

EX PARTE MILLIGAN

Performance Standard (14A/14F).H

Research the case of *Ex Parte Milligan* and explain why it has become a standard for protecting individuals from arbitrary arrest accordingly:

- *Knowledge*: identify rights an individual has from arbitrary arrest;
- *Reasoning*: explain how the events associated with *Ex Parte Milligan* are relevant to the protection guaranteed in the Constitution; and
- *Communication*: write an essay that is well-organized, well-focused and well-detailed; express all ideas in a way that provides evidence of knowledge and reasoning processes.

Procedure

1. ***In order to understand and explain basic principles of the United States government (14A), understand the development of United States political ideas and traditions (14F)***, students with sufficient learning opportunities to develop the following:
 - Explain the influence of the Supreme Court and significant court decisions on the rights and responsibilities of citizens (e.g., defining, expanding, and limiting individual rights), and
 - Analyze an influential U.S. Supreme Court case decision and the impact it had in promoting or limiting civil rights.
2. Have students review and discuss the assessment task and how the rubric will be used to evaluate their work.
3. The instructor will conduct general discussions with students regarding basic civil rights. Included in the discussion may be the relevant portion of Article I, section 9 clause 2 of the Constitution and elements of the 5th and 6th Amendments.
4. Have students read Milligan's letter to Stanton.
5. In groups or individually, students generate questions from having read the document. Discuss this list with the class.
6. Have students research the background information regarding *Ex Parte Milligan*.
7. Have students individually write their interpretation of the importance of *Ex Parte Milligan*.
8. Evaluate each student's work using the Social Science Rubric as follows and add the scores to determine the performance level:
 - *Knowledge*: the identification of rights an individual has from arbitrary arrest based on *Ex Parte Milligan* is complete and accurate.
 - *Reasoning*: the interpretation given in the explanation is relevant to protections in the Constitution and amendments are logical and well-reasoned.
 - *Communication*: the writing is well-organized, well-focused and well-reasoned; the knowledge and reasoning were completely and effectively communicated.

Examples of Student Work follow

Time Requirements

- Three class periods

Resource

- Textbook/Constitution, Encyclopedias
- Synopsis of Supreme Court Decision
- Internet access
- Texts related to Constitutional history
- Social Science Rubric
- Letter to Stanton

Indianapolis 28 Dec. 1864

Wm. B. M. Stanton Let. War.

Dear Sir I have
been @ndemned to die with-
out evidence. Please examine
the facts and advise the
President do this much for
an old acquaintance and
friend-

Yours very truly

L. P. Milligan

Text of letter (for teacher use)
Indianapolis 28 Dec. 1864
Hon. B.M. Stanton Sec. of War

Dear sir I have been
condemned to die with-
out evidence. Please examine
the facts and advise the
President. Do this much for an old acquaintance and
friend

Yours very truly
D.O. Milligan

Milligan's Supreme Court Trial

Citizens of the United States of America are always guaranteed their basic constitutional rights to a fair trial by jury, even in time of war unless the civil authorities aren't functioning. Milligan was deprived of his right as a citizen to a fair trial by jury during the Civil War. Ex Parte Milligan is a standard for protecting individuals from arbitrary arrest because he was arrested by the military in a non-war zone for being a copperhead in Indiana. He was also given a court martial instead of a trial by jury while the courts of Indiana were still functioning. The case limited the power of the military and upheld the rights of civilians and the laws that protect them. An individual has the right to a fair trial while courts are functioning in the state of the arrested one. The events are relevant to the protection ensured by the Constitution because Milligan was deprived of his rights, and was released from jail, not because he was found innocent, but because he was deprived of his right as a civilian while the courts of Indiana were functioning. All citizens are guaranteed certain rights from the Constitution in time of war and peace. Ex Parte Milligan sets the standard of the power the military has for arresting and trying civilians where and when courts are in order and functioning.

Ex Parte Milligan-1864

In the case of Milligan vs. the US, much more was at stake than this man's life. The military tribunals were challenging the constitutional rights of civilians to fair trials and habeus corpus. Even though Lambdin P. Milligan might have been guilty of treason, ~~but~~ Brigadier General Henry Carrington and General Alvin Hovey were immoral and therefore set Milligan free because of the unconstitutional actions they took.

Thanks to the decision of the Supreme Court, citizens would be ensured their rights to fair trials. In Milligan's case, the Union military arrested him under arbitrary conditions. The only proof they had of his treason was the word of a group of civilians against his. General Hovey tried Milligan with a military commission and judge advocate, even though he was a normal citizen. The Constitution states that martial law may only be used if circuit courts are closed and other circumstances are met. Because these factors were not in effect, the decision to try him by court-martial was illegal. Since the trial was unconstitutional the verdict could not hold and Milligan was a free man.

The Supreme Court ruling to set Milligan free guaranteed our rights for justice. Now, we can be sure that we will have fair trials and only be arrested if there's evidence to support claims. Even though Milligan may have originally been out to hurt the Constitution, he actually helped it and future generations at the same time.