

# The Federal Courts

## Supreme Court of the United States of America (SCOTUS)

- 6 to 3 conservative majority
- Original Jurisdiction
  - Case starts in the SCOTUS and ends in the SCOTUS
  - Very few cases
  - Only can happen under some situations
    - Stated in the US Constitution
- Appellate Jurisdiction
  - Up through the California court system only if it involves the US Constitution
  - Up through federal courts
- Does not deal with state constitutional issues
- Judicial Review
  - Reviews the actions of Congress
  - Reviews actions of the President

## The Federal Courts in the Constitution

- Article III
  - “The judicial power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish”

## The power of the Court

- Debated at the Constitutional Convention
- Federalist #78
  - Written by Alexander Hamilton
  - Argument about the powers of the Supreme Court in a favorable manner
  - Trying to calm the fears of the anti-federalists
  - Argument
    - Unelected and life-tenure
      - Does not have to be responsive to voters or cater to voters
      - They are only responsive to the constitution
    - No power of the sword
    - No power of the purse
    - Not a threat to the other two branches
    - Keep the legislature responsive (and the president too)
- Anti-federalist fear of a powerful federal government

- Court will substitute its will
- Court will be superior

Federalists lost the 1800 election

- Judiciary act of 1801
  - President John Adams
    - Secretary of State John Marshall
    - Passed by John Adams
    - Was trying to stuff federalists into new positions in the judicial branch
    - The commissions did not get delivered
  - President Thomas Jefferson
    - Secretary of State James Madison
    - Got rid of these commissions
- Marbury
  - Sues the Secretary of State James Madison
  - He wants his job
  - Judiciary Act of 1789
    - Writ of mandamus
    - He wants the court to order Madison to give him his judiciary appointment
      - Section 13 of the constitution
        - They can ask the SCOTUS to order a federal official to do a thing
  - Went directly to the SCOTUS on original jurisdiction
    - Chief Justice John Marshall struck down the Section 13 Law
  - Marbury v. Madison
    - Set the court precedent for judicial review

Article III

- Gave Congress power to create lower federal courts as needed

Checks on court power

- Constitutional amendment
- Confirmation by the Senate
  - President appoints with confirmation necessary from Senate
  - Robert Bork (1987), Clarence Thomas (1991), Brett Kavanaugh (2018)
  - Simple majority now
  - Garland? Gorsuch