



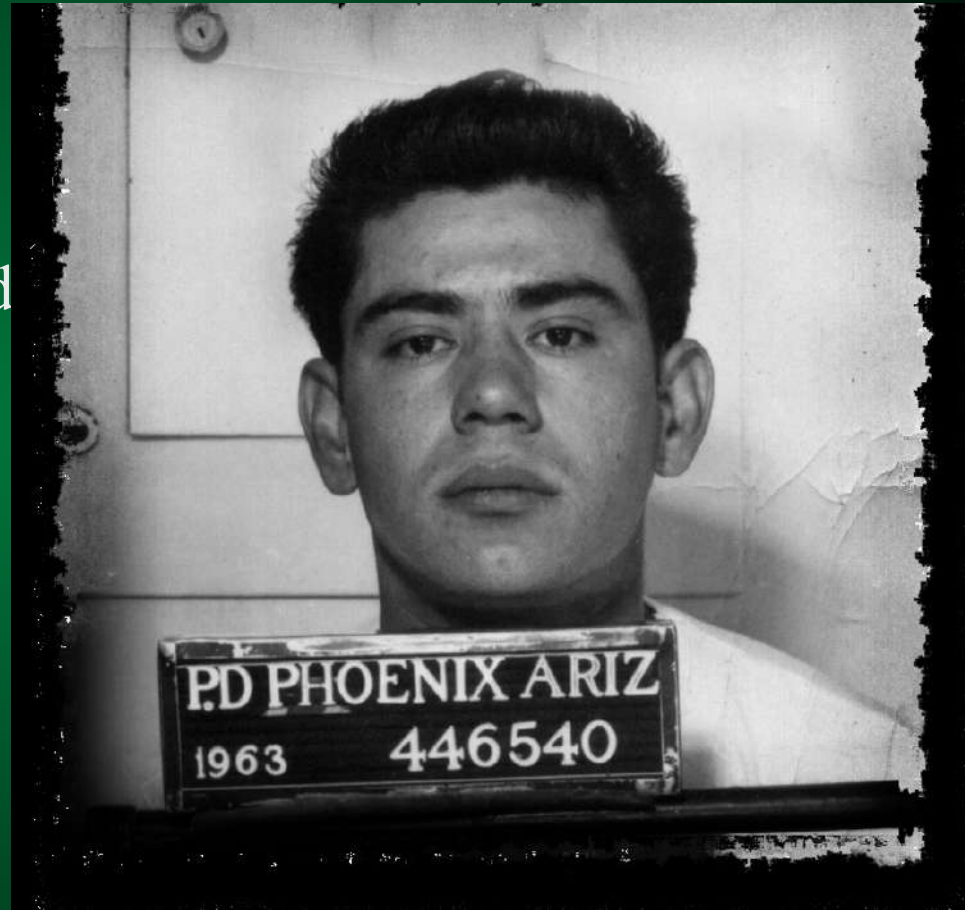
# Chapter 16: The Federal Court System

*Structure, Nature, and Politics of the  
Judicial System*

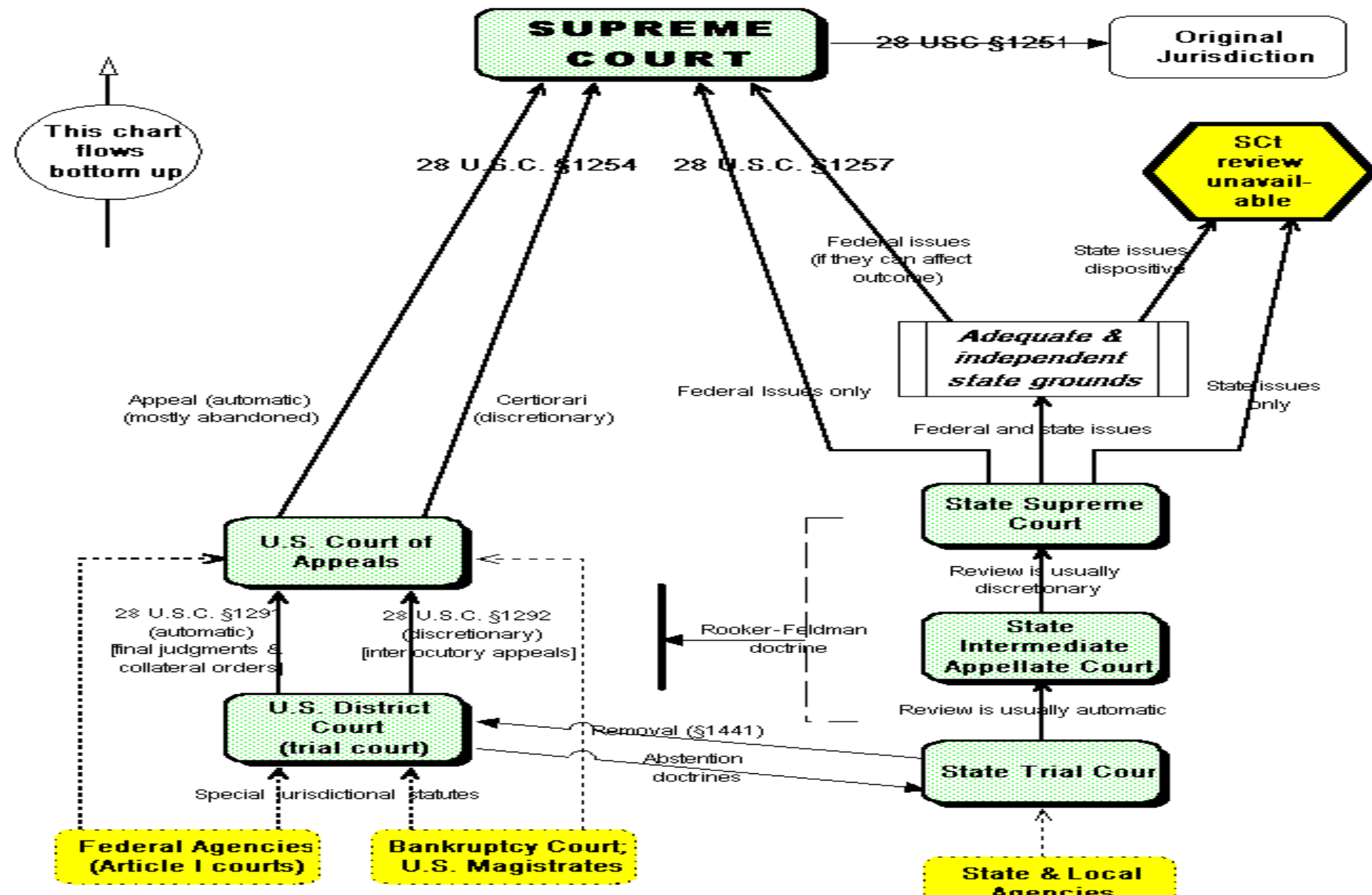
# Case Study: *Miranda V. Arizona*, 1965

[http://www.oyez.org/cases/1960-1969/1965/1965\\_759](http://www.oyez.org/cases/1960-1969/1965/1965_759)

✔ Question: Does the police practice of interrogating individuals without notifying them of their right to counsel and their protection against self-incrimination violate the Fifth Amendment?



# COURTS OF OUR DUAL JUDICIAL SYSTEM





# The Nature of the Judicial System



- Two basic kinds of cases: criminal law cases and civil law cases
- Criminal: government charges an individual who violated specific laws (I.e. prohibiting robbery, etc.)
- Civil: Dispute between two parties (I.e. divorce, mergers, etc.)
- The VAST majority of all criminal and civil cases involve state laws and are tried in state courts

# Participants in the Judicial System



**Litigants:** plaintiff and defendant

**Groups:** NAACP, ACLU, etc.

**Attorneys:** Over 750,000 today in the United States

**Legal Services Corporation:** lawyers to assist the poor (Access to quality lawyers is not equal.)

**Jury**—the people (normally 12) who often decide the outcome of a case

**Groups:** Use the courts to try to change policies

*Amicus Curiae* briefs used to influence the courts which are “friend of the court” briefs used to raise additional points of view and information not contained in briefs of formal parties



