

## Cheema v Thompson, in the Appellate Court

**Guiding Questions:** These questions have been suggested by a judge and justice to help solicit deeper thinking in this case. They may be used either during the unit, or during the oral arguments during moot trial. We always want students to create their own questions ~ they may need some “delving” on our part to get them thinking in this direction:

- Is the school district’s interest in making sure students and teachers are safe on campus compelling enough to justify banning these knives?
- Is there an option other than banning the knives that would have a less significant effect on the plaintiffs’ freedom to exercise their religious beliefs?
- Does it matter that the plaintiffs are the only Sikhs in the school district or that there are very few Sikhs? Does the school district have to make a special rule for such a small minority of students?
- Should we (the court) rely on school district officials to determine what is best for the school environment and whether the safety risk is too great?
- Do you know what the school district’s other rules about weapons or items that could be used as weapons, and how are those rules enforced? Could a student bring a table knife to school in her lunchbox, and would that violate school rules?
- Do you know if the school has had incidences of violence that involved knives or other objects? How much of a problem has this been?
- Do you know if there is there gang activity at the school? Should that matter?
- Is there any history of conflict between Sikh students and other students, and if so, is there a risk that other students could take and use the plaintiffs’ knives to hurt the plaintiffs?

- Does the school have a metal detector? Does it search students' backpacks? Does it pat students down for weapons? How serious is it about preventing danger to other students and teachers?
- How difficult would it be to take a knife out if it was sewn into the sheath?
- What does the first amendment say about the exercise of religion?
- Does the free exercise clause give observers an absolute right to carry a kirpan if required by their religion?
- What obligations do schools have to protect students?
- Is it reasonable for schools to prohibit weapons? What is the reason for such a prohibition?
- Why aren't students allowed to bring weapons to school?
- If schools allow some students to bring weapons to school as part of a religious practice, is it fair to other students who would like to bring weapons to school but who do not practice a religion mandating the carrying of a Kirpan?
- What is the compelling state interest that would give the school the right to limit a person's religious expression?
- Are there accommodations the school can make that would permit the student to practice his religion and ensure student safety?
- With your argument be different if the Kirpan were a 15 inch sword? What if it were a rubber knife?
- If the court has to balance a person's right to the free exercise religion with a school's obligation to protect its students, what factors should the court consider?

### **After the Decision**

- Was the Court of Appeals correct to hold that a rule that would be less burdensome on the plaintiffs' religious freedom, one that required the knives to be dulled and sewn into a sheath, could satisfy the district's concerns about safety?
- Would the dulling and sheathing rule adopted by the Court of Appeals be too difficult for the school to enforce? What would the school have to do to enforce such a rule?
- Does the dulling and sheathing rule adopted by the Court of Appeals still pose too much of a safety risk to other students and teachers at the school?
- If the school district believes the sheathing and dulling rule is not workable, shouldn't we (the court) accept their assessment of that? Aren't they more expert than judges in matters of school safety?