

America's Federal Court System



How do we best balance the government's need to protect the security of the nation while guaranteeing the individuals' personal liberties?

I.) Judges vs. Legislators

I.) Judges v. Legislators

A.) Legislator:

1. Elections:

2. Law Making

B.) Judge

1. Life Terms:

(though not in states)

2. Cases:

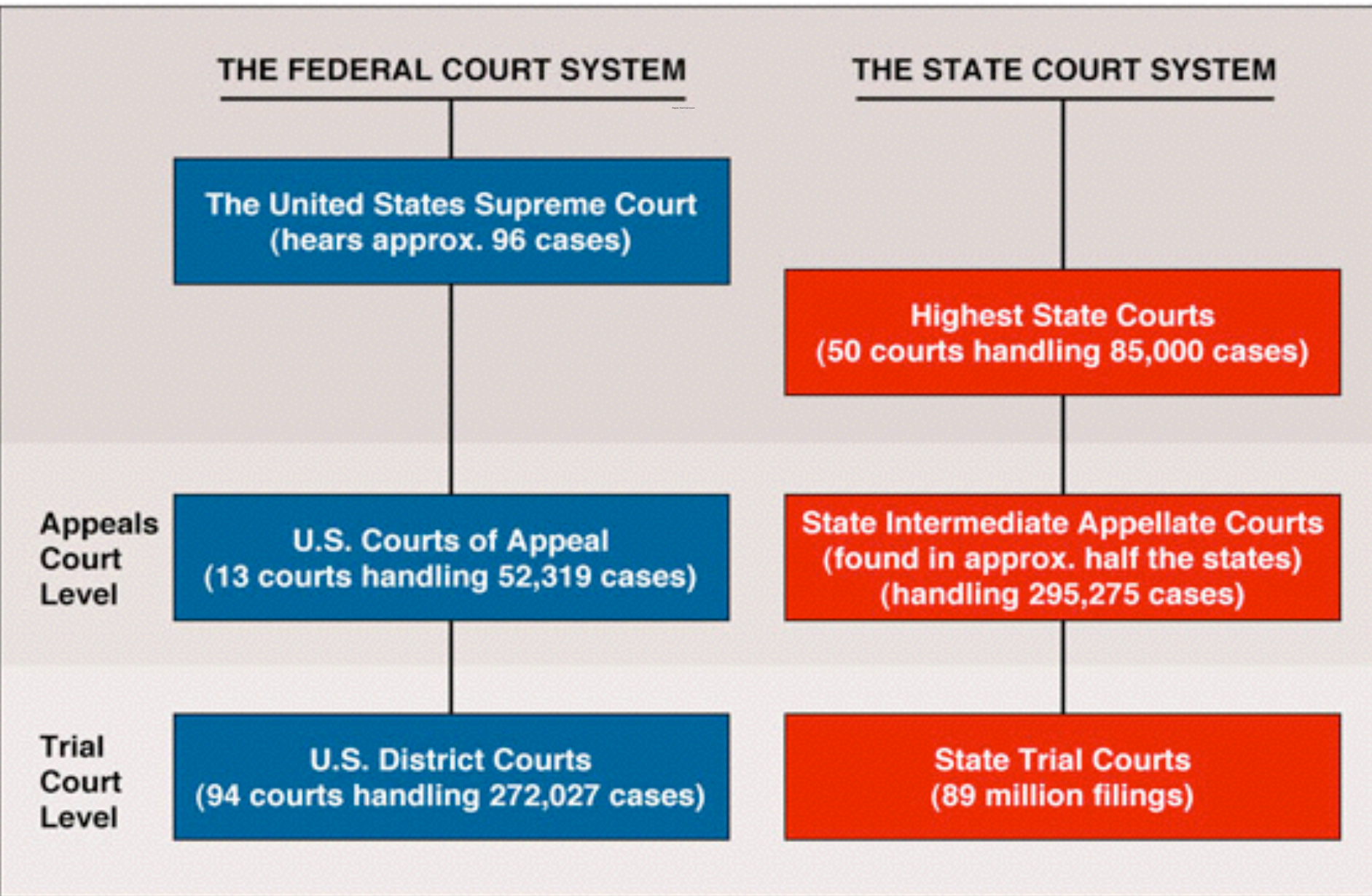
THE FEDERAL JUDICIARY ... (IS) ... AN IRRESPONSIBLE BODY, ... ADVANCING ITS NOISELESS STEP LIKE A THIEF, OVER THE FIELD OF JURISDICTION, UNTIL ALL SHALL BE USURPED FROM THE UNITED STATES, ...