# Organization of the Federal Court System

## The United States Federal Courts

**SUPREME  
COURT**

**UNITED STATES  
SUPREME COURT**

**APPELLATE  
COURTS**

**U.S. Courts of Appeals**

12 Regional Circuit Courts of Appeals  
1 U.S. Court of Appeals for the Federal Circuit

**TRIAL  
COURTS**

**U.S. District Courts**

94 judicial districts  
U.S. Bankruptcy Courts

**U.S. Court of International Trade**  
**U.S. Court of Federal Claims**

**FEDERAL COURTS  
AND OTHER ENTITIES  
OUTSIDE THE  
JUDICIAL BRANCH**

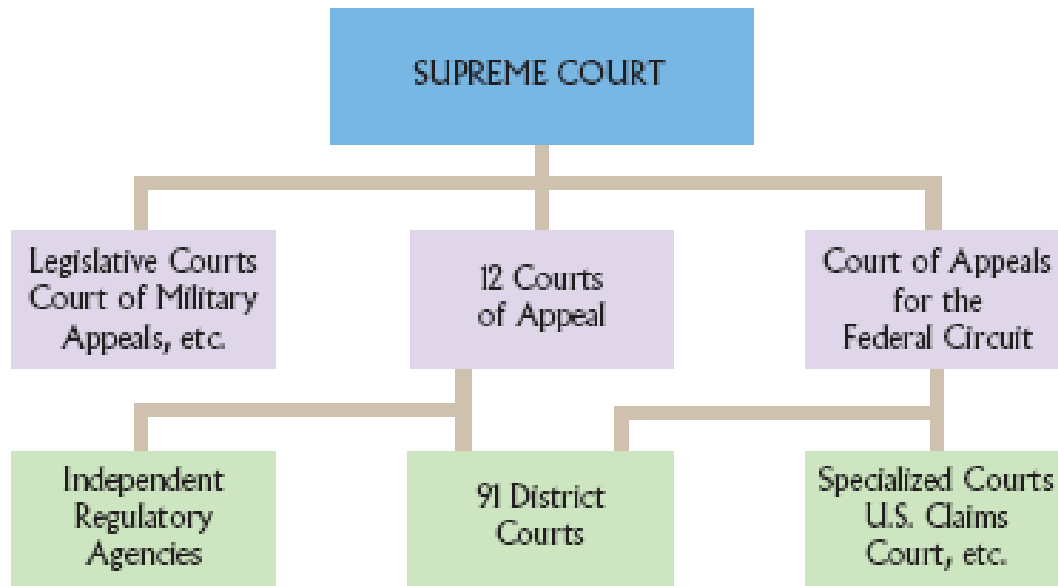
**Military Courts (Trial and Appellate)**  
**Court of Veterans Appeals**  
**U.S. Tax Court**  
**Federal administrative agencies  
and boards**



