

# The Supreme Court

## History, Composition and Cases



# The Composition of the US Supreme Court

- Founded in 1789, the court was created by Article III in the Constitution.
- It is largely an appellate court (meaning it hears appeals from lower courts), but it has original jurisdiction for any case where one state is suing another or when the US and a state have a legal dispute.
- It cannot rule on political questions, only legal questions or clarifications/interpretations of the Constitution.
- It does not enforce any of its decisions – only the Executive Branch can do that.

# The Makeup of the Supreme Court

- The Court has a Chief Justice, and any number of associate justices. There is no set number mandated by the Constitution.
- Justices are appointed by the President, confirmed by the Senate, and may serve for life or until they voluntarily retire.
- Justices may be impeached, but this hasn't happened since 1804.
- Justices may recuse themselves from a case, and this happens on rare occasions.
- The court meets in Washington, DC. From October through April. Oral arguments are open to the public, but all deliberations are held in secret. Rulings are made in public.

# How the Supreme Court works

- The court decides which cases to hear each year from a pool of cases that have already been decided by lower courts.
- When these lower decisions are appealed to the Supreme Court, a “Writ of Certiorari” or “Cert” is granted by the court.
- About 7000 cases are appealed each year to the court, and around 100 are granted Writs of “Cert”. The rest are not heard or allowed to stand as the decision from the lower court.
- Once the court decides to hear a case, they allow both sides to make Oral Arguments. After hearing the arguments and each justice asking questions, then the justices retire to deliberate, behind closed doors. Once a verdict is reached, the court returns to deliver it publicly. There is often a crowd in the courtroom.
- One justice usually writes the Majority Opinion, which explains why the majority ruled the way they did in the case in question.
- Justices may also write Concurring Opinions, where they explain their vote by different reasons from the Majority Opinion.
- Justices who voted in the minority may write Dissenting Opinions, explaining why they disagreed with the majority.

# *Marbury v. Madison*

- This was the first important case heard by the court. The decision was handed down by John Marshall, the most important Chief Justice that possibly ever served.
- James Madison was being sued by William Marbury for failure to deliver a judicial appointment in 1801.
- Marshall ruled in favor of Madison, but explained in his opinion why Marbury could not receive his appointment, due to the Judiciary Act of 1798 being unconstitutional.
- It was the first time the Supreme Court ruled a piece of legislation passed by Congress to be unconstitutional. This was called **JUDICIAL REVIEW**. This is the basis for the powers that the Supreme Court claims for itself today.
- This expanded the power of the court greatly, and was the basis for the next several Marshall court cases.

# *McCulloch v. Maryland*

- The Bank of the United States had opened a branch in Maryland, and this competed with the Maryland state banking system.
- Maryland taxed any bank notes (dollars) in order to crush the BUS and drive it from the state.
- Marshall invoked the *Necessary and Proper clause* from the Constitution in his decision. This grants *implied powers* to Congress to carry out its functions.
- Marshall ruled in favor of McCulloch, the BUS bank manager, saying famously that “*The power to create implies the power to preserve.... while the power to tax grants the power to destroy*”.

# *Gibbons v. Ogden*

- This case involved a steamboat monopoly on the Hudson River. Essentially New Jersey and New York were fighting over the right to regulate interstate commerce, or business that traversed a state boundary.
- Marshall ruled in favor of Gibbons, saying that only the Federal Government (i.e. Congress) had the right to regulate interstate commerce.
- States could continue to regulate intrastate commerce (business within a single state). This increased Congress's powers greatly, as well as the Federal Government.

