

AP US Government

Unit 5 – The Judicial Branch



Unit 5: The Judicial Branch

Lesson 5.1 – Requirements, Powers, and Jurisdiction



Requirements to be a Supreme Court Justice

Which of the following is a requirement to be a Supreme Court Justice?

- A. Citizen of the United States
- B. Serve as a Federal Judge on a lower court
- C. Pass the Bar Exam and practice law
- D. All of the Above
- E. None of the Above

The Nature of the Judicial System

- Introduction:
 - Two types of cases:
 - Criminal Law: The government charges an individual with violating one or more specific laws.
 - Civil Law: The court resolves a dispute between two parties and defines the relationship between them.
 - Most cases are tried and resolved in state, not federal courts.
 - Cases of burglary or divorce



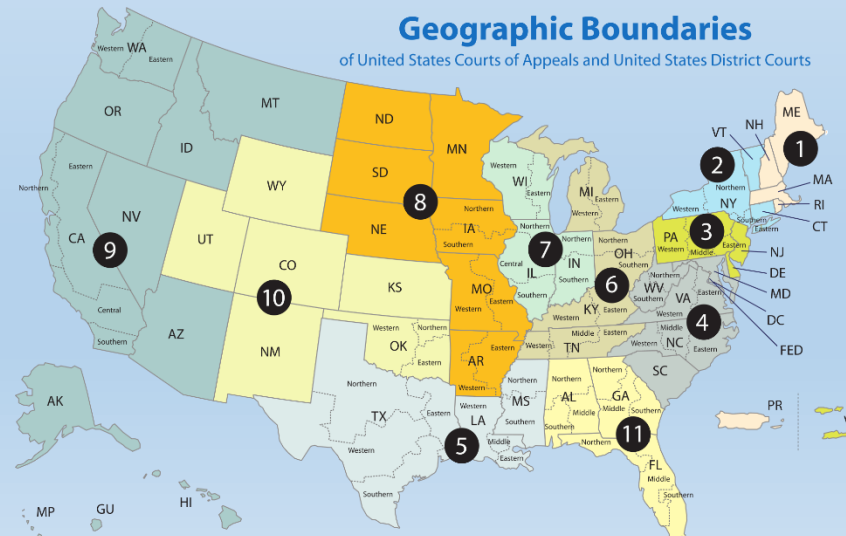
Jurisdiction

- **Original Jurisdiction** of a case refers to the court which first hears a case.
 - This involves a trial and the case will be decided by the petit jury in a jury trial or a bench trial, decided by the judge.
- Supreme Court has original jurisdiction in cases involving:
 - Foreign public ministers
 - Consuls or ambassadors
 - Cases involving two different states.