THOMAS JEFFERSON



Figure 10.1 The Dual Structure of the American Court System



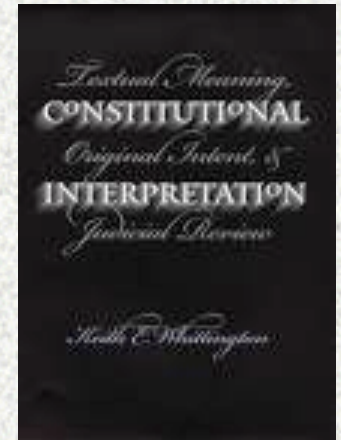
This figure illustrates the dual nature of the national court system.

A.) *The Constitution & National Judiciary*

1.) Creation:

2.) Article III

3.) Intent



4.) **Judicial Review:** *Marbury v. Madison*

- Prior to the appointment of Chief Justice John Marshall, the Supreme Court had little power.
- In *Marbury v. Madison* (1803), Chief Justice Marshall and the Supreme Court first declared an act of Congress unconstitutional, thus establishing the power of judicial review.

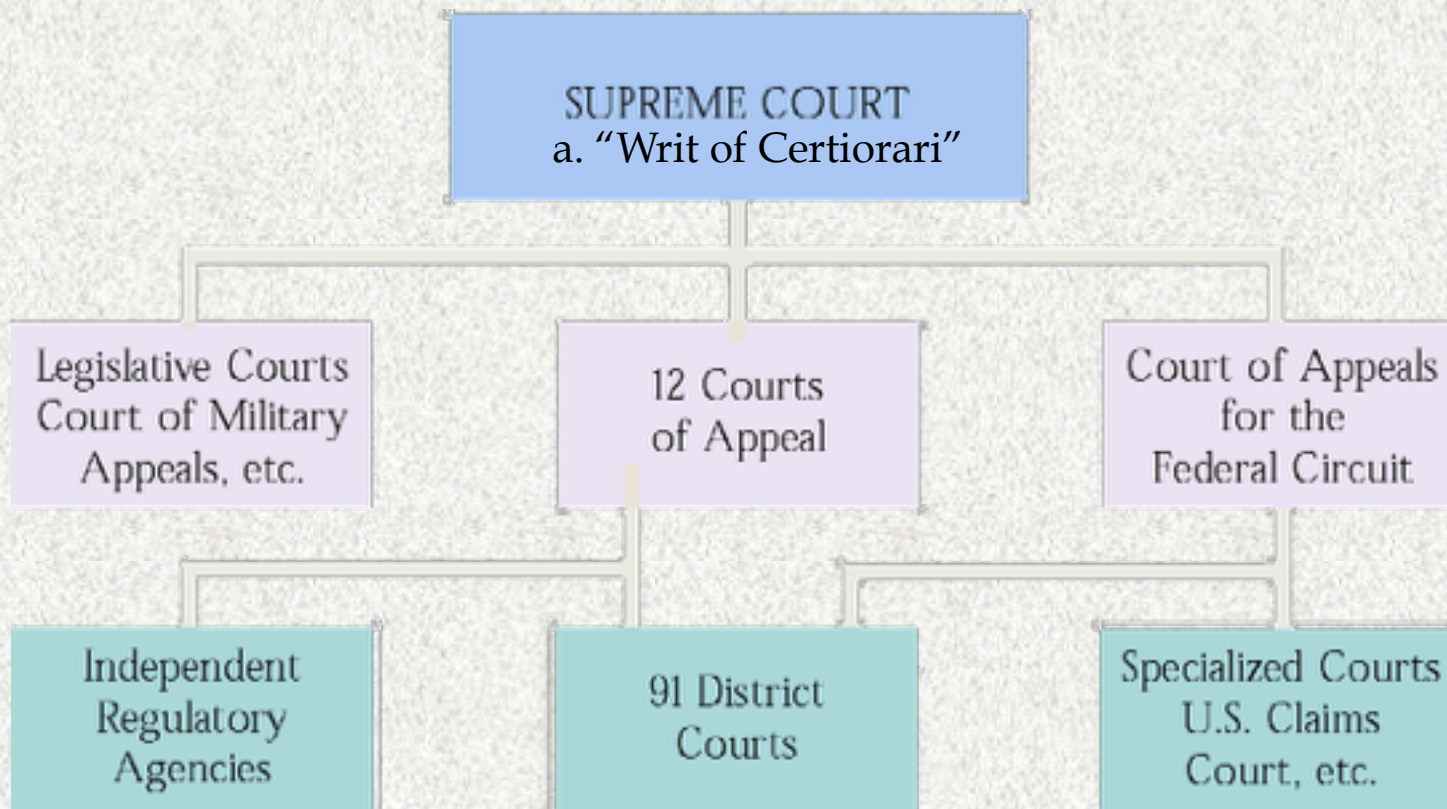


American Legal System:

The Federal Court System

The Supreme Court has power to:

- Interpret the Constitution
- Determine the constitutionality of state laws
- Uphold regulatory laws
- Protect civil liberties
- Influence public policy



