

U.S. Supreme Court

<https://www.youtube.com/watch?v=Unyswl36q8w>

SCOTUS



Supreme Court Basics

- Created by **Article III** of the **U.S. Constitution**
- **Court size** is set by **Congress** (9 Judges)
- **Court packing** incident (FDR) and his New Deal programs

3 females on the court today and 1 African-American

John Roberts



Jurisdiction of the Court

- **Original Jurisdiction** (very limited in number):

1. Those to which a state is a party
2. The United States vs. a State Government
3. Foreign ambassadors or diplomats

- **Appellate Jurisdiction** (majority of cases):

1. cases arising under the Constitution, federal law, treaty
2. those involving admiralty and maritime matters
3. those in which the United States itself is a party
4. cases between two or more states
5. between citizens of different states or foreign countries
6. cases between a state and individuals or foreign countries
7. cases between citizens of the same state if they are disputing ownership of land given by different states



Judicial Review



- Established by *Marbury v. Madison* (1803)
- **Power of the Supreme Court to interpret the meaning of the U.S. Constitution and to declare laws unconstitutional**
 1. Declare a law passed by the U.S. Congress or any state Congress to be unconstitutional (illegal)
 2. Declare an act of the President to be unconstitutional (illegal)
- **Both federal** and **some state** courts have the power of judicial review but the Supreme Court has the final decision.



Affect of *Marbury v. Madison*

- Rulings informally change (amend) the Constitution
- *Change the meaning of the Constitution without actually changing the words*
- Put the Supreme Court on the same level as the legislative and executive branches (checks and balances)



Judicial Philosophy

- **Supporters of Judicial Restraint**

1. Judges should decide cases based on the **original intent** of those who wrote the Constitution (*framers intent*)
2. Should follow precedent (in line with previous decisions in similar cases)
3. Judges should not make laws (only legislators)

- **Supporters of Judicial Activism**

1. Judges should act more boldly to protect minority rights and correct injustices (*Brown v. Board of Education 1954*)
2. Judges need to take into account current times and trends in our society and thus adopt to current trends
3. Framers purposely left the language of the Constitution ambiguous to allow future generations to create their own politics (*Living Constitution Theory*)

The Warren Court (1953-1969)

- Often termed “*the most liberal court ever*”, the Warren Court under Chief Justice Earl Warren was especially active in the area of **civil rights and civil liberties**, to include the rights of the accused.
- Example of **Judicial Activism**
- **Brown v. Board of Education** (1954) declaring segregation unconstitutional
- **Gideon v. Wainwright** (1963) court appointed free lawyer to poor defendants applies to all states
- **Miranda v. Arizona** (1966) criminal must be read his constitutional rights before any interrogation