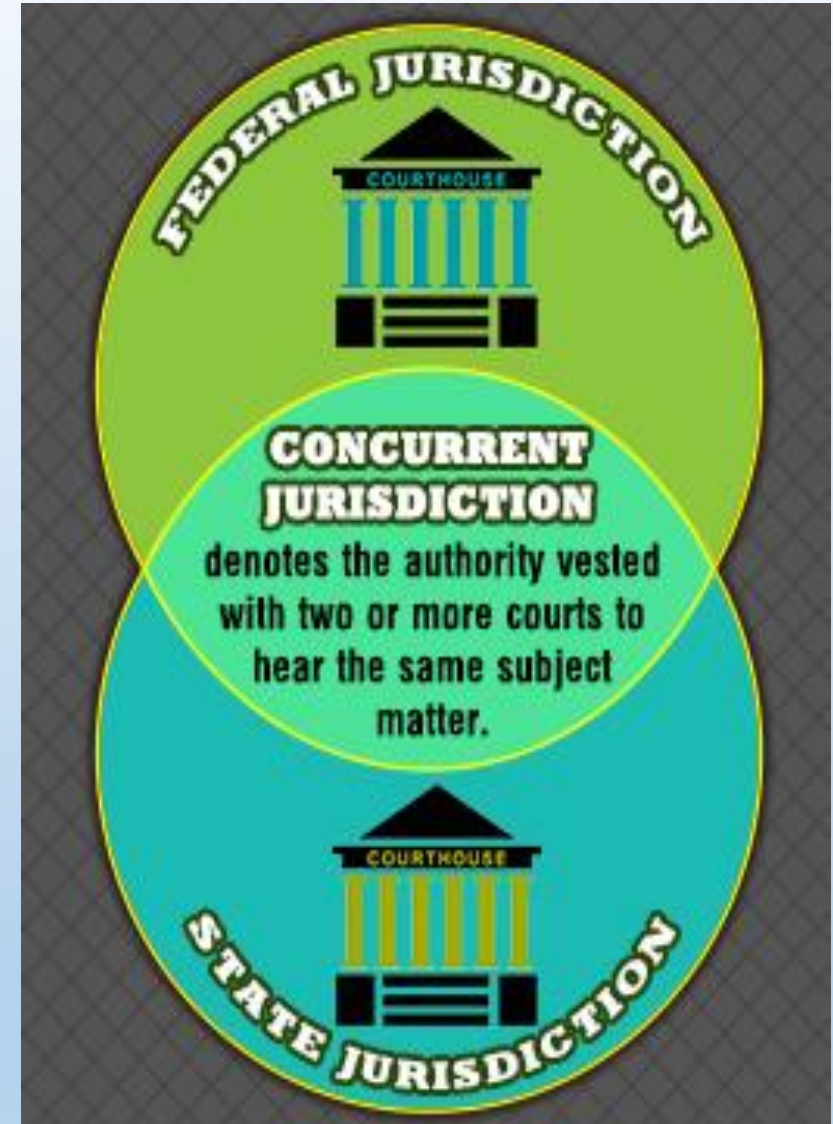
Jurisdiction

- **Appellate jurisdiction** - power of a court to review decisions and change outcomes of decisions of lower courts.
 - Supreme Court has appellate jurisdiction over all lower federal court decisions state courts, including their highest courts (State Supreme Court).
- **Concurrent jurisdiction** exists where two or more courts from different systems simultaneously have **jurisdiction** over a specific case.
 - This situation leads to **forum shopping**, as parties will try to have their civil or criminal case heard in the court that they perceive will be most favorable to them.
 - Ex. The 5th Circuit Court is more conservative and the 9th is more liberal.