# The Structure of the Federal Court System

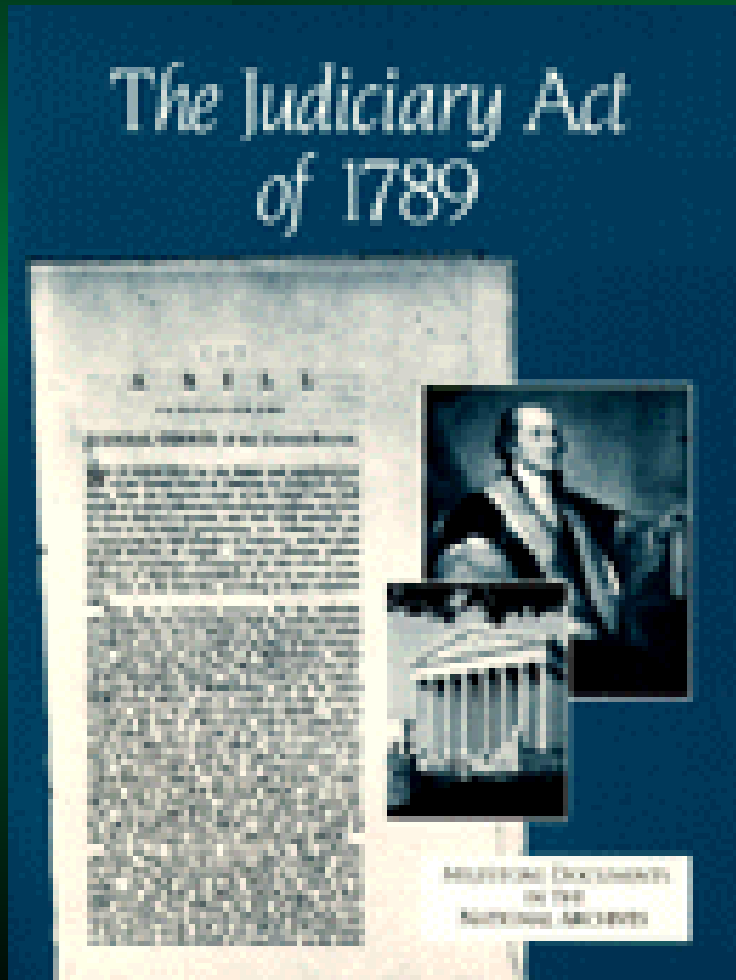
**FIGURE 16.1**

Organization of the Federal Court System





# The Structure of the Federal Judicial System

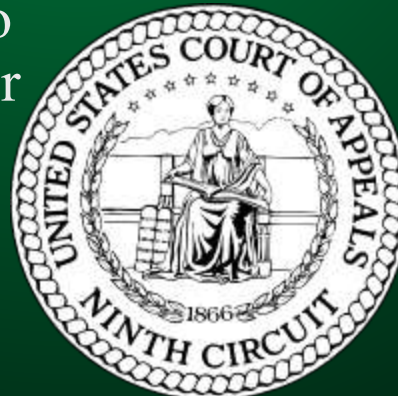


- ✔ Constitution says very little about the structure
- ✔ Left it to Congress's discretion to establish lower federal courts
- ✔ Judiciary Act of 1789: Congress created these constitutional courts
- ✔ Congress also created legislative courts for special reasons (Court of Military Appeals, Tax Court, etc.)
  - Legislative courts have judges with fixed terms and lack protections against removal



# Differences among Courts

- ✓ **Original Jurisdiction:**  
Courts where cases are heard first; usually in a trial; determine facts about the case; More than 90% of court cases begin and end in the court of original jurisdiction
- ✓ **Appellate jurisdiction:**  
Courts hear cases brought to them on appeal from a lower court; do not review factual record, only deal with the legal issues involved (Miranda rights, etc.)





# District Courts

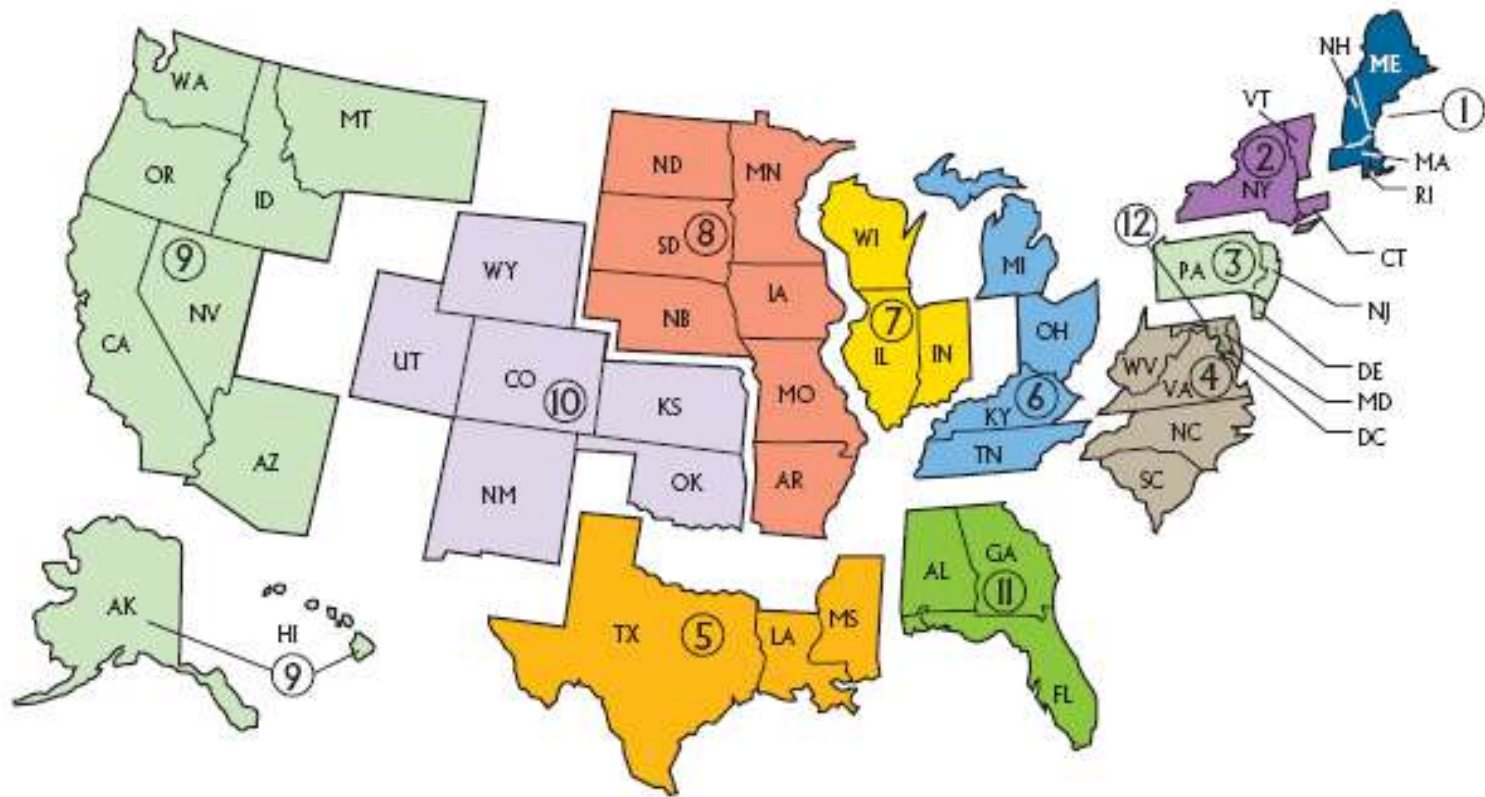
- ✓ **91** federal district courts of original jurisdiction
- ✓ Jurisdiction extends to
  - Federal crimes
  - Civil suits under federal law
  - Civil suits between citizens of different states where the amount exceeds \$50,000
  - Supervision of bankruptcy proceedings
  - Review of the actions of some federal administrative agencies
  - Admiralty and maritime law cases
  - Supervision of the naturalization of aliens