# *Dred Scott v. Sandford*

- This case was heard under Chief Justice Roger Taney's tenure.
- Dred Scott was a slave that belonged to an army doctor, who was stationed in Minnesota Territory (considered free territory under the Missouri Compromise of 1820).
- When the army doctor died, Scott was inherited by the doctor's sister and ordered to come to Missouri to be a slave for her. Scott refused and sued for his freedom.
- While Scott lost in the lower courts, he successfully appealed to the Supreme Court. (He was eventually freed by a future owner.)
- Taney made three separate rulings: 1. Scott was a slave and could not sue because slaves had no legal standing in court. 2. Just because slaves were taken into free states/territories did not make them free (using the 5<sup>th</sup> Amendment). 3. The Missouri Compromise was unconstitutional – Congress did not have the right to tell states how to treat slavery.
- This was a terrible decision by the court which may have led America into the Civil War, and the Supreme Court was greatly tarnished, as was Roger Taney.



# *Plessy v. Ferguson*

- Homer Plessy was 1/8 black (Octoroon) and sat in a whites-only car on a train in Louisiana in 1896.
- He sued the RR for discrimination, and lost in Louisiana court.
- The Supreme Court ruled in favor of the lower court (Ferguson), claiming that facilities could be separate as long as they were equal in quality and quantity.
- This strengthened Jim Crow Laws and segregation increased tremendously. Facilities were hardly ever equal.
- The dissent was written by John Harlan, who said “The Constitution is color blind.” He predicted that this awful decision would be overturned in the future.

# ***Brown v. Board of Education of Topeka***

- Linda Brown, a third grader in Topeka, KS, had to travel to an inferior school very far away from her house, when a white school nearby was barred from her.
- Her case was lumped with several others in a class-action lawsuit which went to the Supreme Court in 1954.
- Thurgood Marshall, a black attorney, argued the case before the court.
- Chief Justice Earl Warren ruled in favor of Brown. This reversed the *Plessy* decision, and Warren ordered all public schools to be desegregated “with all deliberate speed”.
- This case was a big victory for the Civil Rights Movement.

# ***Schenck v. United States***

- Charles Schenck was a socialist living in Philadelphia who was opposed to World War I. He sent out a flyer to 15,000 draft-aged men urging resistance to the draft. He was arrested under the Espionage Act of 1917.
- Oliver Wendell Holmes, Jr. wrote the majority opinion, saying that Schenck would have to go to jail. Holmes claimed that Americans normally have freedom of speech (1<sup>st</sup> Amendment rights), but when speech threatens violence or toppling of the government, it can be stopped or restricted.
- Holmes called this unlawful speech “a clear and present danger” to the safety of the United States.
- This was not the first, nor the last attempt to limit free speech by the Supreme Court.

# *Korematsu v. United States*

- FDR issued Executive Order 9066 during WWII, which sent all Japanese-Americans living on the west coast to internment camps.
- Fred Korematsu refused to go, and was eventually caught and arrested. He claimed his Fifth Amendment rights were being violated, and that he was never proven of disloyalty.
- The Supreme Court ruled in favor of the United States, saying that the right to intern Americans from a single country is constitutional, even though it should only be done in extreme circumstances.
- The decision meant very little, since the camps were mostly closing when the decision was handed down in 1944.
- Because the decision is so controversial, it has never been used as precedent for other decisions, and the government has never tried internment again.

# ***Baker v. Carr & Reynolds v. Sims***

- ***Baker v. Carr*** was a 1962 case involving the redrawing of voting districts in Tennessee, which had not been redrawn since the 1900 census.
- Initially the court didn't want to hear any cases involving voting or redistricting, calling them a "political thicket".
- ***Baker v. Carr*** was ultimately decided 6-2 (controversially) and there were several opinions written besides the majority opinion.
- ***Reynolds v. Sims*** came two years later, which forced Alabama to come up with a one man = one vote system that equalized rural and urban voters.
- Both cases were considered by Earl Warren to be the "most important cases during his tenure as Chief Justice."

# ***Gideon v. Wainwright***

- Clarence Gideon was accused of breaking and entering a Florida pool hall. He was poor and couldn't afford his own attorney, so he had to defend himself. He was found guilty and sentenced to five years in prison.
- He appealed his conviction claiming the Sixth Amendment guarantees defendants the right to legal representation. Gideon should have been given a **Public Defender**.
- The court ruled in favor of Gideon, who was found not guilty in his second trial.
- This case has expanded rights of the accused, but was expensive for states to implement, since they had to now hire hundreds of public defenders to work in local and state courts.