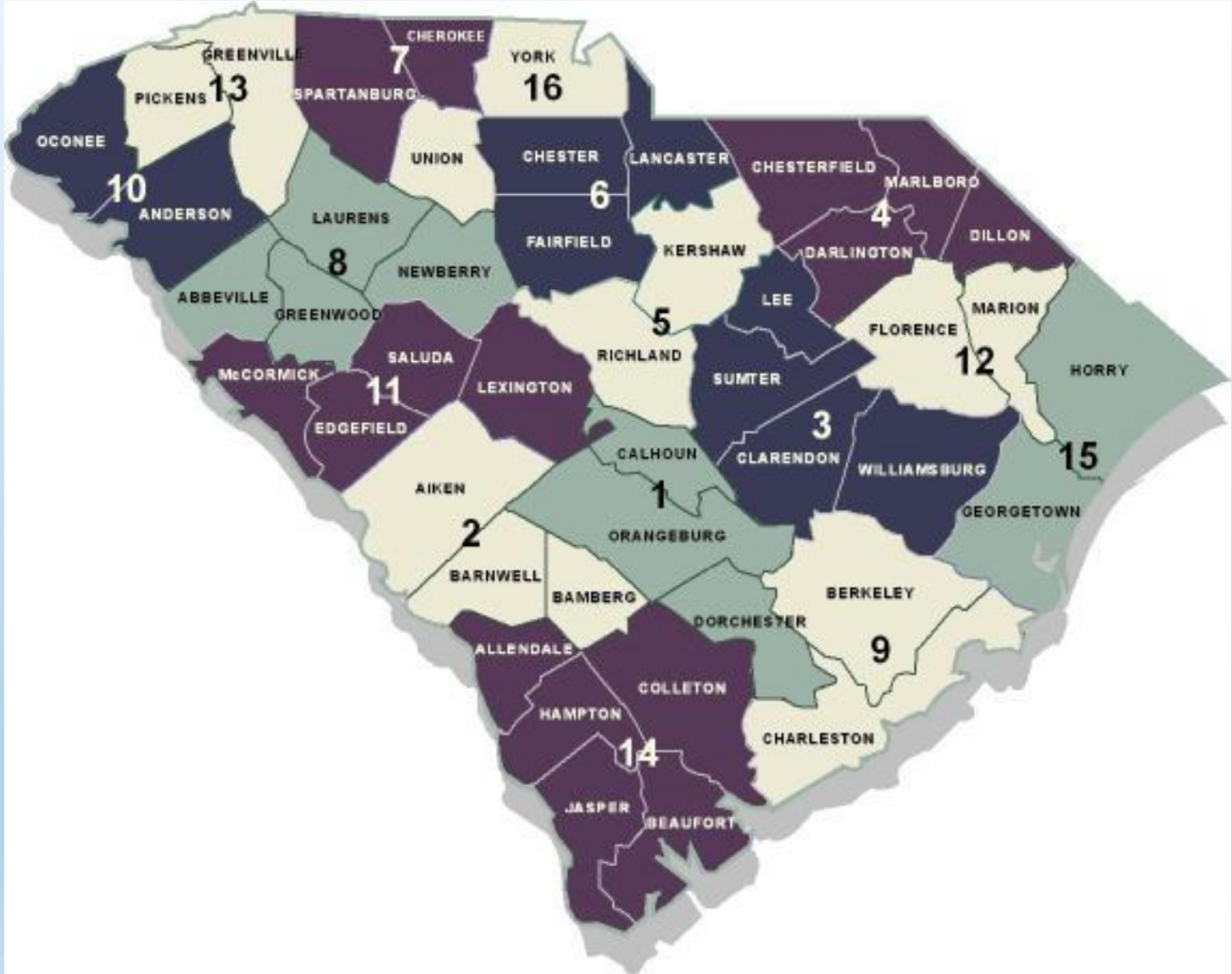


Concurrent Jurisdiction

- U.S. Constitution allow federal courts to hear actions that can also be heard by state courts.
 - Ex: If a party from Alabama sues a party from Florida for a breach of contract, the Alabama party can sue in either federal court (under its diversity jurisdiction) or in the state court located in Florida (under its personal jurisdiction over the defendant).
- Concurrent jurisdiction may also be created where the United States Congress, permits state courts to hear cases that have federal jurisdiction.
 - Ex: A state court may hear a claim for trademark infringement under the Lanham Act.
- Concurrent jurisdiction in the United States can also exist between different levels of state courts, and between courts and other government agencies with judicial powers.



SC Court Jurisdiction