Each of the **91** regular districts has a U.S. attorney who is nominated by the president and confirmed by the Senate and who serves at the discretion of the president (not lifetime appointments)


They prosecute violators of federal law and represent the U.S. government in civil cases



## The Federal Judicial Circuits



Note: Not shown are Puerto Rico (First Circuit), Virgin Islands (Third Circuit), and Guam and the Northern Mariana Islands (Ninth Circuit).



# United States District Attorney for District of Arizona



**JOHN S. LEONARDO**

*John S. Leonardo was sworn in as United States Attorney for the District of Arizona on July 3, 2012.*

The United States Attorney is the **chief federal law enforcement officer in the District of Arizona and is appointed by the President.**

United States Attorneys and their Assistants prosecute violations of federal law and represent federal agencies in federal courts as well as state courts, when appropriate. They also collect debts owed the federal government which are administratively uncollectible. United States Attorneys are not permitted to represent private individuals or business, nor are they permitted to give legal advice to members of the public.



# Court of Appeals



## **Appellate Jurisdiction:**

**reviews the legal issues in cases brought from lower courts**

**Hold no trials and hear no testimony**

**12 circuit courts**

**U.S. Court of Appeals for the Federal Circuit – specialized cases**

**Focus on errors of procedure and law**

**Courts empowered to review all final decisions of district courts**

**Also have the authority to review and enforce orders of many federal regulatory agencies such as the SEC and NLRB**

**About 90% of the more than 50,000 cases heard in the courts of appeals each year come from the district courts**



# Court of Appeals

- ✔ The US is divided into 12 judicial circuits, including one for the District of Columbia.
- ✔ Each circuit serves at least two states and has between 6 and 28 permanent circuit judgeships (179 in all)
- ✔ Each court of appeals normally hears cases in panels consisting of three judges
- ✔ Decisions in either arrangement are made by majority vote of the participating judges



# Court of Appeals Continued

- ✔ There is also a special court of appeals called the U.S. Court of Appeals for the Federal Circuit composed of 12 judges (special cases only)
- ✔ Appellate courts focus on correcting errors of procedure and law that occurred in the original proceedings of legal cases
- ✔ Hold no trial and hear no testimony
- ✔ Set precedent for all courts and agencies within their jurisdictions

# The Supreme Court



The Supreme Court of the United States: (seated, left to right) Justice Thomas, Justice Scalia, CHIEF Justice Roberts, Justice Kennedy, Justice Ginsburg (standing) Justice Sotomayor, Justice Breyer, Justice Alito, Justice Kagan



# The Structure of the Federal Judicial System



## ▼ The Supreme Court

- Ensures uniformity in interpreting national laws, resolves conflicts among states and maintains national supremacy in law
  - 9 justices – 1 Chief Justice, 8 Associate Justices
  - Supreme Court decides which cases it will hear— controls its own agenda
  - Some original jurisdiction, but mostly appellate jurisdiction
  - Most cases come from the federal courts
  - Most are civil cases