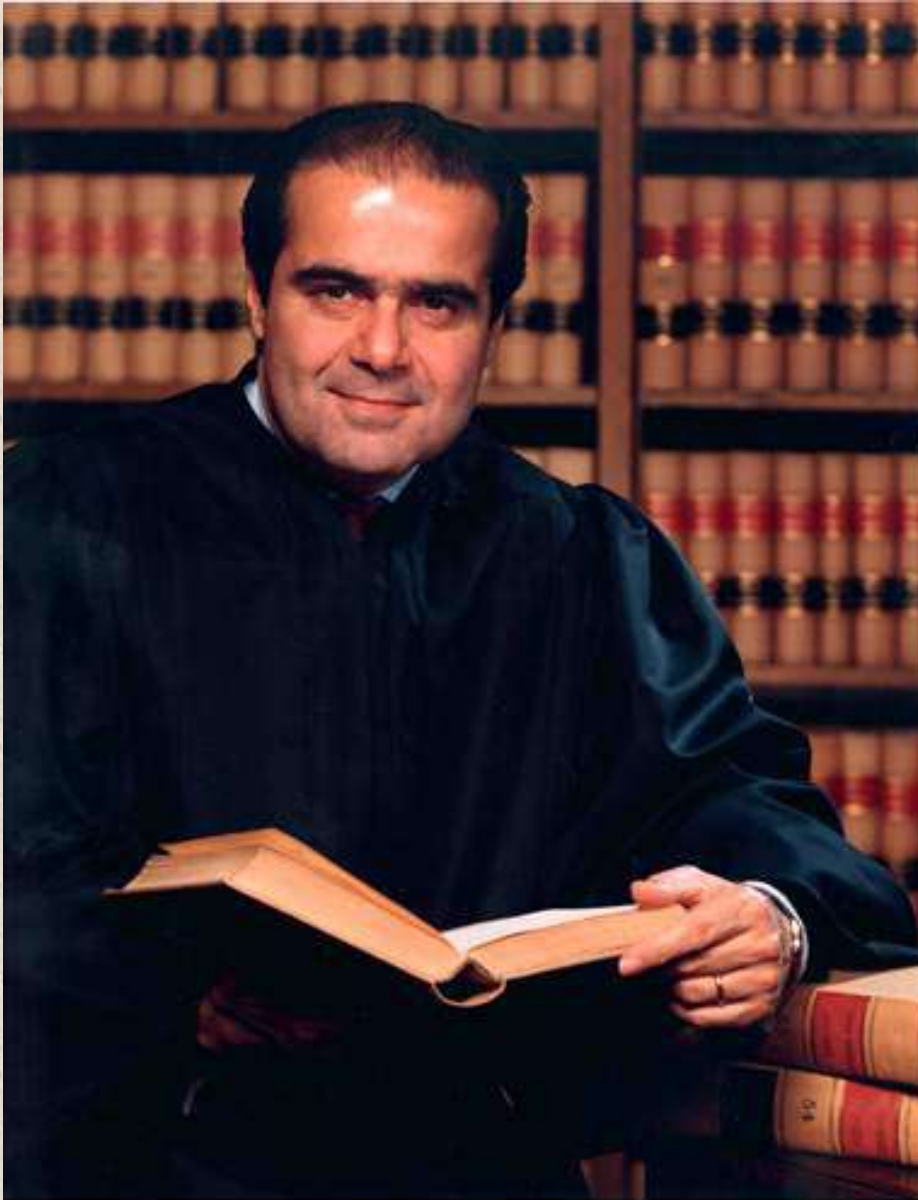
Chief Justice: **John Roberts**

**Appointed by
George W. Bush
in 2005**



Chief Justice of the United States, was born in Buffalo, New York, January 27, 1955. He married Jane Marie Sullivan in 1996 and they have two children - Josephine and John. He received an A.B. from Harvard College in 1976 and a J.D. from Harvard Law School in 1979. He served as a law clerk for Judge Henry J. Friendly of the United States Court of Appeals for the Second Circuit from 1979–1980 and as a law clerk for then-Associate Justice William H. Rehnquist of the Supreme Court of the United States during the 1980 Term. He was Special Assistant to the Attorney General, U.S. Department of Justice from 1981–1982, Associate Counsel to President Ronald Reagan, White House Counsel's Office from 1982–1986, and Principal Deputy Solicitor General, U.S. Department of Justice from 1989–1993. From 1986–1989 and 1993–2003, he practiced law in Washington, D.C. He was appointed to the United States Court of Appeals for the District of Columbia Circuit in 2003.

Associate Justice: **Antonin Scalia**



**Appointed by
Ronald Reagan in
1986**

Associate Justice, was born in Trenton, New Jersey, March 11, 1933. He married Maureen McCarthy and has nine children - Ann, Joseph, Eugene, John Francis, Catherine Elisabeth, Mary Clare, David, Matthew, Christopher James, and Margaret Jane. He received his A.B. from Georgetown University and the University of Zurich, Switzerland, and his LL.B. from Harvard Law School, and was a Sheldon Fellow of Harvard University from 1960–1961. He worked in private practice in Cleveland, Ohio from 1961–1967, a Lecturer of Law at the University of Virginia from 1967–1971, and a Professor of Law at the University of Chicago from 1977–1982, a Visiting Professor of Law at Georgetown University and Oxford University. He was chairman of the American Bar Association's Section of Administrative Law, 1981–1982, and its Conference of Section Chairmen, 1982–1983. He served the federal government as General Counsel of the Office of Communications Policy from 1971–1972, Chairman of the Administrative Conference of the United States from 1972–1974, Assistant Attorney General for the Office of Legal Counsel from 1974–1977. He was appointed Judge of the United States Court of Appeals for the District of Columbia Circuit in 1982.