Extent of the Jurisdiction of Lower Courts

The lower courts hear cases in which

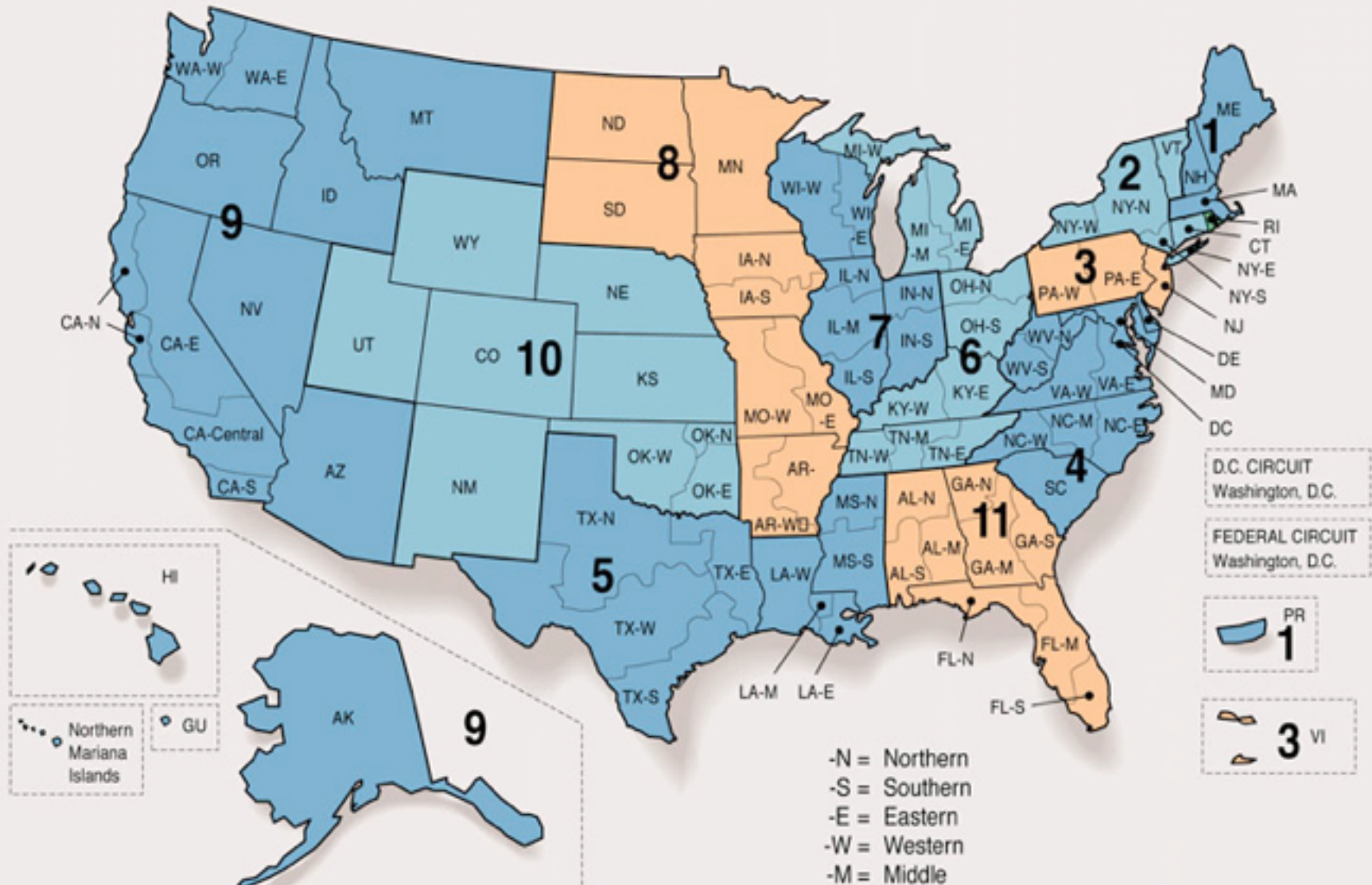
- a person is accused of disobeying the U.S. Constitution,
- a person is accused of violating a U.S. treaty,
- a person is accused of breaking federal laws passed by Congress,
- the U.S. government or a U.S. citizen is charged with an offense by a foreign nation,
- a person is accused of committing a crime on a U.S. ship at sea,
- a U.S. ambassador or other foreign-service official is accused of breaking the laws of the country in which he or she is stationed,
- a person is accused of committing a crime on certain types of federal property, and
- a citizen of one state brings a lawsuit against a citizen of another state.