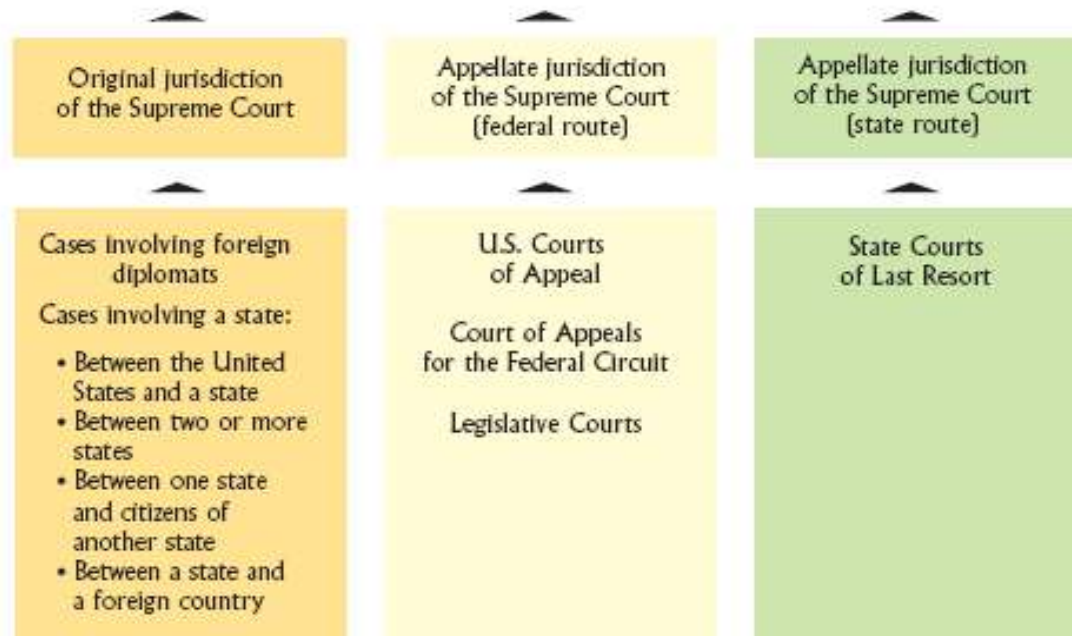
# The Structure of the Federal Judicial System

**FIGURE 16.2**

## The Organization and Jurisdiction of the Courts



UNITED STATES SUPREME COURT





# The Supreme Court's Role

- ✔ Decide which cases to hear
- ✔ Majority of the cases they hear come from federal appellate courts
- ✔ But it can come from the state appellate courts so long as it involves a federal question/law



# Where did the Case originate?

**TABLE 16.1**

Sources of Full Opinions in the Supreme Court, 2007

TYPE OF CASE	NUMBER OF CASES
Original jurisdiction	0
Civil actions from lower federal courts	47
Federal criminal and <i>habeas corpus</i> cases	17
Civil actions from state courts	4
State criminal cases	3
<b>Total</b>	<b>71</b>

Source: "The Supreme Court, 2006 Term: The Statistics," *Harvard Law Review* 121 (November 2007): 447-449.

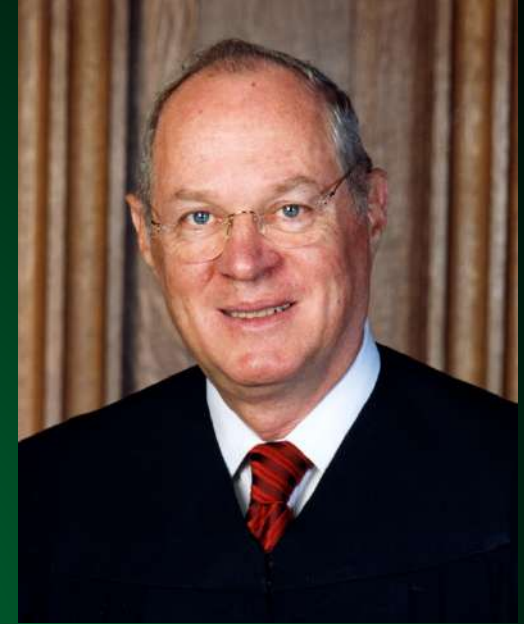


# The Politics of Judicial Selection



- ✓ Presidents appoint members of the federal courts with “advice and consent” of the Senate.
- ✓ The Lower Courts
  - Appointments handled through Senatorial Courtesy:
    - Unwritten tradition where a judge is not confirmed if a senator of the president’s party from the state where the nominee will serve opposes the nomination
    - Has the effect of the president approving the Senate’s choice
  - President chooses to have more influence on appellate level

