

The Federal Courts

Chapter 16

3 HISTORICAL ERAS OF INFLUENCE

- 1787-1865 Political
 - Nation building (legitimacy of govt.)
 - Slavery
- 1865-1937 Economic
 - Govt. roll in economy
 - Great Depression
- 1937-Present Ideological
 - Personal liberty and its conflict with social equality

Levels of Federal Courts



The federal court system

U.S. Supreme Court	appeals on cases of constitutional law
U.S. Courts of Appeals	appeals, challenges to orders from fed agencies
Special Courts - tax, trade, etc.	specific types of cases heard
U.S. District Courts	hear cases related to violations of federal law

Jurisdiction

- Original jurisdiction: where the case is heard first, usually in a trial.
- Appellate jurisdiction: cases brought on appeal from a lower court.



Standing to Sue

- There must be a real controversy between adversaries.
- Personal harm must be demonstrated.
- Being a taxpayer does not ordinarily constitute entitlement to challenge federal government action; this requirement is relaxed when the First Amendment is involved.



Federal Cases

- Federal question cases: involving the U.S. Constitution, federal law, or treaties.
- Diversity cases: involving different states, or citizens of different states.



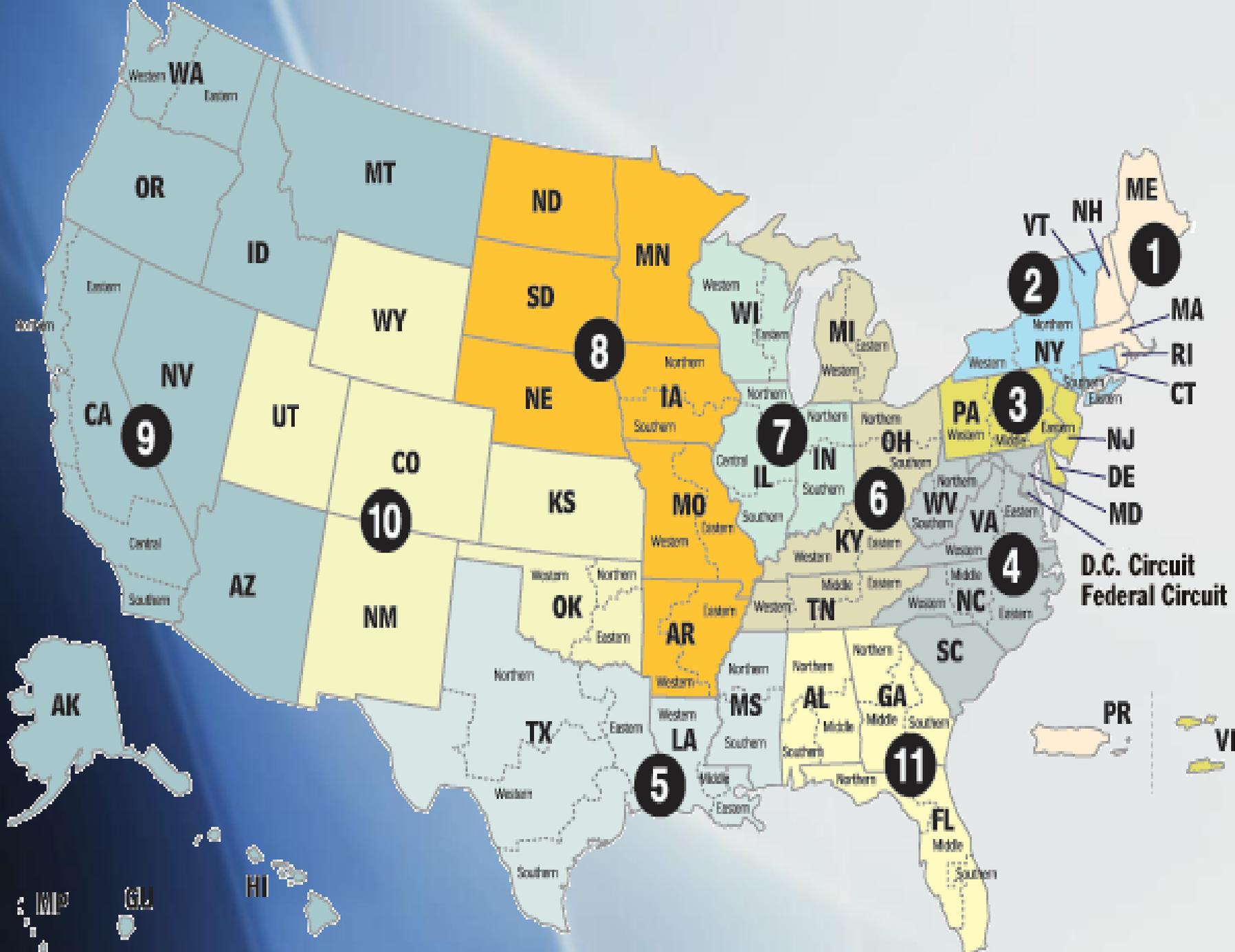
Federal Cases

- Some cases that begin in state courts can be appealed to the Supreme Court.
- Controversies between two state governments can only be heard by the Supreme Court.

Structure of the Federal Courts

