

# **JUDICIAL BRANCH NOTES**

## **INTRODUCTION**

The primary duty of the Judicial Branch is to interpret (determine the meaning of) the law and the US Constitution, and to apply them to specific cases. The Federal Judicial Branch is the smallest in size and has the smallest budget of any branch in our national government. But despite its small size, it exercises enormous power and is equal to the other branches of government because it has the power of Judicial Review.

## **STRUCTURE OF THE JUDICIAL BRANCH**

Under the Articles of Confederation, there was no Judicial Branch. Some of the Founding Fathers considered the lack of a national-level Judicial Branch to be the most serious problem in the Articles of Confederation.

When the Articles were scrapped and replaced by our current US Constitution, a federal Judicial Branch was created. The Judicial Branch was originally designed to be a check & balance on the dominant branch: the Congress. Over the years, the Supreme Court has given itself more power through its interpretation of the Constitution, and today the Judicial Branch is considered at least equal in power to the other branches.

The US Constitution created only one court: the US Supreme Court. All other “inferior courts” (lower level courts) in the Federal system are creations of Congress.

The current Federal Judicial Branch is a three-layered system:

1. (TOP LEVEL) The US Supreme Court- This is the highest court in the country. It is the final interpreter of the Constitution and there is nowhere higher to take an appeal. Most of its cases come to it on appeal from the Circuit Courts, although very rarely a case will come to the Supreme Court through Original Jurisdiction.
2. (MIDDLE LEVEL) The US Courts of Appeal- These courts only hear cases on appeal from lower courts. They are also known as “Circuit Courts.” The country is divided up into 13 Circuits. The 11<sup>th</sup> Federal Court of Appeals in Atlanta hears cases on appeal from the 9 Federal Districts in Florida, Georgia and Alabama contained in our circuit.
3. (LOWEST LEVEL) The US District Courts- These are the trial courts where most Federal court cases are first heard. There are a total of 94 Federal Districts in the USA. Georgia is divided up into three Districts. Bainbridge is located in Georgia’s Middle District with its main District Court located in Macon.

NOTE: We have a “dual court system” in the USA, which means that there are two totally separate judicial systems in our country: the one Federal (national) court system and the fifty State Court systems. 99% of all court cases heard in the USA each year are State Court cases.

## **POWERS OF THE JUDICIAL BRANCH**

Federal courts enjoy the power of Judicial Review, which allows them to be the final interpreters of the US Constitution’s meaning. It also allows them to declare any Executive Branch or Legislative Branch act (including laws passed by Congress or actions by the President) to be unconstitutional. This power is based on the famous *Marbury v. Madison* case where the Supreme Court basically gave itself the power of Judicial Review. As the highest federal court, the US Supreme Court has the final word on what is or isn’t constitutional.

Federal judges (including Supreme Court “Justices”) serve lifetime terms of office. They never need to face election and therefore stay in office until they decide to retire or die. There are NO qualifications for office contained in the US Constitution, so anyone can be appointed to be one. To protect the court system from blackmail by Congress, the salaries of judges cannot be reduced. However, there are some limitations on the power of the Judicial Branch:

- 1) They don’t choose their own members. The President appoints a nominee and his choice is confirmed by a majority vote in the US Senate;
- 2) Judges & Justices can be impeached & removed by Congress in the normal manner;
- 3) Presidents can override court verdicts with his clemency power;
- 4) Courts must wait until a case comes to them before the judge can rule on the issue;
- 5) Judges are bound by precedent (previous court decisions in similar cases). Requiring courts to follow precedent is called the policy of *stare decisis* (“let the decision stand”). Overturning a precedent is rare; example= the *Brown* case overturning the *Plessy* precedent;
- 6) Federal courts can be overruled by changes in the law or the US Constitution;
- 7) Presidents can refuse to enforce a decision and Congress can refuse to fund a decision, though this may cause a Constitutional crisis. The people can also press their elected officials not to enforce a ruling. In the end, the Supreme Court has only its reputation to convince the rest of government and society to obey its rulings.

## **JURISDICTION**

Federal courts only handle cases that have “federal jurisdiction.” A case has federal jurisdiction if it concerns: a violation of federal law, the US Constitution, foreign governments or treaties, maritime law, or law suits involving the Federal Government or citizens of different states. Only one percent of court cases heard in the USA every year happen in Federal Courts.

Courts (Federal and State) have either original or appellate jurisdiction. A court with original jurisdiction can hear a case the first time it ever comes to a court. A court with appellate jurisdiction has the right to hear a case on appeal from a lower court. Federal District Courts have original jurisdiction only. Federal Courts of Appeal have appellate jurisdiction only. The US Supreme Court has both original and appellate jurisdiction, though the vast majority of its cases come to it through appeal, not original jurisdiction.

## **THE U.S. SUPREME COURT**

The US Supreme Court is composed of 9 judges named “Justices”: one Chief Justice and eight Associate Justices. Rulings on the Supreme Court are always by simple majority vote, and votes by the Chief Justice and Associate Justices are equal in power.

In addition to hearing & voting on cases, Associate Justices also “cover a circuit.” This means they act as a filter on the cases being appealed up to the Supreme Court, choosing which ones they feel the Court should hear.

The Chief Justice also hears & votes on cases. Additionally, he creates the “Discuss List,” whereby he takes the Associate Justices’ recommendations for appeals and selects from them which cases the Supreme Court will actually hear that session. (The “Rule of Four” allows Associate Justices to put a case on the Discuss List even if the Chief Justice does not want the court to hear it). The Chief Justice also decides which Justice will write the opinion for a case. Finally, the Chief Justice presides over the Senate Trial of an impeached President. The previous Chief Justice, the late William Rehnquist, presided over the impeachment of Bill Clinton.

All cases will ultimately have a decision, which is a determination by the Court of who wins the particular case. Sometimes the Court will attach an opinion to the decision, which explains the reasoning behind their decision and gives guidance to lower courts and the rest of the government on how to handle similar cases in the future.