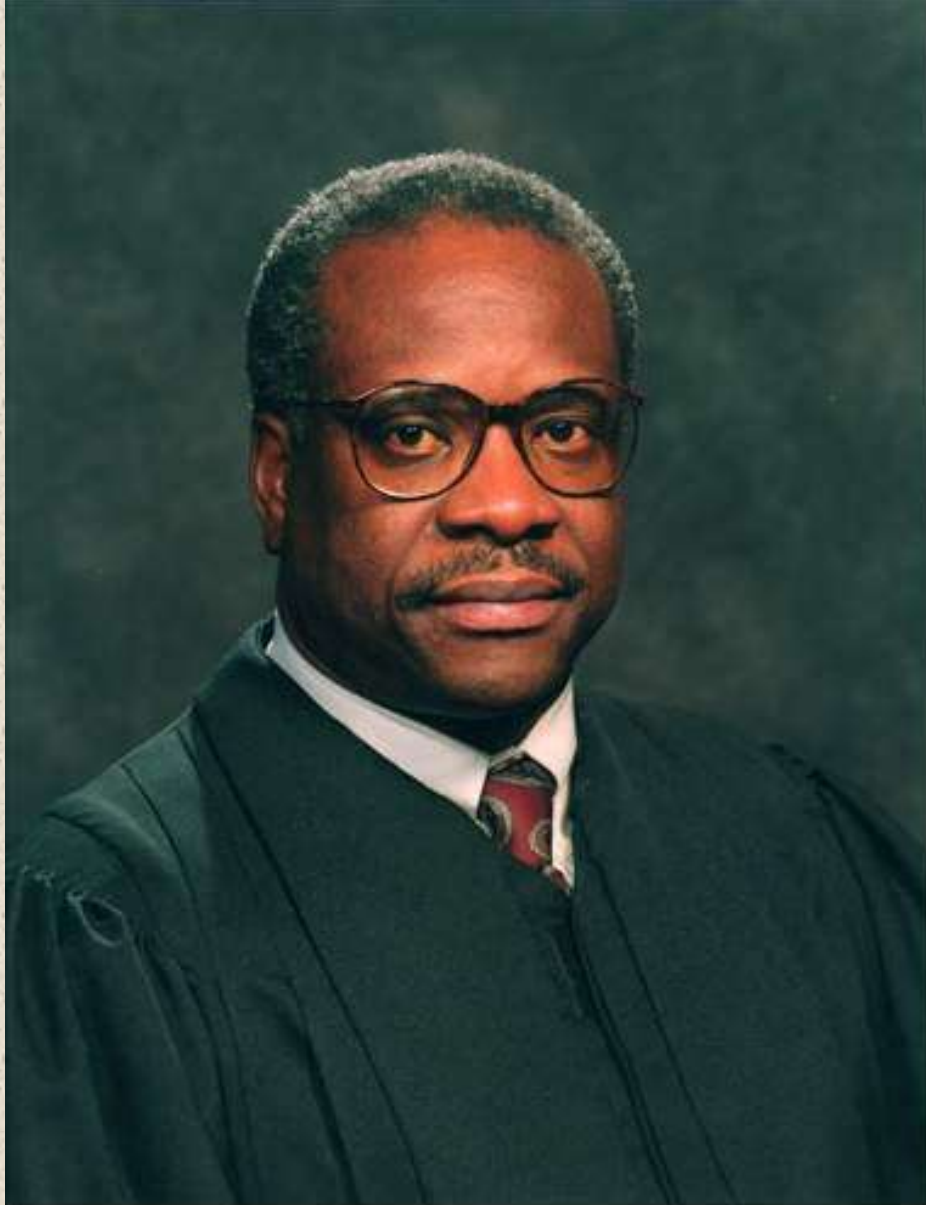
Associate Justice: **Anthony M. Kennedy**



**Appointed by
Ronald Reagan in
1988**

Associate Justice, was born in Sacramento, California, July 3, 1936. He married Mary Davis and has three children. He received his B.A. from Stanford University and the London School of Economics, and his LL.B. from Harvard Law School. He was in private practice in San Francisco, California from 1961–1963, as well as in Sacramento, California from 1963–1975. From 1965 to 1988, he was a Professor of Constitutional Law at the McGeorge School of Law, University of the Pacific. He has served in numerous positions during his career, including a member of the California Army National Guard in 1961, the board of the Federal Judicial Center from 1987–1988, and two committees of the Judicial Conference of the United States: the Advisory Panel on Financial Disclosure Reports and Judicial Activities, subsequently renamed the Advisory Committee on Codes of Conduct, from 1979–1987, and the Committee on Pacific Territories from 1979–1990, which he chaired from 1982–1990. He was appointed to the United States Court of Appeals for the Ninth Circuit in 1975

