



# A CIVICS IN REAL LIFE SERIES THE DOCKET

# Korematsu v. U.S.

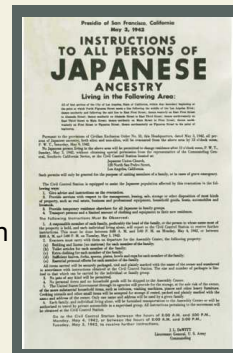
Civics is all around us. The United States Supreme Court is the highest court in the land. Through its power of judicial review, its decisions have a lasting impact on "We the People". So what is the Court hearing this session and how might the justices rule? Let's help each other expand our civic literacy.

## Fred Korematsu Day

In 2010, California passed [legislation](#) that established January 30th as Fred Korematsu Day of Civil Liberties and the Constitution. Five other states (Florida, Hawaii, New York, Virginia, Arizona) followed suit, and now recognize, honor, and celebrate Korematsu Day. So, who was Fred Korematsu and why does his story matter to the preservation of civil liberties and justice?

In the aftermath of the [attack on Pearl Harbor](#) (1941), the United States government took actions determined to protect and keep the nation safe. One such action was the issuance of [Executive Order 9066](#) by President Franklin Roosevelt in February 1942. This order authorized the evacuation of all persons deemed a threat to national security from the West Coast to [relocation centers](#) further inland yet the executive order named no person or group whom the president considered a threat.

Within a week of the executive order being issued, it became clear who was considered a threat as the first of 120,000 Japanese-Americans were forced from their homes, businesses, and other property to the [government internment camps](#). Formal charges were never brought against the persons subjected to forced relocation, even though most of the interned persons were U.S. citizens. This brings us to Fred Korematsu.



Born in Oakland California to Japanese immigrant parents, 23-year old Fred Korematsu refused to comply with the Order. In May 1942, while walking down the street, he was arrested on the suspicion that he had defied the Order. He was tried under a [law](#) that made it a crime to ignore a military relocation order and was found guilty and sentenced to join his Japanese family in an internment camp.

Korematsu would appeal his conviction with the help of the [American Civil Liberties Union](#), citing [Fifth Amendment](#) due process violations. In a note to his lawyer, Korematsu wrote: "These people should have been given a fair trial in order that they may defend their loyalty at court in a democratic way."

After losing before the U.S. Court of Appeals for the Ninth Circuit, Korematsu petitioned the U.S. Supreme Court for a [writ of certiorari](#) which was granted. The U.S. Supreme Court heard his case in December 1944. In a [6-3 decision](#), the High Court ruled against Korematsu, stating that the executive order was a "military necessity" that showed neither racial prejudice nor Fifth Amendment violations. In his dissent, Justice Robert H. Jackson warned "the Court for all time has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens. The principle then lies about like a loaded weapon, ready for the hand of any authority that can bring forward a plausible claim of urgent need."

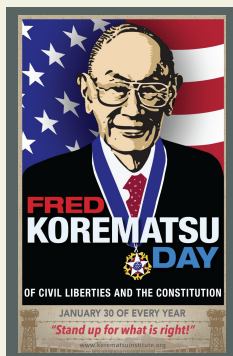
After the Court's decision, Korematsu never spoke about his ordeal for many decades.

Then forty years later in 1983, this changed when lawyer and historian Peter Irons, filed a [writ of coram nobis](#) to overturn Korematsu's conviction based on his discovery that the government had withheld key documents and evidence during the trial phase of his case.

Consequently, the case was reopened and the U.S. District Court of the Northern District of California [formally vacated his conviction](#).

After his overturned conviction, Fred Korematsu devoted the rest of his life to fighting for civil liberties and justice. He would be awarded the [Presidential Medal of Freedom](#) for his pursuits. Through his civil-rights activism, Congress passed the [Civil Liberties Act of 1988](#), which formally apologized to the internment camp detainees and provided some compensation for their losses.

Despite these victories, Korematsu remained concerned that the U.S. government could repeat its past mistakes. Even the late Associate Justice Antonin Scalia agreed. Speaking at the University of Hawaii law school in 2014, Justice Scalia [said](#), "Well, of course, Korematsu was wrong...But you are kidding yourself if you think the same thing will not happen again." This is why the story of Fred Korematsu needs to be remembered so that his legacy continues to inspire people to speak up and fight injustice.



**To Think and To Do:** Fred Korematsu's legacy is centered around his fight for justice. He often urged others to "Stand up for what is right." To honor Fred Korematsu on Fred Korematsu Day, reflect on actions that you can take to make a difference in this world. View some [examples](#) to get started.

### Learn MORE

[Fred T. Korematsu Institute](#)  
[National Archives: Japanese-American Incarceration During WWII](#)  
[Trump v. Hawaii](#) (2018)



**Lou Frey  
Institute**