Petit Jury (Guilty??) v. Grand Jury (Proceed to Trial??)

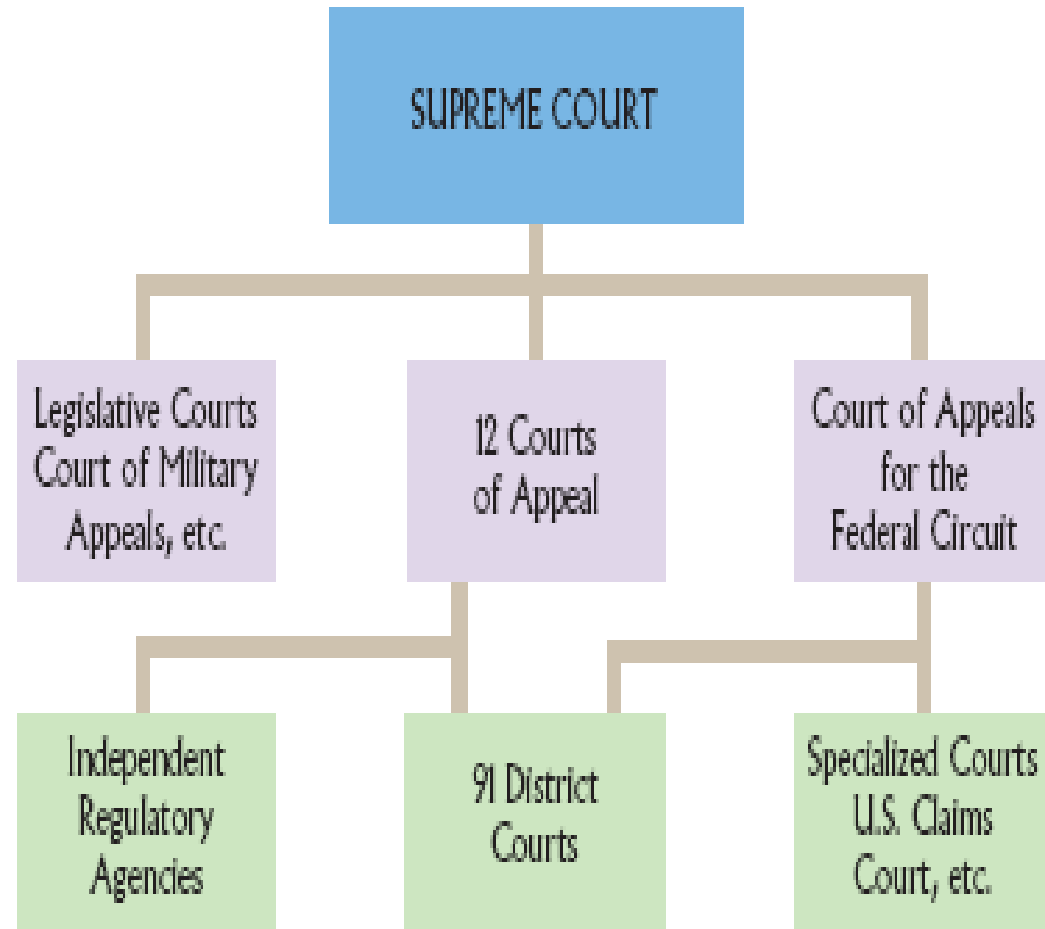
- **Petit (trial) jury** - consists of citizens (6-12 members) brought together to listen to evidence presented by both the prosecution and defense in the matter of a criminal proceeding and the plaintiff and defendant in a civil trial.
- **Grand Jury** (16-23 members) - a prosecutor must convince 12 out of 23 persons that there are sufficient grounds to bring the person charged with a crime to trial on a felony charge. It does not require that you show sufficient grounds to **convict** him, merely that a reasonable man would see it likely to suspect him of having committed the felony based on the evidence at hand.
 - It's sort of the reverse of "beyond a reasonable doubt" in the actual trial process -- this merely requires "reasonable cause to proceed."