Figure 16.1

Figure 10.2 The Federal Court System

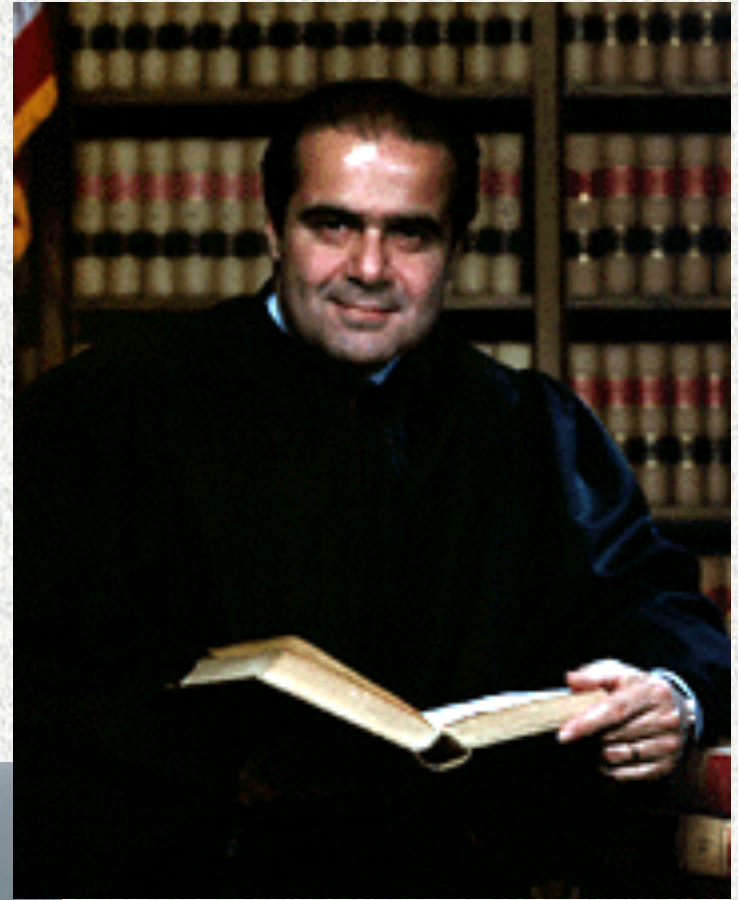
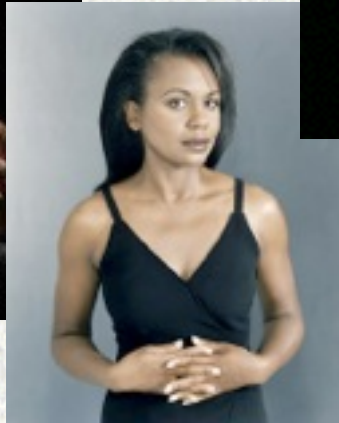
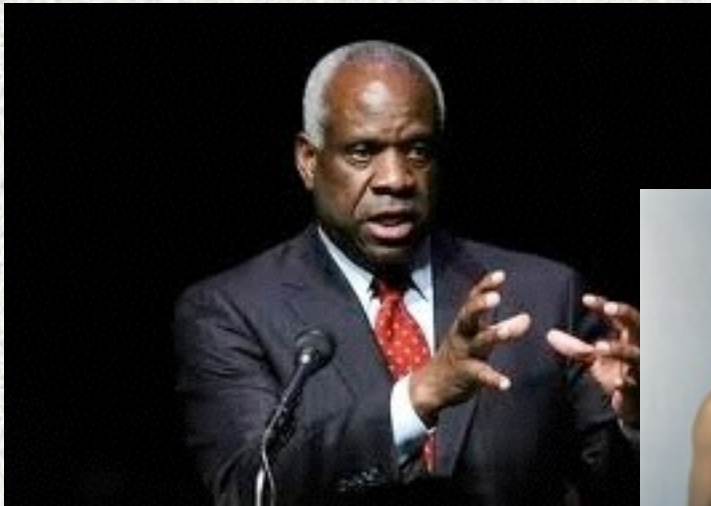
This map shows the locations of the U.S. Circuit Courts of Appeal and the boundaries of the federal district courts in states with more than one district.



A.) Selection Process

Requirements

- No constitutional qualifications
- Competence?
- President select/ senate confirm

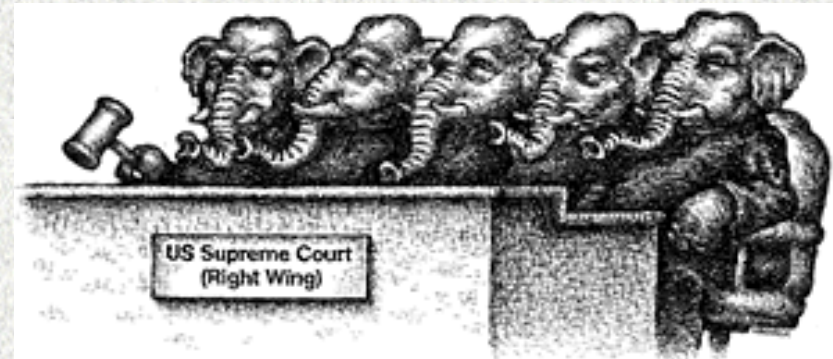


Antonin Scalia

“The Supreme Court has ruled that they cannot have a nativity scene in Washington, D.C. This wasn't for any religious reasons. They couldn't find three wise men and a virgin.”

