

What do you think? – How would you decide the case

This case can be found in the Upper Elementary We the People Textbook starting on Page 122.

Instructions.

Imagine you are a justice on the United State Supreme Court. This case has come to you on appeal from a lower court. Appeal means to request that a case from a lower court be heard again. Work in a group of five students. First, read the case. Then, consider the arguments made by both sides. When you finish, the group should decide how it would rule. Not every member of the group has to agree with the decision. The members who agree should write their ideas on a sheet of paper. The members who disagree should do the same. Be prepared to share your decision with the class.

Chicago v Morales

Police may not arrest people until they commit a crime. In Chicago, the city government was trying to deal with an increase in gang activity. To help the police, the city government passed a law. The new law made loitering by gang members a crime. The law stated that loitering meant, “to remain in one place with no apparent purpose.”

If a police office saw two or more people loitering, the office was to order them to move away from the area. Anyone who did not move was in violation of the city law. The person could be put in jail for up to six months. The person might also have to pay a fine or do community service. A person who was able to prove that he or she was not a gang member was to be set free.

A police officer saw Jesus Morales standing with six other people who might be gang members. The office ordered them all to move on. When the officer came back a little later, the people were still there. The office then arrested them.

Jesus Morales took his case to the state courts. He claimed that the law violated his rights to move about freely and to associate with others. To associate means to join with others as a partner, member, or friend. Morales also argued that the law was unfair. It punished people not for what they have done but for who they are. The state courts ruled in favor of Morales.

The city of Chicago took the case to the United States Supreme Court. The city argued that street gangs scare people, and they make the community unsafe. Giving the police power to arrest loitering gang members helps to prevent crime. The law, the city said, does not violate the right to associate with others. It is directed only at loitering. Otherwise, people may associate with whomever they want.

In this case, the Supreme Court has to weigh the rights of the individuals against the need of the city to prevent crime. If you were a member of the Supreme Court, how would you decide the case?

Discussion

In your small group discuss the case and each person needs to form their own opinion. Each person will write a full paragraph explaining which side they agree with and the reasons for the decision.

Each group will report to the class what the majority decided with the reasons for the decision. It is important that the minority opinion also be discussed to include the reasons for the dissenting opinion.