- District Courts: the entry point for most litigation in federal courts, trial courts.
- Courts of Appeal: review all final decisions of district courts, with the authority to review and enforce orders of regulatory agencies.
- Supreme Court: sets its own agenda.





D.C. Circuit
Federal Circuit

The Roberts Court

Breyer Kennedy

Sotomayor

Kagan

Thomas



Ginsburg

Scalia Roberts Alito

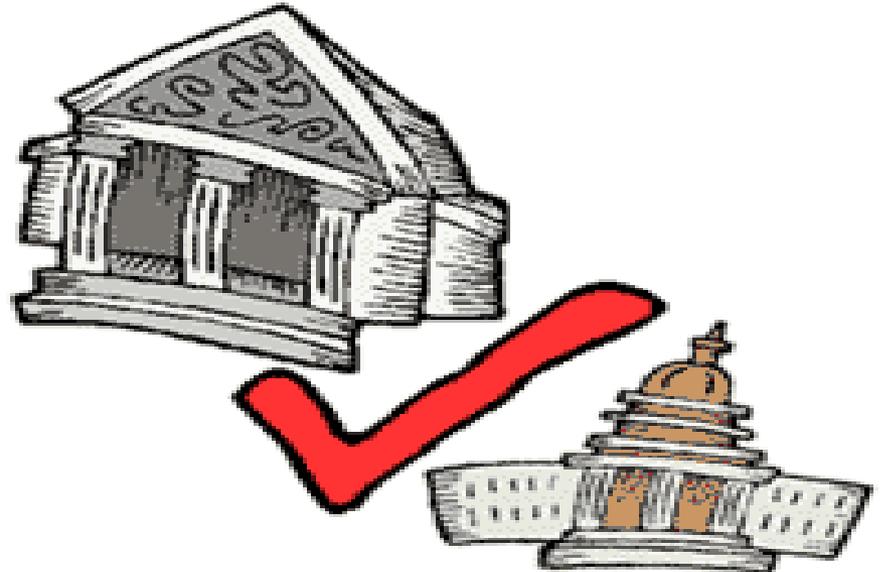
Writs of Certiorari

- The **Rule of Four** requires agreement of four justices to hear the case
- Involving significant federal or constitutional question
- Involving conflicting decisions by circuit courts
- Involving constitutional interpretation by one of the highest state courts



Judicial Review

- Judicial review: the right of the federal courts to rule on the constitutionality of laws and executive actions.
- It is the chief judicial weapon in the checks and balances system.



National Supremacy

- *Marbury v. Madison* (1803): The Supreme Court could declare a congressional act unconstitutional.
- *McCulloch v. Maryland* (1819): The power granted to federal government should be construed broadly and federal law is supreme over state law.

Selecting Justices

- Party background has a strong effect on judicial behavior.
- **Senatorial courtesy:** Appointees for federal courts are reviewed by senators from that state, if the senators are of the president's party (particularly for U.S. district courts).