B.) Selection Process

- The selection of judges is a very political process.
- Who is selected? Typically
 - held previous political office such as prosecutor or state court judge
 - political experience such as running a campaign
 - prior judicial experience
 - traditionally been mostly white males
 - been lawyers



- Judges are nominated by the president and confirmed by the Senate.
 - Often presidents solicit suggestions from members of the House of Representatives, Senators, their political party, and others.
- Provides president opportunity to put philosophical stamp on federal courts

“The Supreme Court's only armor is the cloak of public trust; its sole ammunition, the collective hopes of our society.”

2.) *The Supreme Court*

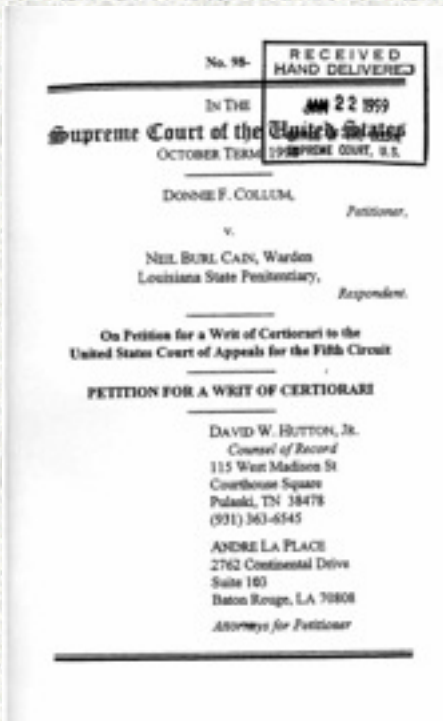
a.) Court Membership

- 1 Chief Justice;
8 Associate Justices

b.) Get Cases?

1. Rule of 4

Writ of Certiorari



Case on the Docket
Approx 97

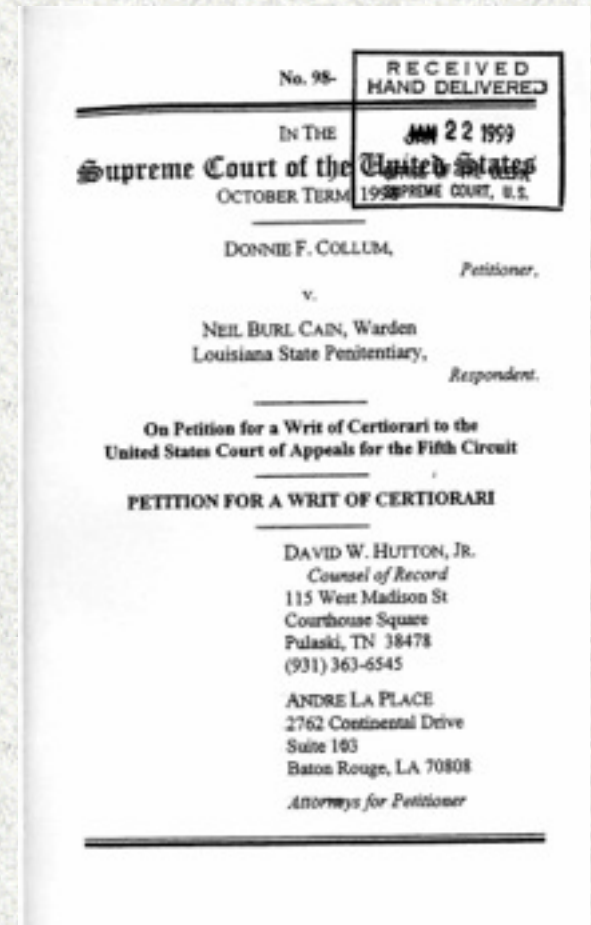
D. Supreme Court Decisions

The Process

Writ of Certiorari

Case on the Docket
Approx 97

Briefs and Amicus
Briefs submitted



The Voting Process

Amicus Curiae

- **Amicus Briefs**—Both sides of the case and any interested parties submit written information summarizing their point of view.