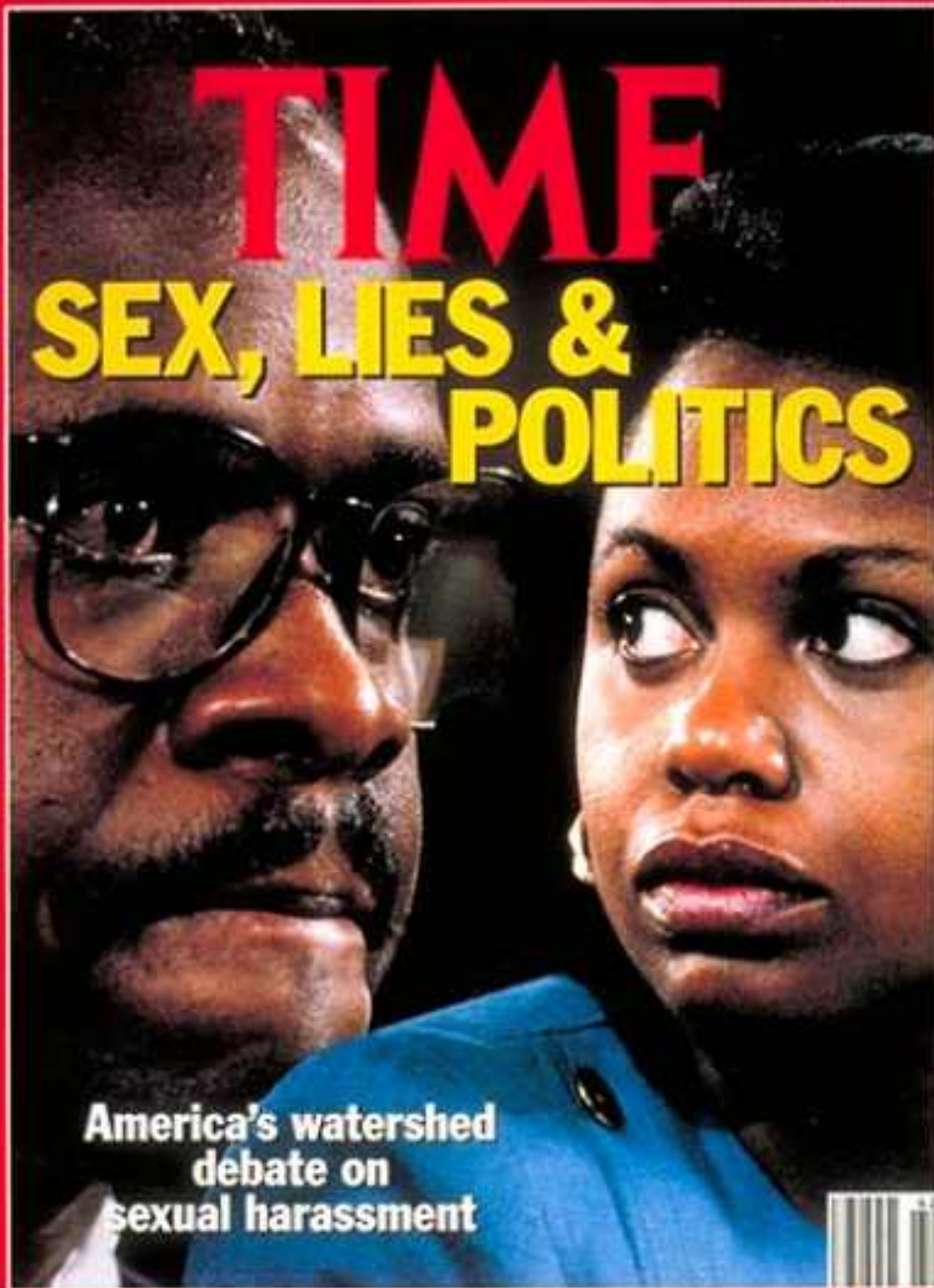
Associate Justice: **Clarence Thomas**

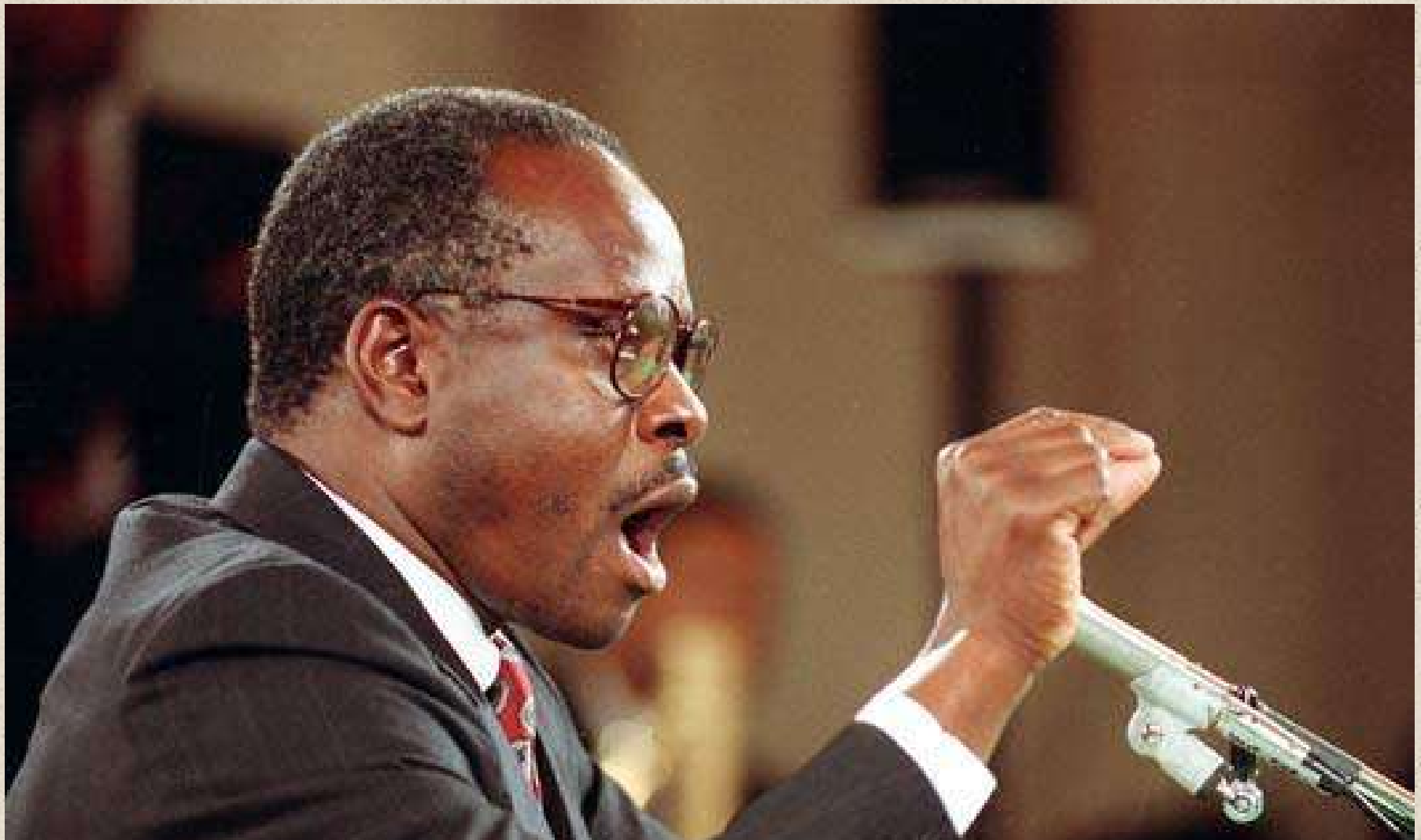


**Appointed by
George H. Bush
in 1991**

Associate Justice, was born in the Pin Point community of Georgia near Savannah June 23, 1948. He married Virginia Lamp in 1987 and has one child, Jamal Adeen, by a previous marriage. He attended Conception Seminary and received an A.B., cum laude, from Holy Cross College, and a J.D. from Yale Law School in 1974. He was admitted to law practice in Missouri in 1974, and served as an Assistant Attorney General of Missouri from 1974–1977, an attorney with the Monsanto Company from 1977–1979, and Legislative Assistant to Senator John Danforth from 1979–1981. From 1981–1982, he served as Assistant Secretary for Civil Rights, U.S. Department of Education, and as Chairman of the U.S. Equal Employment Opportunity Commission from 1982–1990. He became a Judge of the United States Court of Appeals for the District of Columbia Circuit in 1990.