# ***Miranda v. Arizona***

- Ernesto Miranda was arrested in 1963 for suspicion of rape and kidnapping. He was not read his rights but coerced to sign a confession of guilt.
- Miranda was then found guilty by a court and sentenced to 30 years in prison, but appealed once he realized he had not been told of his right to remain silent by police. He was also not given a phone call, and didn't have a lawyer present while being interrogated.
- The court sided with Miranda, and ordered a new trial for him. He was found guilty the second time, served 5 years in prison, and died in 1976 in a bar stabbing incident. The police arrested a suspect in the stabbing, but the man refused to talk to police claiming his Miranda rights, and the police released him.
- This decision has since been altered several times by future courts, and Miranda rights have been redefined and applied to allow police more latitude in arrests and interrogations.

# *New York Times v. Sullivan*

- During the Civil Rights movement of the 1960's, many northern newspapers covered the confrontations between protesters and southern law officials. The news coverage was very critical of southerners.
- L.B. Sullivan was the head of the Montgomery Public Safety Office, and he felt he was unfairly targeted in a negative light by the NY Times in their coverage of the treatment of Martin Luther King.
- Other lawsuits at the same time was also suing northern newspapers for libel and defamation.
- The Supreme Court ruled 9-0 in favor of the NY Times, saying that newspapers were not legally liable if malice was not intended by the libel.
- In other words, if *actual malice* was intended by the newspaper when they printed a story that was knowingly false, then they could be sued and found guilty. Otherwise, freedom of the press would trump any *unintentional libel*.
- Many have called this case the most forceful defense of the Freedom of the Press anywhere in the world.



# ***Griswold v. Connecticut***

- Connecticut had a state law banning the sale of contraception or providing of medical advice from doctors to any woman.
- Griswold ran a women's clinic and provided contraception to ten female patients, all of whom were married. She was arrested and fined by the state.
- The Court in 1965 ruled 7-2 that the state law was an invasion of privacy and the state could not intrude upon married couples decisions about family planning.
- The court expanded this argument in *Eisenstadt v. Baird* in 1972 to include *unmarried* couples.

# *Loving v. Virginia*

- Mildred (black woman) and Richard (white man) were married in the District of Columbia in 1958. They were from Virginia, where interracial marriage was illegal.
- They were arrested once they came back to Virginia, found guilty and basically kicked out of the state.
- They moved back to DC but sued Virginia because it was hard to find a job and they were both separated from their families.
- The Supreme Court ruled in favor of the Lovings, stating that their rights under the Fourteenth Amendment were being violated.
- This encouraged an increase in interracial marriage. In 2015, 16% of marriages were interracial.
- This case also became the basis for the Obergefell v. Hodges decision.

# *Obergefell v. Hodges*

- Several federal circuit courts were ruling on the constitutionality of gay marriage, and there was no agreement between circuits.
- Jim Obergefell was married to a man in Maryland but moved to Ohio. His partner became critically ill and Obergefell wanted to be listed as a spouse on his partner's death certificate. The case was originally titled Obergefell v. Kasich, since John Kasich opposed any rights to gay marriage.
- The court ruled 5-4, very controversially, that the right to gay marriage was protected under the Fourteenth Amendment's Due Process provision. The court cited *Loving v. Virginia* more than a dozen times as precedent.

# *Roe v. Wade*

- Norma McCorvey became pregnant with her third child in 1969. She lied about being raped so she could get an abortion in Texas. She ultimately gave birth before her case could be heard in Texas court.
- However, she sued anonymously (hence named “Roe”) to have the right to an abortion granted under the Fourteenth Amendment and the Right to Privacy. The defendant in the case was Henry Wade, the Dallas District Attorney representing Texas in the case.
- The Supreme Court actually heard the case twice, since two justices left and were replaced during deliberations for the first trial. Ultimately, the court found in favor of Roe, saying that unless the fetus was viable (able to live outside the mother’s womb), then women had the right to terminate pregnancy as part of the right to privacy.
- The 7-2 decision was immediately attacked by religious groups, especially when pregnancy was defined in terms of trimesters. During the first trimester, the court wanted no restrictions on abortion, and during the third trimester states were allowed to restrict or even ban abortions.
- Both the National Right to Life Movement and the National Abortion Rights Action League (NARAL) were formed in response to the decision.