The Structure of the Federal Judicial System

FIGURE 16.1

Organization of the Federal Court System

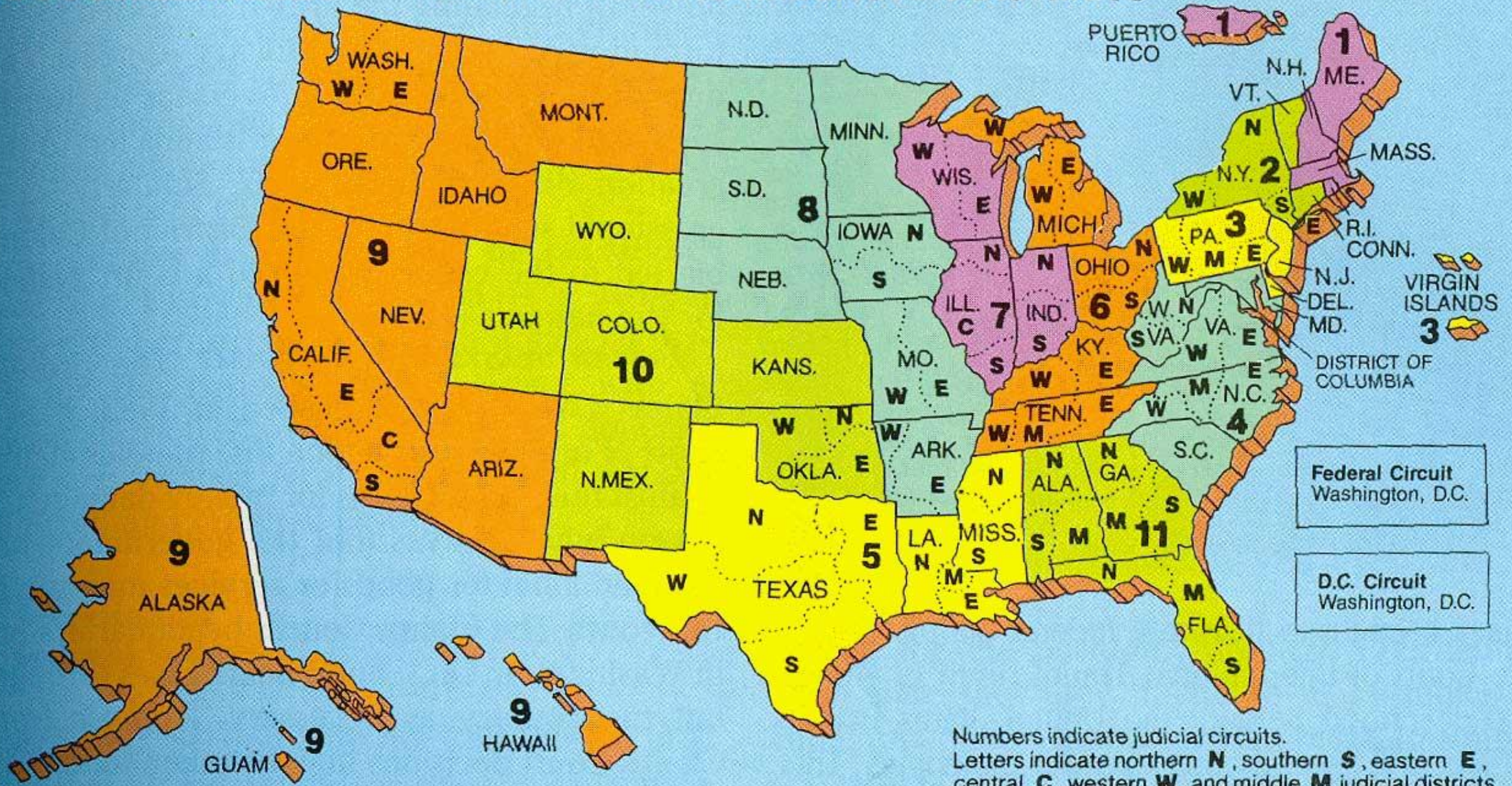


The Structure of the Federal Judicial System

- **District Courts (94 federal courts –April 2015)**
 - **Original Jurisdiction:** courts that hear the case first and determine the facts - the trial court
 - **Deals with the following types of cases:**
 - Federal crimes
 - Civil suits under federal law and across state lines
 - Supervise bankruptcy and naturalization
 - Review some federal agencies
 - Admiralty and maritime law cases
 - Supervision of naturalization of aliens