2nd Black male ever to serve on the court (replaced Thurgood Marshall)





“This is not an opportunity to talk about difficult matters privately or in a closed environment. This is a circus. It's a national disgrace. And from my standpoint, as a black American, it is a high-tech lynching for uppity blacks who in any way deign to think for themselves, to do for themselves, to have different ideas, and it is a message that unless you kowtow to an old order, this is what will happen to you. You will be lynched, destroyed, caricatured by a committee of the U.S. Senate rather than hung from a tree”

Associate Justice: **Ruth Bader Ginsburg**



Appointed by **Bill Clinton** in **1993**

Associate Justice, was born in Brooklyn, New York, March 15, 1933. She married Martin D. Ginsburg in 1954, and has a daughter, Jane, and a son, James. She received her B.A. from Cornell University, attended Harvard Law School, and received her LL.B. from Columbia Law School. She served as a law clerk to the Honorable Edmund L. Palmieri, Judge of the United States District Court for the Southern District of New York, from 1959–1961. From 1961–1963, she was a research associate and then associate director of the Columbia Law School Project on International Procedure. She was a Professor of Law at Rutgers University School of Law from 1963–1972, and Columbia Law School from 1972–1980, and a fellow at the Center for Advanced Study in the Behavioral Sciences in Stanford, California from 1977–1978. In 1971, she was instrumental in launching the Women’s Rights Project of the American Civil Liberties Union, and served as the ACLU’s General Counsel from 1973–1980, and on the National Board of Directors from 1974–1980. She was appointed a Judge of the United States Court of Appeals for the District of Columbia Circuit in 1980.

Associate Justice: **Stephen G. Breyer**



Appointed by **Bill Clinton** in **1994**

Associate Justice, was born in San Francisco, California, August 15, 1938. He married Joanna Hare in 1967, and has three children - Chloe, Nell, and Michael. He received an A.B. from Stanford University, a B.A. from Magdalen College, Oxford, and an LL.B. from Harvard Law School. He served as a law clerk to Justice Arthur Goldberg of the Supreme Court of the United States during the 1964 Term, as a Special Assistant to the Assistant U.S. Attorney General for Antitrust, 1965–1967, as an Assistant Special Prosecutor of the Watergate Special Prosecution Force, 1973, as Special Counsel of the U.S. Senate Judiciary Committee, 1974–1975, and as Chief Counsel of the committee, 1979–1980. He was an Assistant Professor, Professor of Law, and Lecturer at Harvard Law School, 1967–1994, a Professor at the Harvard University Kennedy School of Government, 1977–1980, and a Visiting Professor at the College of Law, Sydney, Australia and at the University of Rome. From 1980–1990, he served as a Judge of the United States Court of Appeals for the First Circuit, and as its Chief Judge, 1990–1994. He also served as a member of the Judicial Conference of the United States, 1990–1994, and of the United States Sentencing Commission, 1985–1989

Associate Justice: **Samuel Anthony Alito**



**Appointed by
George W. Bush
in 2006**

Associate Justice, was born in Trenton, New Jersey, April 1, 1950. He married Martha-Ann Bomgardner in 1985, and has two children -Philip and Laura. He served as a law clerk for Leonard I. Garth of the United States Court of Appeals for the Third Circuit from 1976–1977. He was Assistant U.S. Attorney, District of New Jersey, 1977–1981, Assistant to the Solicitor General, U.S. Department of Justice, 1981–1985, Deputy Assistant Attorney General, U.S. Department of Justice, 1985–1987, and U.S. Attorney, District of New Jersey, 1987–1990. He was appointed to the United States Court of Appeals for the Third Circuit in 1990.

Associate Justice: **Sonia Sotomayor**



Appointed by **Barack Obama** in 2009

Associate Justice of the United States Supreme Court, was born in Bronx, New York, on June 25, 1954. She earned a B.A. in 1976 from Princeton University, graduating *summa cum laude* and receiving the university's highest academic honor. In 1979, she earned a J.D. from Yale Law School where she served as an editor of the *Yale Law Journal*. She served as Assistant District Attorney in the New York County District Attorney's Office from 1979-1984. She then litigated international commercial matters in New York City at Pavia & Harcourt, where she served as an associate and then partner from 1984-1992. In 1991, President George H.W. Bush nominated her to the U.S. District Court, Southern District of New York, and she served in that role from 1992-1998. She served as a judge on the United States Court of Appeals for the Second Circuit from 1998-2009. President Barack Obama nominated her as an Associate Justice of the Supreme Court on May 26, 2009, and she assumed this role on August 8, 2009.

