

0. CONVICTIONS OVERTURNED - Story Preface

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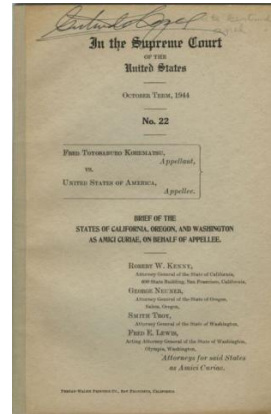
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When Fred Korematsu resisted President Roosevelt's Executive Order 9066, his case ended-up in the U.S. Supreme Court (where the Justices rendered one of their most-infamous decisions). At the time, as shown by the title page of this "Friends of the Court" (*Amici Curiae*) brief, the states of California, Oregon and Washington all supported the federal government in its case against Korematsu.

Nearly forty years passed. They were forty years of silence insofar as the subject of internment was concerned. Korematsu didn't even tell his two children about that humiliating time of his life. His daughter learned the facts from a college textbook.

Others, during the intervening years, were more vocal. Peter Irons, a political science professor at the University of California, San Diego, had uncovered evidence that the government hid facts from the Supreme Court when the Korematsu case was argued in 1944. Indeed, documents revealed that the government had suppressed its own findings that ethnic Japanese posed no threat to the security of the West Coast.

Based on that uncovered evidence, Korematsu filed a Writ of *Coram Nobis* (to correct a judgment based on an error of fact) with the federal court in 1983. Judge Marilyn Patel (of the U.S. District Court in San Francisco) was convinced the government had used false, misleading and racially biased information in the original case. In overturning Korematsu's conviction, the court said:

There is no question that the Executive and Congress were entitled to reasonably rely upon certain facts and to discount others. The question is not whether they were justified in relying upon some reports and not others, but whether the court had before it all the facts known by the government. Was the court misled by any omissions or distortions in concluding that the other branches' decisions had a reasonable basis in fact?

To answer that question, Judge Patel examined evidence and concluded that key documents had, in fact, been withheld from the high court during its deliberations on Korematsu:

Omitted from the reports presented to the courts was information possessed by the Federal Communications Commission, the Department of the Navy, and the Justice Department which directly contradicted General DeWitt's statements. Thus, the court had before it a selective record ... Moreover, there is substantial support in the record that the government deliberately omitted relevant information and provided misleading information in papers before the court. The information was critical to the court's determination, although it cannot now be said what result would have obtained had the information been disclosed.

Particularly troubling to Judge Patel was the fact that key information, possessed by the government, would never be known by Korematsu, or by the Supreme Court, unless the government "came clean" on the evidence:

Because the information was of the kind peculiarly within the government's knowledge, the court was dependent upon the government to provide a full and accurate account ... The judicial process is seriously impaired when the government's law enforcement officers violate their ethical obligations to the court.

See Alignments to State and Common Core standards for this story online at:

<http://www.awesomestories.com/asset/AcademicAlignment/CONVICTIONS-OVERTURNED-Japanese-American-Internment>

See Learning Tasks for this story online at:

<http://www.awesomestories.com/asset/AcademicActivities/CONVICTIONS-OVERTURNED-Japanese-American-Internment>

Media Stream

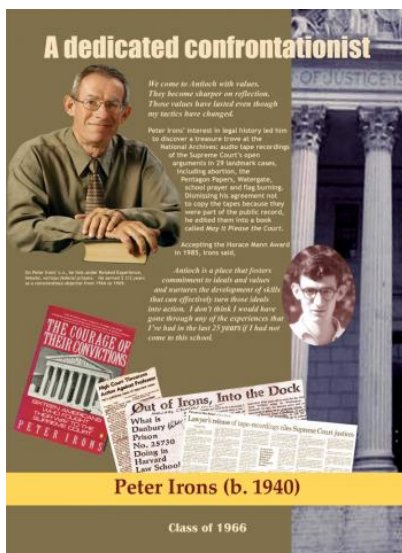


Peter Irons

Image online, courtesy UC San Diego.

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Peter Irons Findings

Image online, courtesy Antioch College.

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