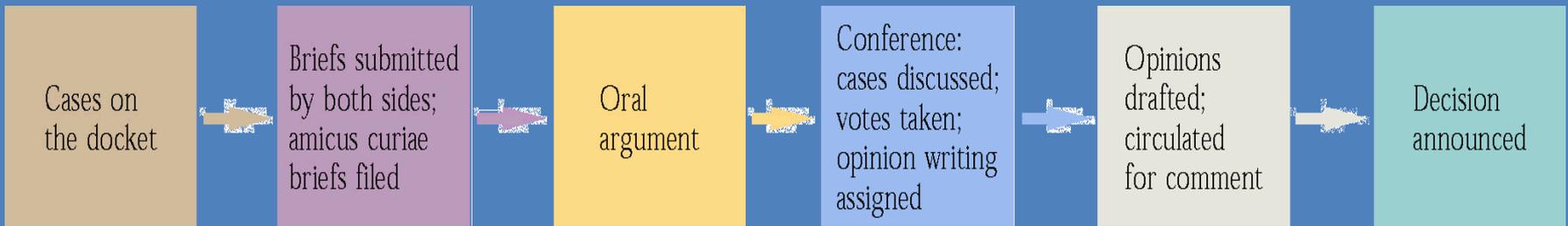
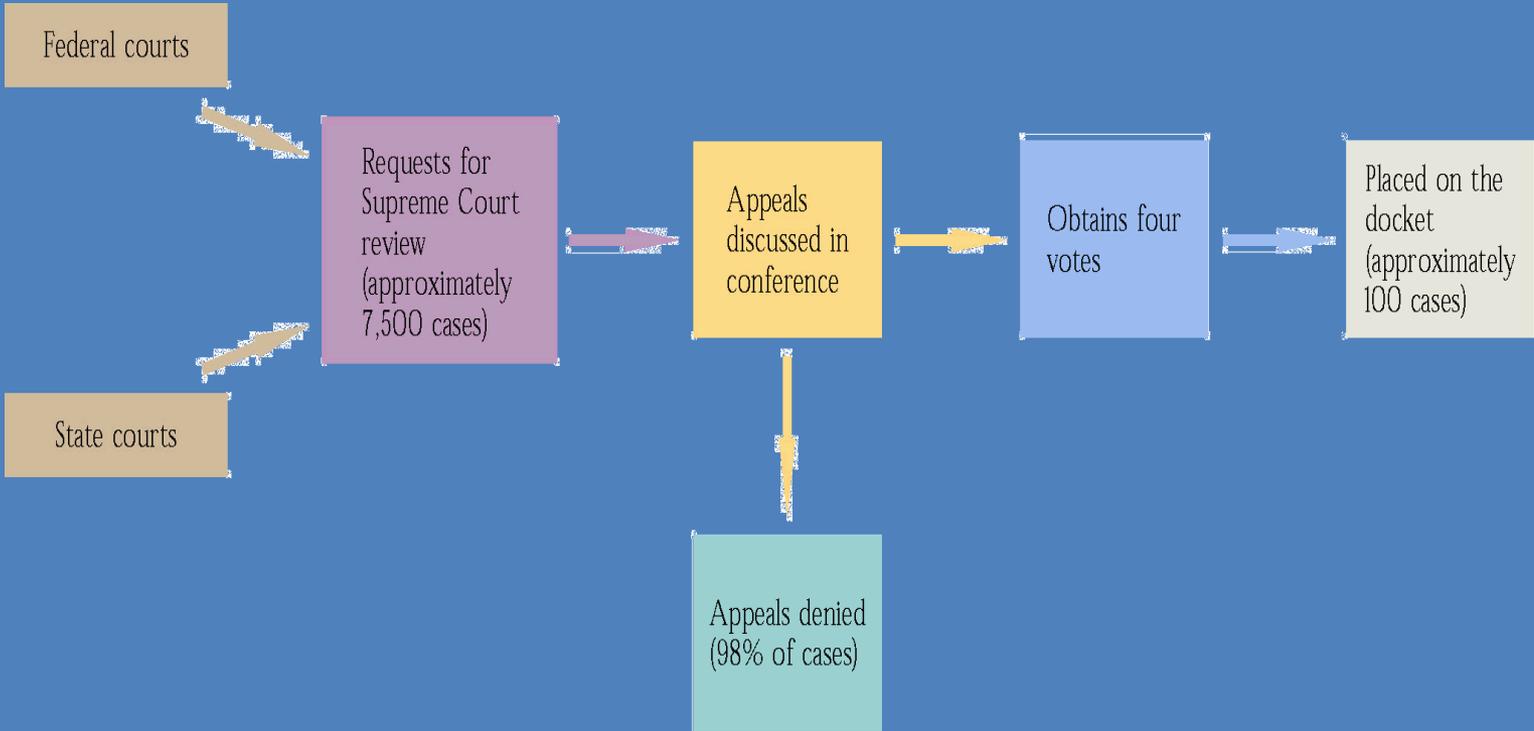
Selecting Justices

- Presidents seek judicial appointees who share their political ideologies.
- Senate filibusters have delayed judicial nominations, causing several potential judges to remove their names from consideration.



