*Facts and Case Summary*

Texas v. Johnson
491 U.S. 397 (1989)

**FACTS**

Gregory Lee Johnson burned an American flag outside of the convention center where the 1984 Republican National Convention was being held in Dallas, Texas. Johnson burned the flag to protest the policies of President Ronald Reagan. He was arrested and charged with violating a Texas statute that prevented the desecration of a venerated object, including the American flag, if such action were likely to incite anger in others. A Texas court tried and convicted Johnson. He appealed, arguing that his actions were "symbolic speech" protected by the First Amendment. The Supreme Court agreed to hear his case.

**ISSUE BEFORE THE SUPREME COURT OF THE UNITED STATES**Whether flag burning constitutes "symbolic speech" protected by the First Amendment.

**RULING**Yes.

**REASONING (5-4)**The majority of the Court, according to Justice William Brennan, agreed with Johnson and held that flag burning constitutes a form of "symbolic speech" that is protected by the First Amendment. The majority noted that freedom of speech protects actions that society may find very offensive, but society's outrage alone is not justification for suppressing free speech.

In particular, the majority noted that the Texas law discriminated upon viewpoint, i.e., although the law punished actions, such as flag burning, that might arouse anger in others, it specifically exempted from prosecution actions that were respectful of venerated objects, e.g., burning and burying a worn-out flag. The majority said that the government could not discriminate in this manner based solely upon viewpoint.

**DISSENT**Justice Stevens

Writing for the dissent, Justice Stevens argued that the flag's unique status as a symbol of national unity outweighed "symbolic speech" concerns, and thus, the government could lawfully prohibit flag burning.