# *Regents of the University of California v. Bakke*

- Allan Bakke applied to the U. of C. – Davis Medical School, but was denied admission even though he had good MCAT scores and was superior to other candidates who got in. The University rejected Bakke because he was white, and admitted less-qualified students based on race.
- Bakke sued, saying that the U of C's policies were “reverse discrimination”. The “Affirmative Action” program which was meant to allow more racial minorities access to medical school penalized Bakke who was more qualified.
- The court ruled in favor of Bakke. They said that Affirmative Action programs were still legal, but race could not be the ONLY determining factor in college admission.
- The case had no profound impact on Affirmative Action programs, and universities and businesses continue to use race as a partial factor in assigning admission and contracts.

# *District of Columbia v. Heller*

- The District of Columbia enacted a law banning ownership of handguns and also mandated that all other firearms be stored unloaded with trigger locks.
- The court found that this DC law violated the Second Amendment's right to gun ownership. The court distinguished between the right to private ownership and gun ownership as part of a militia, which is specifically spelled out in the amendment's language.
- Many groups filed briefs supporting or challenging the case.
- This decision greatly expanded gun ownership rights in America, but it does **not** grant unlimited rights to any type of weapon or possession in any setting.

# ***Citizens United v. Federal Election Commission***

- During the 2008 election, a conservative group called Citizens United wanted to run a very critical television show about Hillary Clinton (called *Hillary: The Movie*). The FEC banned this, saying that non-profit “Super PACs” cannot purchase television time slots too close to an election.
- The Supreme Court found 5-4 in favor of Citizens United, stating that limiting advertising from any corporation, labor union or Super PAC was an unconstitutional infringement upon freedom of speech.
- President Obama warned that foreign governments and foreign run corporations can now influence elections once the restrictions were lifted on Citizens United.
- This was extremely controversial, and has signaled a huge increase in corporate spending in elections, especially by the super rich in the 2016 election.

# *United States v. Nixon*

- During the Nixon Impeachment proceedings surrounding the Watergate scandal, President Nixon claimed Executive Privilege in denying access to tape recorded conversations from the Oval Office. Congress wanted the tapes, and Nixon refused to hand them over.
- The court ruled 8-0 in favor of Congress, saying that Executive Privilege did indeed have limits, especially since the documents did not divulge any military or diplomatic secrets. The President therefore does not have complete immunity to hide his activities from the other branches of the government.
- Nixon resigned just 16 days after the ruling by the Supreme Court, becoming the only President in US History to do so.
- This case was one of several actions taken by the other two branches of government to curtail the powers gathered by the Executive Branch since World War II.



# *Bush v. Gore*

- During the 2000 election, George W. Bush (R) and Al Gore (D) were in a virtual tie, which came down to Florida.
- Many thousands of ballots were improperly punched on cards, where a “chad” was required to be removed in order to vote for a candidate.
- Gore asked for recounts in four Florida counties (all of which leaned Democrat).
- The Florida Secretary of State, Katherine Harris, ordered the recounts to finish by an extremely early date. Only one county could finish, and the other three counties were stopped.
- Gore sued Florida, and Bush sued to have the recount permanently suspended, therefore the court lumped the two cases together and termed them Bush v. Gore.
- The court ruled 5-4 in a strict ideological vote that the recount had to cease and that Bush was the winner of Florida’s electoral votes. The Electoral College then met soon after and voted 271-266 for George W. Bush.
- This was seen as a strictly partisan interference in a political matter that should have been solved by the Florida Supreme Court or by the state legislature. Later at least one justice (Sandra Day O’Connor) admitted the court should have refused to hear the case, and allowed Florida to decide.