

Name _____

Hour _____

Judicial Activism or Judicial Restraint?

The Supreme Court and lower courts interpret how the law is applied. Determine if the cases below are more toward Judicial Activism, a more liberal application of the law; or Judicial Restraint, a more conservative application of the law. Label each case which application of the law it is.

Supreme Court Case 1- Brown v. Board of Education In the 1950s, schools in the American South remained segregated by race, with black children being confined to schools that were, in many cases, far from their homes. A group of 13 parents, with the help of the American Civil Liberties Union (“ACLU”), filed a class action lawsuit on behalf of their 20 children, calling for desegregation of schools.

The U.S. Supreme Court heard the case of *Brown v. Board of Education* in 1954, after the state court had ruled that the school district had followed the law as previously set by the Supreme Court in the 1896 case of *Plessy v. Ferguson*.

The 1896 *Plessy v. Ferguson* Supreme Court decision had ruled that public facilities must maintain “separate but equal” accommodations for black and white people. The Supreme Court ruled in favor of *Brown v. Board of Education* and overturned the previous decision of the court. The Supreme Court brief stated that equal opportunity to quality education should be available to all children.

Supreme Court Case 2- Korematsu v. United States On Feb. 19, 1942, two months after the Pearl Harbor attack by Japan’s military in Hawaii, Pres. Franklin D. Roosevelt issued Executive Order 9066, which enabled his secretary of war and military commanders “to prescribe military areas in such places [relocations] and of such extent as he may determine, from which any or all persons may be excluded.”

Many Japanese-Americans living on the West Coast were ordered to relocation camps, leaving their homes and possessions behind. Fred Korematsu refused to obey the wartime order to leave his home and report to a relocation camp. He was arrested and convicted. After losing in the Court of Appeals, he appealed to the United States Supreme Court, challenging the constitutionality of the deportation order because he was an American citizen.

The Supreme Court upheld the order excluding persons of Japanese ancestry from the West Coast warzone during World War II. Many remained in relocation camps for 3 years.