



Judicial
Branch



The United States Supreme Court

Supreme Court Justices

- President appoints; Senate approves
- Their term is for Life
- Impeached like any other office
- Pay cannot be lessened during their term. If retire after 65 and have served 15 years, they get full pay for life

**Chief Justice
of the United
States:**

John Roberts

**Appointed by
Bush in 2005**

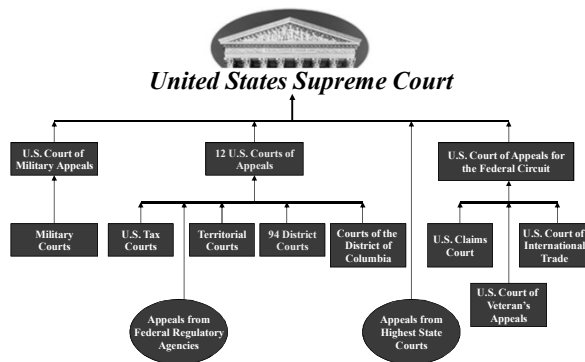


Associate Justices:

- Anthony M. Kennedy - 1988
- Clarence Thomas - 1991
- Ruth Bader Ginsburg - 1993
- Stephen G. Breyer - 1994
- Samuel Alito - 2005
- Sonia Sotomayor - 2009
- Elena Kagan - 2010
- Neil M. Gorsuch - 2017
- Brett Kavanaugh - 2018



Judicial Branch



Supreme Court

- Court of last resort; most appeals come from the Court of Appeals
- currently 8 associate justices and chief justice
- **judicial review** – declares congressional or executive act unconstitutional (defined in Marbury v. Madison)
- meets on the first Monday of October each year and usually continues in session through June.
- about 6,000 cases apply/yr., only about 100 get full decision



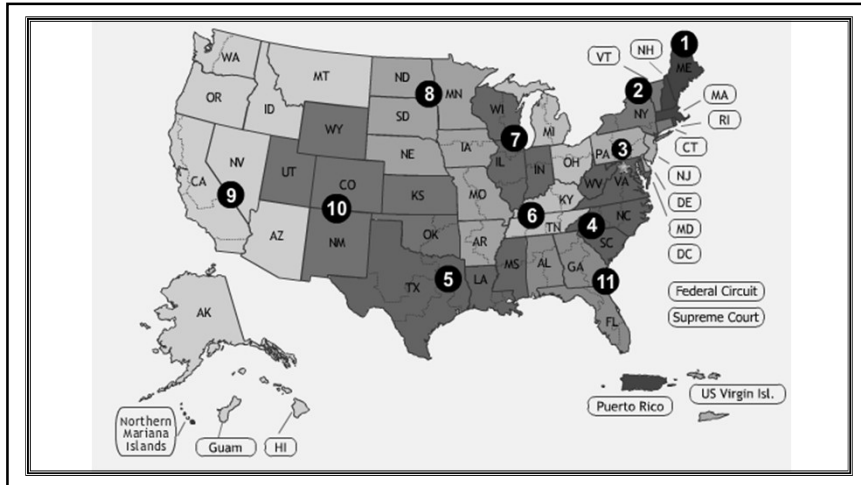
Court of Appeals

- set in 12 districts or circuits; usually 3 judge panels
- hear appeals from district courts
- set up to lessen workload of Supreme Court
- have appellate jurisdiction
- does not always mean a trial
- about 40,000 cases/yr.



Federal District Courts

- federal trial courts; currently 94 courts
- at least one per state plus D.C. and Puerto Rico
- 2 judges per court
- have original jurisdiction
- hear 80% of federal cases (about 300,000/yr.)



Jurisdiction



The right of a court to hear a case

Types of Jurisdiction:

1. **Original** – right to hear a case for the first time.

Jurisdictional levels:

1. **Federal**
 2. **State**
 3. **Local**
2. **Appellate** – right to hear a case on appeal; law has been applied unfairly or incorrectly
 3. **Exclusive** – assigned by Constitution; only federal courts can hear; includes cases involving national laws, the federal government or other governments (State or Foreign)
 4. **Concurrent** – cases that can be decided in state or federal courts



Other Federal Courts

Military Court / Military Appeals

- trials of service persons (court martial)

U.S. Tax Court

- disputes between taxpayers and the IRS

Territorial Courts

- set up like federal district courts in U.S. territories

Courts of the District of Columbia

- handles all cases for the nation's capital

Court of Appeals for Federal Circuit

- nationwide jurisdiction
- civil cases mostly
- patents, trademarks, copyrights

Court of International Trade

- civil cases (involve money or property)
- foreign business dealings covered here

U.S. Claims Court

- public officials can be sued here
- Government can be sued in some cases approved by Congress



Process of Hearing Cases by the U.S. Supreme Court

1. **Submit Appeal** - In most cases lawyers write an appeal for the court to issue a *writ of certiorari*. (forces lower courts to send documents from the case to be reviewed)
2. **Appeal Granted - (Rule of Four)** 4 of 9 justices agree to put case on *docket* (schedule).
3. **Submit Brief - Merit Briefs** are written legal arguments by lawyers to support one side of a case.

* **Amicus Curiae Briefs** – friend of the court (interest groups file)



Process of Hearing Cases by the U.S. Supreme Court

4. **Oral Arguments** - the lawyers have the opportunity to give their arguments and ask questions about the case. It is almost always limited to 7 sittings at 30 minutes for each side. (2 weeks long)
5. **Conference** - justices discuss and vote on cases. (Wednesday morning and on Friday)
6. **Write Opinions** – after voting on the case, each justice may write their opinions.
7. **The Decision is Final**



Making Decisions



Types of Opinions –

- **majority** – the decision of the court
- **concurring** – agrees with the decision but wants to explain
- **dissenting** – disagrees and wants to explain why



Judicial Philosophies

- **Judicial Restraint** – the Court limits itself to matters of law and justice as they are brought before them.
- **Judicial Activism** – the Court does not refrain from making policy with its decisions.



Making Decisions

- **Judicial Restraint** – the Court limits itself to matters of law and justice as they are brought before them.
 - *Bush v. Gore*, 2000 - Florida Supreme Court's method for recounting ballots was ruled as having violated the Equal Protection Clause of the Fourteenth Amendment in a presidential election
 - *District of Columbia v. Heller*, 2008 - Declared the Washington, D.C. ban on private ownership of hand guns unconstitutional in violation of the 2nd Amendment



Making Decisions

- **Judicial Activism** – the Court does not refrain from making policy with its decisions.
 - *Brown v. Board of Education* – 1954 Supreme Court ruling ordering the desegregation of public schools
 - *Roe v. Wade* - 1973 Supreme Court ruling decriminalizing abortion
 - *Perry v. Schwarzenegger* - 2010 decision by federal judge Vaughn R. Walker overturning California's constitutional amendment to ban same-sex marriage
 - *Citizens United v. Federal Election Commission* - 2010 Supreme Court decision overturning Congressionally enacted limitations on corporate political spending