2.) *The Supreme Court*

a.) Court Membership

1. 1 Chief Justice;
8 Associate Justices

b.) Get Cases?

1. Rule of 4
writ of certiorari

c.) Voting Factors

1. **Judicial Philosophy**

–Judicial Restraint - advocates minimalist roles for judges, and the latter

–Judicial Activism - feels that judges should use the law to promote justice, equality, and personal liberty.

2.) **Precedent**

–Prior judicial decisions serve as a rule for settling subsequent cases of a similar nature.

–**Stare decisis**



D. Supreme Court Decisions

The Process

Writ of Certiorari

Case on the Docket
Approx 97

Briefs and Amicus
Briefs submitted

Oral Argument



Arguments, Deliberation & Voting

- **Oral arguments**—Lawyers for each side present oral arguments. They are often questioned by the justices regarding their arguments.

- **Conference**—Following oral arguments, justices meet to discuss the merits of a case. The decision of the court is determined by a majority vote.

- **Opinions**—Justices are assigned to write the majority and minority opinions of the court. When all opinions have been written and justices have determined which opinion they will support, the decision is announced in public. Justices who disagree with those opinions may write a dissenting opinion



D. Supreme Court Decisions

The Process

Writ of Certiorari

Case on the Docket
Approx 97

Briefs and Amicus
Briefs submitted

Oral Argument

Justices Conference
Cases discussed
Votes taken
Opinion Assigned

Opinions Drafted
and Circulated

Opinions Announced



C. Recent History

1. Warren-



a. "rights of the accused"

Key Decisions:

Brown v. Board

Engel v. Vitale

Gideon v. Wainwright

Miranda v. Arizona



2. Burger-

Roe v. Wade

Swann v. Charlotte-Mecklenburg Board of Education

Gay Rights



"The mind of a bigot is like the pupil of the eye. The more light you shine on it, the more it will contract."

-Oliver Wendell Holmes Jr.



f. Rehnquist '86-06 *avored a federalism under which the states meaningfully exercised governmental power.*



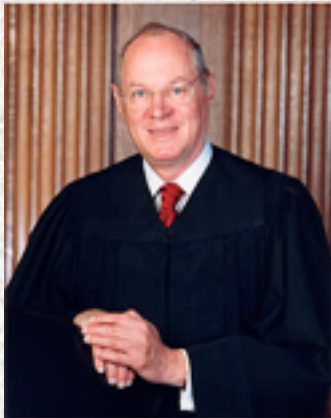
g.) Roberts



The Current Court



Judge	Ap	Views	Age
Ginsberg	Clinton	Very Liberal	82
Sotomayor	Obama	Very Liberal	61
Kagan	Obama	Liberal	56
Breyer	Clinton	Moderately Liberal	77
Kennedy	Reagan	Moderately Conservative	79
Roberts*	Bush	Mod-Very Conservative	60
Alito	Bush	Very Conservative	65
Scalia	Reagan	Historically Conservative	79
Thomas	Bush (H.W)	Historically Conservative	67



Anthony Kennedy



Elena Kagan

D. Supreme Court Decisions

How Judges Decide: Extra-Legal Factors

•Behavioral Characteristics

–The personal experiences of the justices affect how they vote. Early poverty, job experience, friends and relatives all affect how decisions are made.

•Ideology

–Ideological beliefs influence justices' voting patterns.

•The Attitudinal Model

–A justice's attitudes affect voting behavior.

•Public Opinion

–Justices watch TV, read newspapers, and go to the store like everyone else. They are not insulated from public opinion and are probably swayed by it some of the time.

Supreme Court Simulation Topics

1. Death Penalty
2. Campaign Finance
3. Affirmative Action

Roles

1. Justice,
2. Solicitor General
3. Attorney