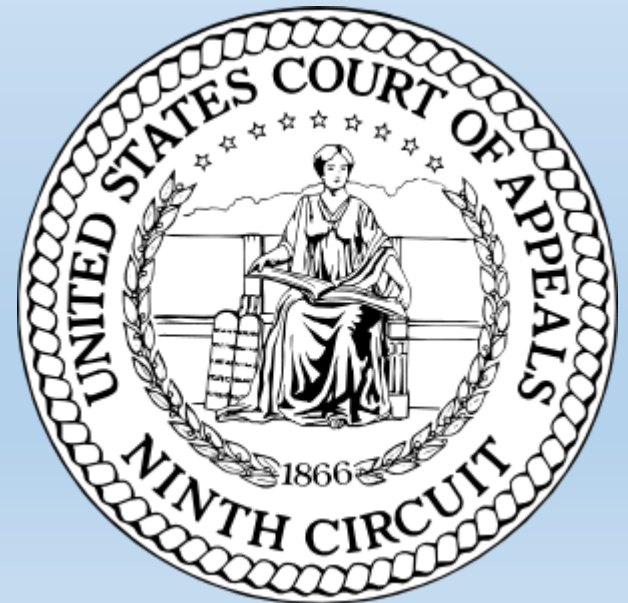
FEDERAL JUDICIAL CIRCUITS AND DISTRICTS



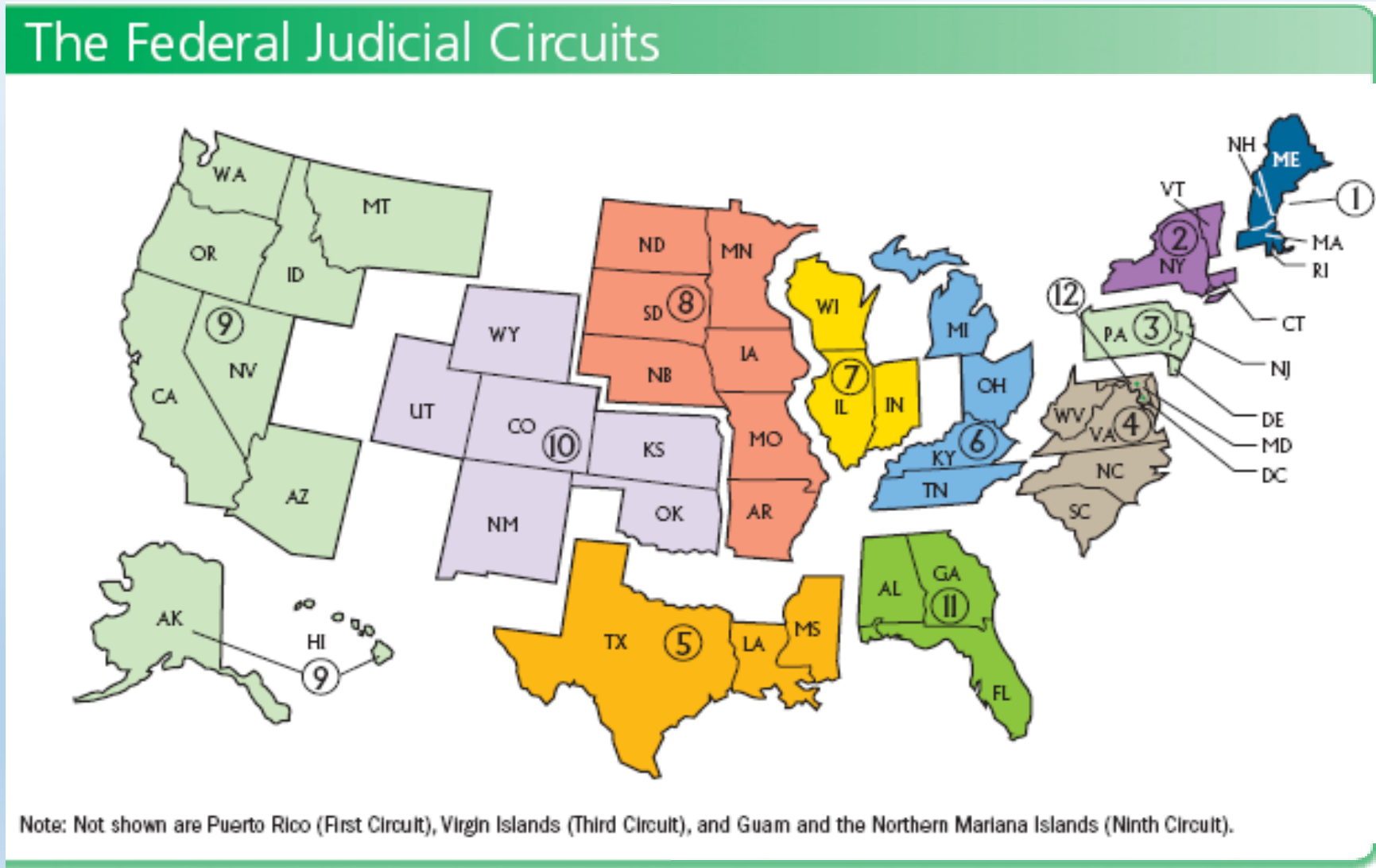
Numbers indicate judicial circuits.
Letters indicate northern **N**, southern **S**, eastern **E**, central **C**, western **W**, and middle **M** judicial districts.