The Supreme Court in Action

- Most cases arrive through a writ of certiorari.
- Lawyers then submit briefs that set forth the facts of the case, summarize the lower court decision, give the argument of that side of the case, and discuss other issues.
- **Amicus curiae briefs** are submitted by interest groups, not parties to the lawsuit.
- Oral arguments are given by lawyers after briefs are submitted.



Kinds of Court Opinions

- ***Per curiam***: brief and unsigned
- **Opinion of the court**: majority opinion, sets precedent
- **Concurring opinion**: agrees with the ruling of the majority opinion, but for a different or additional reason
- **Dissenting opinion**: minority opinion; does not serve as precedent
- **Stare Decisis**: A decision without an opinion, showing respect for precedent

(Slip Opinion)

OCTOBER TERM, 2008

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Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

RICCI ET AL. v. DESTEFANO ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 07–1428. Argued April 22, 2009—Decided June 29, 2009*

New Haven, Conn. (City), uses objective examinations to identify those firefighters best qualified for promotion. When the results of such an exam to fill vacant lieutenant and captain positions showed that white candidates had outperformed minority candidates, a raucous public debate ensued. Confronted with arguments both for and against certifying the test results—and threats of a lawsuit either way—the City threw out the results based on the statistical racial disparity. Petitioners, white and Hispanic firefighters who passed the exams but were denied a chance at promotions by the City’s refusal to certify the test results, sued the City and respondent officials, alleging that discarding the test results discriminated against them based on their race in violation of, *inter alia*, Title VII of the Civil Rights Act of 1964. The defendants responded that had they certified the test results, they could have faced Title VII liability for adopting a practice having a disparate impact on minority firefighters. The District Court granted summary judgment for the defendants, and the Second Circuit affirmed.

Held: The City’s action in discarding the tests violated Title VII. Pp. 16–34.

(a) Title VII prohibits intentional acts of employment discrimination based on race, color, religion, sex, and national origin, 42 U. S. C. §2000e–2(a)(1) (disparate treatment), as well as policies or practices that are not intended to discriminate but in fact have a disproportionately adverse effect on minorities, §2000e–2(k)(1)(A)(i) (disparate impact). Once a plaintiff has established a *prima facie* case of dispa-

*Together with No. 08–328, *Ricci et al. v. DeStefano et al.*, also on certiorari to the same court.

Constitutional Interpretation



JUDICIAL
ACTIVISM

- **Strict construction:** justices are bound by the wording of the Constitution
- **Original intent:** deciding based on the intent of the founding fathers
- **Judicial restraint:** justices are interpreters, not policy-makers.
- **Loose construction:** considering the underlying principles of the Constitution
- **Judicial activism:** using underlying concepts in the constitution to make bold new policy.

Arguments for Judicial Activism

- Courts should correct injustices when other branches or state governments refuse to do so.
- Courts are the last resort for those without the power or influence to gain new laws.



Arguments Against Judicial Activism

- Judges lack expertise in designing and managing policies.
- The court makes decisions that require funding state governments don't have or would prefer to spend elsewhere.
- Courts are not accountable because judges are not elected and serve life terms.



Checks on Judicial Power

- Judges have no enforcement mechanisms
- Confirmation by Senate
- Impeachment for bad behavior
- Changing the number of judges
- Revising legislation
- Amending the Constitution
- Altering jurisdiction



Source: Friedman and Peck, *Between Two Wars*, Scholastic Book Series

Public Opinion and the Courts

- Defying public opinion may harm the legitimacy and reputation of the Supreme Court.
- Appointment process and life terms insulate justices from public opinion.
- Justices deliberate in secret.
- Impeachment and lack of enforcement power mean justices are not completely isolated from public opinion. The Court counts on others to respect its decisions.

