record of a proceeding in an inferior court for review.”*

**Issues Involved:**

* The Constitution states that *“The Congress shall have the Power…To regulate Commerce…among the several States.”* –Article I, Section 8 (Commerce Clause)
	+ Does this mean that Congress can regulate commerce within each states’ boundaries or only if it is commerce that takes place across state borders (involving multiple states) or internationally?
	+ Is it the states’ right to regulate and use their own waterways exclusively, or is that up to Congress?

**Decision of the Court**

* **(Written by John Marshal)**

**\*\*\*Gibbons wins!\*\*\***

* Because the waterways of New York are along the coast and it is not entirely an internal commerce issue, the Congress has supremacy. The acts of Congress that regulate commerce on waterways and anything interstate or outside of the U.S. are constitutional and New York’s law that limited the rights to the waterways is obsolete because it conflicts with Congress.
* Gibbons has the right to use the waterways to conduct business/trade, etc.! (because Federal law supersedes state law.

**DO YOU AGREE WITH THE COURTS DECISION?** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Texas v. Johnson—1989**

**Background of the case-**

* During the 1984 Republican National convention in Dallas, TX, Gregory Johnson joined an organized political protest in opposition to Reagan administration policies and some Dallas based corporations. Demonstrators marched through the streets, chanting their message. As the march progressed, a fellow protestor handed Johnson an American flag that had been taken from a flag pole at one of their protest locations.
* Upon reaching city hall, Johnson doused the flag with kerosene and set it ablaze. Johnson and his fellow demonstrators circled the burning flag and shouted “America, the red, white, and blue, we spit on you.” Although no one was really hurt or threatened with injury by the act, many who witnessed it were deeply offended. Johnson was arrested charged, and convicted of violating TX law that made it a crime to desecrate a “venerable object.” He received a sentence of one year in prison and was ordered to pay a $2,000 fine.
* Johnson appealed his conviction, arguing that the TX flag desecration statute violated the 1st amendment. The state of TX held that it had an interest in preserving the flag as a symbol on national unity. Indeed, in previous cases, the SC had referred to the American flag as “national property.”

**Decision of the court**

* majority opinion (5-4)
* The first amendment literally forbids the abridgment only of “speech”, but we have long recognized that its protection does not end at the spoken or written word…
* Johnson was not prosecuted for the expression of just any idea; he was prosecuted for his expression of dissatisfaction with the policies of this country, expression situated at the core of our first amendment values…
* If he had burned the flag as a means of disposing of it because it was dirty or torn, he would not have been convicted of flag desecration under this TX law… The Texas law is thus not aimed at protecting the physical integrity of the flag in all circumstances, but is designed instead to protect it only against impairments that would cause serious offense to others.
* The government may not prohibit the expression of any idea simply because society finds the idea itself offensive or disagreeable
* In June 2006, Congress considered an amendment to make it illegal to desecrate the flag U.S.- it was defeated by one vote in the Senate

**DO YOU AGREE WITH THE COURTS DECISION?** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Gideon vs. Wainwright—1963**

* *At the time the Constitution was adopted, British courts denied lawyers to individuals charged with treason or felonies. People accused of criminal misdemeanors, however, were provided lawyers. The American colonies and, later, the states, rejected this practice. Most of the original 13 states allowed defendants in all cases to have lawyers. Through the years, the Supreme Court has heard several cases involving the question of whether poor criminal defendants had a right to a lawyer at public expense, or whether the sixth amendment merely meant that the govt. could not stop accused persons from hiring one.*
* In 1961 Clarence Earl Gideon was arrested in Florida for breaking into a Panama City pool hall with the intent to steal money from the vending machines. This was a felony. When Gideon appeared in court, his request for a court-appointed lawyer was denied, as Florida law only required lawyers for defendants charged in capital offenses. Gideon defended himself at trial. He was found guilty, and sentenced to five years in prison. He submitted a hand-written petition to the Supreme Court. He challenged the constitutionality of his conviction, as he had not been granted counsel.

**Decision of the court (unanimous) 9-0**

* Reason and reflection require us to recognize that in our adversary system of criminal justice, an person hauled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him.
* The constitution makes no distinction between capital and noncapital cases. The 14th amendment requires due process of law for the deprival of “liberty” just as for deprival of “life”, and there cannot constitutionally be a difference in the quality of the process based merely upon a supposed difference in the sanction involved.

**Summary of the Case**

* 1961 Clarence Earl Gideon was arrested in Florida for breaking into a Panama City pool hall with the intent to steal money from the vending machines
* When Gideon appeared in court, his request for a court-appointed lawyer was denied
* He was found guilty, and sentenced to five years in prison. He submitted a hand-written petition to the Supreme Court. He challenged the constitutionality of his conviction, as he had not be granted counsel.
* Court agreed Unanimously that Gideon should have been granted counsel

**DO YOU AGREE WITH THE COURTS DECISION?** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_