The Structure of the Federal Judicial System

- Courts of Appeal
 - 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



The Structure of the Federal Judicial System



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



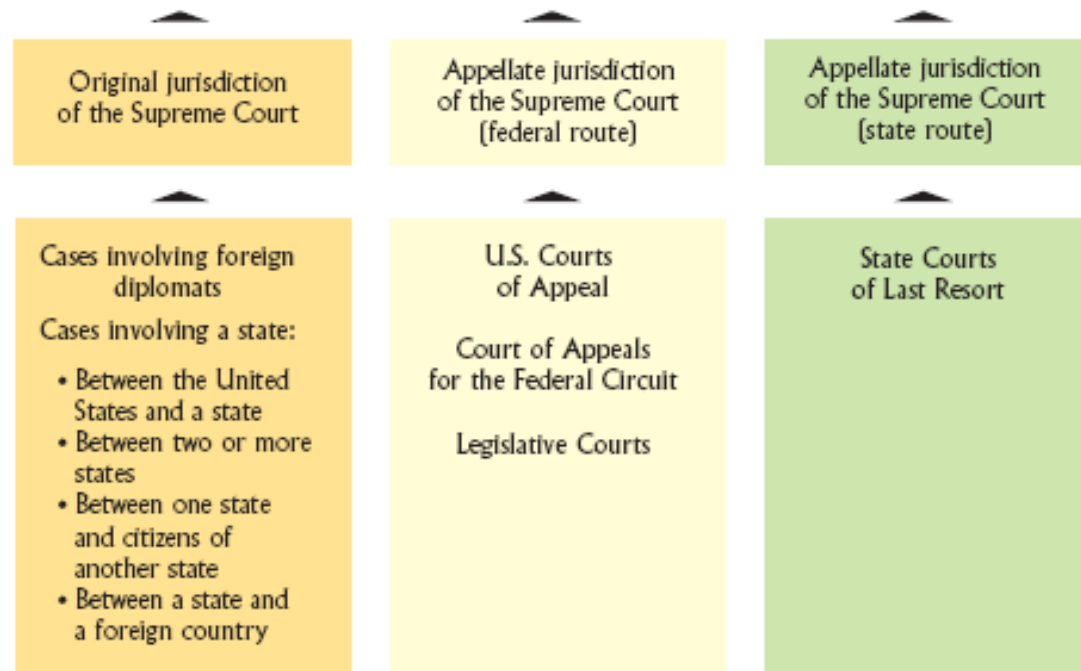
The Structure of the Federal Judicial System

FIGURE 16.2

The Organization and Jurisdiction of the Courts



UNITED STATES SUPREME COURT



The Structure of the Federal Judicial System

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
Total	71

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

Unit 5: The Judicial Branch

Lesson 5.2 – Civil and Criminal Law



CIVIL LAW **Vs.** **CRIMINAL LAW**

If found liable, the defendant has to compensate the plaintiff.

If found guilty, the accused can be incarcerated and fined.

The infographic is split into two vertical panels. The left panel has a light blue background and features an illustration of a person in a dark suit holding a briefcase and a document. The right panel has an orange background and features an illustration of a man with a beard and a police badge, holding a pair of handcuffs. A central black circle with the word 'Vs.' in white text separates the two panels.

Unit 5: The Judicial Branch

Lesson 5.3 – How the Supreme Court Works



Membership of the Supreme Court

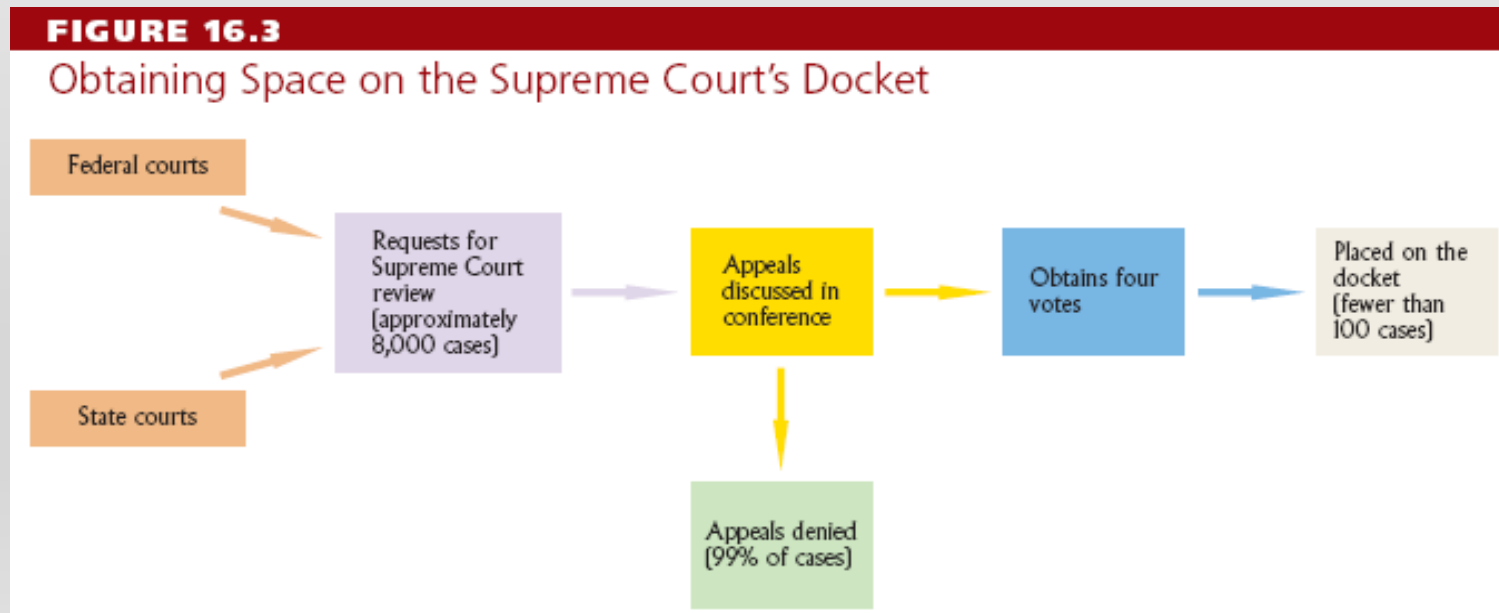
Justice	Date Appointed	Sitting President	Ideological Balance
Chief Justice John Roberts	2005	George W Bush (R)	Right Leaning
Associate Justices			
Antonin Scalia	1986	Ronald Reagan (R)	Right Leaning
Anthony Kennedy	1988	Ronald Reagan (R)	Swing Vote
Clarence Thomas	1991	George H W Bush (R)	Right Leaning
Ruth Bader Ginsburg	1993	William J Clinton (D)	Left Leaning
Stephen Breyer	1994	William J Clinton (D)	Left Leaning
Samuel Alito	2005	George W Bush (R)	Right Leaning
Sonia Sotomayor	2009	Barack H Obama (D)	Left Leaning
Elena Kagan	2010	Barack H Obama (D)	Left Leaning