Associate Justice: **Elena Kagan**

Appointed by **Barack Obama** in 2010



born in New York, New York, on April 28, 1960. She received an A.B., summa cum laude, in 1981 from Princeton University. She attended Worcester College, Oxford University, as Princeton's Daniel M. Sachs Graduating Fellow, and received an M. Phil. in 1983. In 1986, she earned a J.D. from Harvard Law School, graduating magna cum laude, where she was supervising editor of the Harvard Law Review. She served as a law clerk to Judge Abner Mikva of the U.S. Court of Appeals for the District of Columbia Circuit from 1986-1987. She served as a law clerk to Justice Thurgood Marshall of the Supreme Court of the United States during the 1987 Term. She worked as an associate in the Washington, D.C. law firm of Williams & Connolly, LLP, from 1989-1991. She became an assistant professor at the University of Chicago Law School in 1991 and a tenured professor of law in 1995. From 1995-1999, she was associate counsel to President Clinton and then served as deputy assistant to the President for Domestic Policy and Deputy Director of the Domestic Policy Council. She joined Harvard Law School as a visiting professor in 1999 and became professor of law in 2001. She was the Charles Hamilton Houston Professor of Law and was appointed the 11th dean of Harvard Law School in 2003. President Obama nominated her to serve as the 45th Solicitor General of the United States and she was confirmed on March 19, 2009. President Obama nominated her as an Associate Justice of the Supreme Court on May 10, 2010, and she assumed this role on August 7, 2010.

Supreme Court (2014)



Historical Figures in Supreme Court History



First Female Judge: **Sandra Day O'Connor**

Appointed by **Ronald Reagan** (1981-2006)

Replaced by Samuel Anthony Alito



First Black Male: **Thurgood Marshall**

Appointed **Lyndon B. Johnson** (1967-1991)



How Cases Reach the Court

Court usually operates from October until June

Appealing a Case to the Supreme Court



Federal
District
Court

Step 1

Case is filed in
a federal
district court.

**94 Federal District
Courts**

Principal Trial Courts at
the Federal Level
(**Handles 80% of all
federal cases**)



Federal
Appeals
Court

Step 2

Case is appealed to
a federal court of appeals.

**12 Federal
Appeals
Courts**



The United States
Supreme Court

Step 3

Case is appealed to the Supreme Court.
The Supreme Court either:

- allows the lower-court ruling to stand, or
- sends the case back to the lower court to reconsider it, or
- agrees to hear the case.



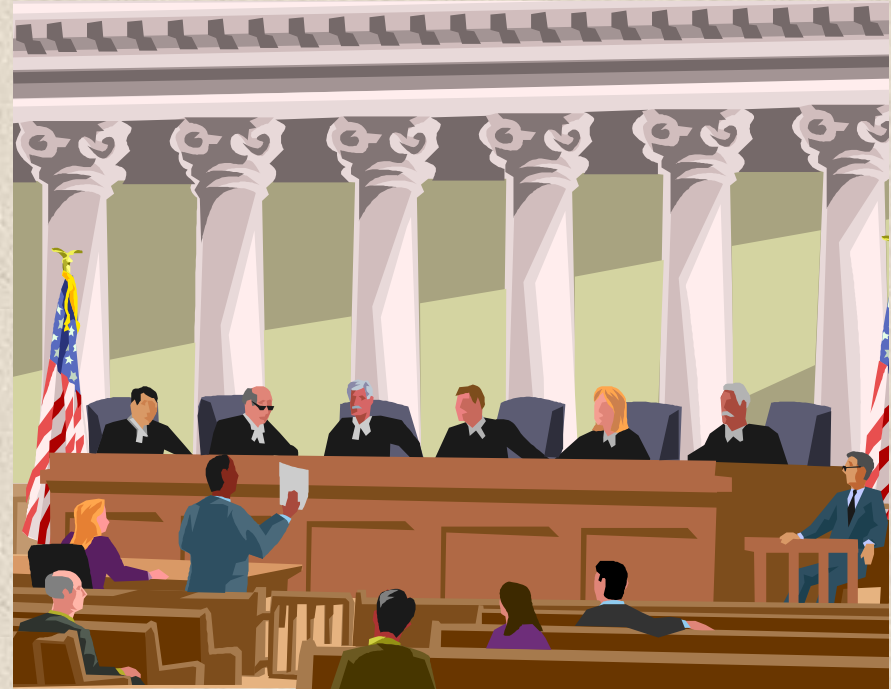
Step 4

Supreme Court
rules on the case.