# The Politics of Judicial Selection



## ▼ The Supreme Court

- Fewer constraints on president to nominate persons to Supreme Court
- NO CONSTITUTIONAL REQUIREMENT FOR JUDGES
- President relies on attorney general and DOJ to screen candidates
- 1 out of 5 nominees will not make it!!
- Presidents with minority party support in the Senate will have more difficulty.
- Chief Justice can be chosen from a sitting justice, or as a new member to the Court

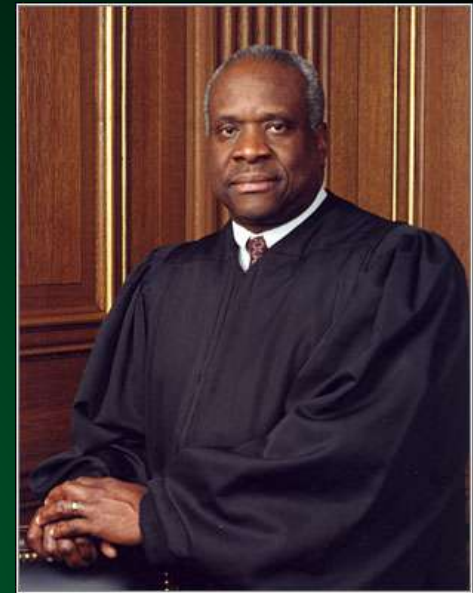


# The Politics of Judicial Selection



- The Constitution sets no special requirements for judges or justices
- Federal judges have typically held office as a judge or prosecutor, and often they have been involved in partisan politics
- All lawyers
- Typically justices have held high administrative or judicial positions before moving to the Supreme Court (DOJ, Federal appellate judge)

# The Backgrounds of Judges and Justices



## ▼ Characteristics:

- Generally white males
- Lawyers with judicial and often political experience

## ▼ Other Factors:

- Generally of the same party and ideology as the appointing president
- Judges and justices may not rule the way presidents had hoped they would have.





# The Backgrounds of Judges and Justices

**TABLE 16.4**

Supreme Court Justices, 2009

NAME	YEAR OF BIRTH	PREVIOUS POSITION	NOMINATING PRESIDENT	YEAR OF CONFIRMATION
John G. Roberts Jr.	1955	U.S. Court of Appeals	G. W. Bush	2005
John Paul Stevens	1920	U.S. Court of Appeals	Ford	1975
Antonin Scalia	1936	U.S. Court of Appeals	Reagan	1986
Anthony M. Kennedy	1936	U.S. Court of Appeals	Reagan	1988
David H. Souter	1939	U.S. Court of Appeals	Bush	1990
Clarence Thomas	1948	U.S. Court of Appeals	Bush	1991
Ruth Bader Ginsburg	1933	U.S. Court of Appeals	Clinton	1993
Stephen G. Breyer	1938	U.S. Court of Appeals	Clinton	1994
Samuel A. Alito Jr.	1950	U.S. Court of Appeals	G. W. Bush	2006



# The Courts as Policymakers

- ✓ Accepting Cases: Appellate and Supreme Court have MUCH more control over their agenda; Justices meet in conference twice a week privately to review the “discuss list” and decide which cases they want to discuss (rely heavily on their law clerks to screen each case)
- ✓ Put case on docket by writ of certiorari—a formal document that calls up a case

