**General**

-Justiciability deals with the boundaries of law and adjudication

-Is a standard preliminary requirement for constitutional cases(Digital comments, 1)

-A claim can be dismissed if it fails the requirements(Ibid)

-Justiciability is distinct from the issue of judicial activism, which relates to the role of the courts in developing and changing the law and with the readiness of the courts to intervene in the decisions of other public authorities and to grant relief against those decisions.(312)

-“the issue of justiciability is dealt with primarily within the context of the ‘political question’ doctrine, which focuses on the limitations upon adjudication by the courts of matters generally within the area of responsibility of other government authorities”

-Requirements(Justiciability: Basic Analysis) (Digital Comments)

**Basic Analysis**

A. The What: Claim must arise in the context of an actual “case or controversy” between adverse parties, and the constitutional issue must itself be justiciable(913)

1. The actual case requirement: The court argues “judicial Power” extends only to cases and controversies brought before the courts for determination by such regular proceedings as are established by law or custom for the protection nor enforcement of rights, or the prevention, redress, or punishment of wrongs(913)

a. The adversity requirement and the rule against collusive cases: must be between parties whose interests are adverse(913)

b. The rule against advisory opinions: will not give advisory opinions or rule in cases whose outcome can be determined by an independent and adequate state ground (914)

-In 1793, Justices of the Supreme Court declined a request from President Washington and Secretary of State Jefferson who asked them to answer a series of questions concerning America’s role as a neutral toward a war between England and France(914)

2. The justiciable issue requirement: a constitutional claim must arise and the specific issue must also be justiciable, not a political question or subject to extra-judicial review (915)

a. The political question doctrine: Summarized Baker v. Carr (915)

b. The rule against extra-judicial review: as said (917)

B. The When(917)

1. Ripeness: court should only adjucate on claims that are ripe(“whether the harm asserted has matured sufficiently to warrant judicial intervention.”(918)

2. Mootness: moot claims (if legal proceedings regarding it can have no effect or is beyond the reach of the law) are generally not justiciable and should be dismissed(918)

-Exceptions: “Exceptions to the mootness requirement include claims "capable of repetition, yet evading review," claims by a certified class representative, and claims mooted by respondent's voluntary cessation of the challenged conduct.” (919)

-1) Capable of repetition yet evading review, 2) Class actions, or 3) Voluntary cessation by respondent(933)

3. The rule of necessity: the courts shouldn’t rule on constitutional issues in advance of them being necessary(921) if an alternative statutory basis exists, courts should not rule

C. The Who (Standing): claimant must be in a proper party to present claim, mostly focus on standing (921)

1. General standing:

-Claimant must have suffered an “injury in fact” that was caused by the unconstitutional government action and that will be redressed by the relief requested(922)

2. Taxpayer standing: “individuals do not have standing solely by virtue of their status as federal taxpayers to challenge allegedly unconstitutional conduct by officers of the federal government(929)

-Exception:” 1) the challenged action must be a congressional exercise of the taxing-spending power and 2) the constitutional limit invoked must be an express limit on the taxing-spending power.”(930)

3. Organizational standing(934)

a. Members have standing in their own right,

b. The claim is germane to the organization's interests, and

c. Participation by individual members is not required.

**Baker V. Carr**

Sources:

<https://mckinneylaw.iu.edu/iiclr/pdf/vol7p311.pdf>

<https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1722&context=lawreview>

<https://www.oyez.org/cases/1960/6>