Rule of 4

How Cases Reach the Supreme Court

- About 9,000 cases are appealed to the Supreme Court each year, only a 100-150 are accepted
- **Rule of Four**
- **Writ of Certiorari** or **Certificate**



The Rule of Four

- Supreme Court clerks screen the approximately 9,000 petitions that come to the Supreme Court each term.
- The justices conduct weekly conference meetings where they discuss *petitions* prepared by their clerks
- *For a case to be heard on appeal, at least four of the nine justices must agree to hear the case. This is called the rule of four*
- The **rule of four** allows the court to control its **Docket**: *a list of cases to be heard by the court. (case load)*



Writ of Certiorari

- The Court's original jurisdiction only generates two or three cases a year. The remaining cases come under the court's *appellate jurisdiction*
- Almost all cases now reach the Court by a writ of certiorari
- A writ of certiorari is an order by the Court directing a lower court to send up the record in a given case for its review (*after an appeal has been filed*)
- The process allows the Supreme Court to control its caseload. Cases must involve a serious constitutional issue or the interpretation of a federal law or treaty

Certificate

- A lower court may ask the Supreme Court about a rule or law or point on a law or procedures (for clarification)

The Solicitor General

- The Solicitor General is the 3rd highest ranking member of the Department of Justice
- Responsible for handling all appeals on behalf of the United States government to the Supreme Court
- Plays an important role in influencing the Court's decision on which cases to hear.
- Will general argue on behalf of the United States in the Supreme Court if the federal government is a party



Donald B. Verrilli, Jr.

Solicitor General of the U.S.

Donald B. Verrilli, Jr. was sworn in as the 46th Solicitor General of the United States on June 9, 2011.

How the Court Operates

1. **Briefs** (written documents) and amicus curiae (friend of the court) briefs
2. **Oral Arguments** (limited to 30 minutes each)
3. **Conference** (justices discuss case)
4. **Opinion** (official ruling of the court)



Amicus Curiae Brief

- Interested persons or groups that are not actual parties to the case may file an **amicus curiae** or “**friend of the court**” briefs.
- **Interest groups** use amicus curiae briefs as a way to “**lobby**” the court



Factors That Influence Court Decisions

1. Precedent:

- **Stare decisis** is a Latin phrase meaning “*let the decision stand*”.
- The vast majority of Supreme Court cases are based on precedents established in earlier cases
- Precedents help to make decisions more uniform, predictable, and efficient

2. Political Ideology:

- Justices have their own political views and morals, ethics, and the role of government which influence their decisions

3. Public Opinion:??????????

- The court is generally insulated from direct political pressure but is non the less sensitive to current public opinion

Opinion of the Court

Majority Opinion

The majority opinion, formally called the Opinion of the Court, announces the Court's decision in a case and its reasoning on which it is based.

Precedents

The majority opinions stand as precedents, or examples to be followed in similar cases as they arise in the lower courts or reach the Supreme Court.

Concurring Opinions

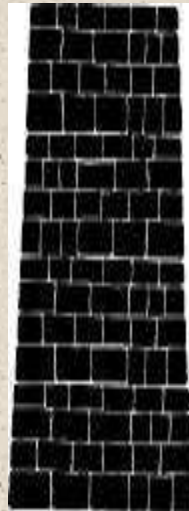
Concurring opinions are sometimes authored by justices to add or emphasize a point that was not made in the majority opinion.

Dissenting Opinions

Dissenting opinions are often written by those justices who do not agree with the Court's majority opinion.

The Constitution insulated the Supreme Court from direct political pressures

- Justices are appointed for life term (can only be removed by impeachment process for high crimes)
- The salaries of justices cannot be reduced
- Writ of Certiorari and the rule of four enables the court to control it's case load and agenda
- The public has limited access to court proceedings



Court Room



Conference Room