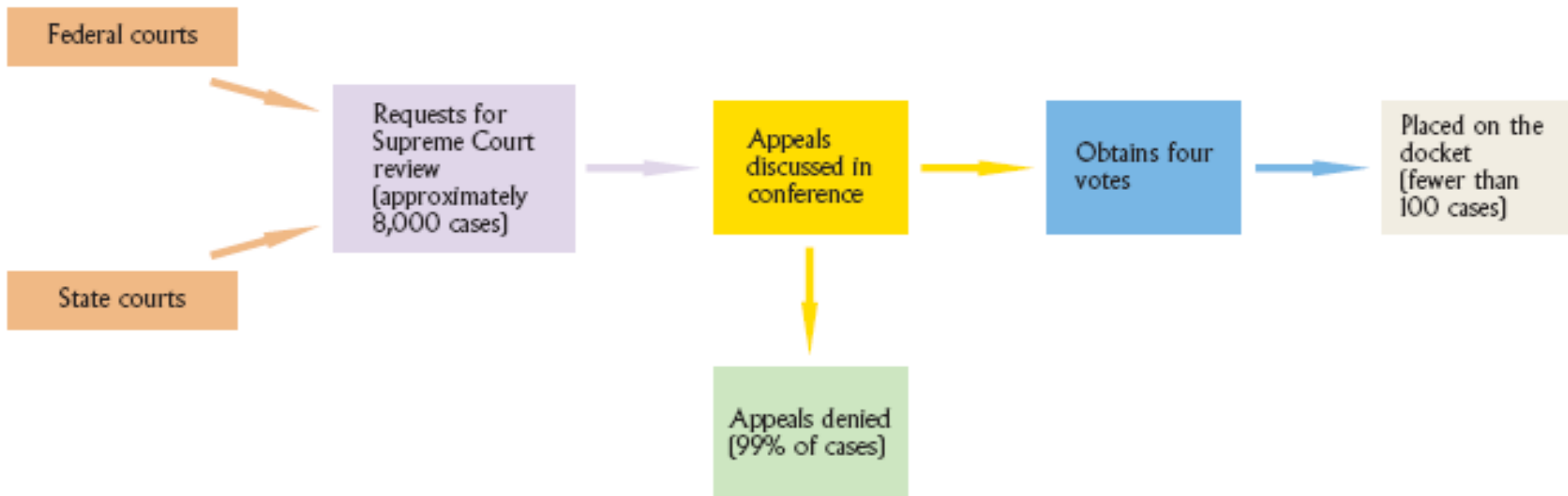
# The Courts as Policymakers

## Accepting Cases

- Use the “**rule of four**” to choose cases
- Issues a *writ of certiorari* to call up the case
- Supreme Court accepts few cases each year

**FIGURE 16.3**

## Obtaining Space on the Supreme Court’s Docket





# The Courts as Policymakers

## ✓ Accepting Cases (continued)

### – The Solicitor General:

- a presidential appointee and third-ranking office in the Department of Justice
- is in charge of appellate court litigation of the federal government
- Four key functions:
  - Decide whether to appeal cases the government lost
  - Review and modify briefs presented in appeals
  - Represent the government before the Supreme Court
  - Submit a brief on behalf of a litigant in a case in which the government is not directly involved



# Solicitor General



- ✔ Presidential appointee and **third**-ranking official in the Department of Justice, **in charge of the appellate court litigation of the federal government**
- ✔ Donald B. Verrilli, Jr.: Sworn in as the 46th Solicitor General of the United States on June 9, 2011.



# Duties of the Solicitor General

✓ Solicitor General Duties are:

1. To **decide** whether to appeal cases the government has lost in the lower courts
2. To review and modify the briefs presented in government appeals
3. To **represent** the government before the Supreme Court
4. To submit a brief on behalf of a litigant in a case in which the government is not directly involved (amicus curiae)

# Court as Policymakers



- ✔ In session from Oct. – June
- ✔ Hears oral arguments in two-week cycles (2 weeks of courtroom arguments and 2 weeks of reflecting on cases and writing opinions about them)
- ✔ Making decisions: Weekly conference meetings are held to discuss cases actually accepted and argued before the Court
- ✔ *Stare decisis*: an earlier decision should hold for the case being considered



# The Courts as Policymakers

## ▼ Making Decisions

- Oral arguments heard by the justices
- Justices discuss the case
- One justice will write the majority opinion (statement of legal reasoning behind a judicial decision) on the case

**FIGURE 16.4**

### The Supreme Court's Decision-Making Process



Figure 16.5



# Court as Policymakers

- ✔ Implementing Court decisions
- ✔ Judicial implementation: refers to how and whether court decisions are translated into actual policy, thereby affecting the behavior of others



# Supreme Court Chief Justices

▼ *John Marshall: (1801-1835)*  
Judicial Review and Marbury V. Madison

▼ *The Warren Court: (1953-1969)* desegregation, criminal defendants, reapportionment

▼ *The Burger Court: (1969-1986)*  
Roe V. Wade, US V. Nixon, Furman V. Georgia, Gregg V. Georgia

➤ *The Rehnquist Court: (1986-2005)* Impeachment of Clinton, Bush V. Gore

▼ *The Roberts Court: (2005-present)*  
Partial birth abortions, habeas corpus,





# Understanding the Courts

## ▼ The Courts and Democracy

- Courts are not very democratic....
  - Not elected
  - Difficult to remove judges and justices
- The courts often reflect popular majorities
- Groups are likely to use the courts when other methods fail, which promotes pluralism
- There are still conflicting rulings leading to deadlock and inconsistency



# What Courts Should Do: The Scope of Judicial Power

- Judicial restraint: judges should play a minimal policymaking role
- Judicial activism: judges should make bold policy decisions and even chart new constitutional ground
- Political questions: means of the federal courts to avoid deciding some cases
- Statutory construction: the judicial interpretation of an act of Congress