- Merrick Garland
- Obama's Selection to Replace Justice Scalia
 - Moderate candidate
 - Dems like him because he will move the court ideologically to the left.
 - GOP like him because he has issued conservative opinions in the past and is not as far left as Sotomayor and Kagan
 - GOP do not want to vote on him because he is replacing a stalwart conservative (Scalia)



The Courts as Policymaker

- Accepting Cases
 - Use the “rule of four” to choose cases (Four justices agree to review a case)
 - Issues a *writ of certiorari* to call up the case
 - Supreme Court accepts few cases each year



The Courts as Policymakers (528)

- Accepting Cases (continued)
 - The Solicitor General:
 - a presidential appointee 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



Ian Gershengorn – Acting Solicitor General

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

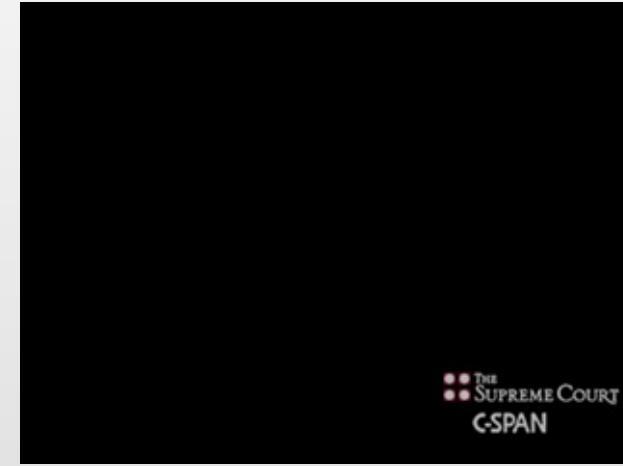
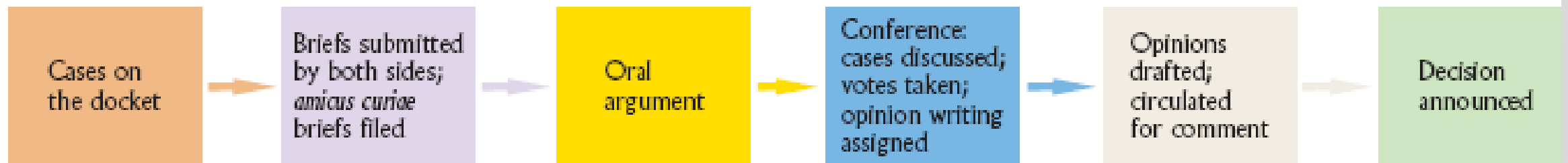


FIGURE 16.4

The Supreme Court's Decision-Making Process



The Courts as Policymakers

- Making Decisions (continued)
 - Dissenting opinions are written by justices who oppose the majority.
 - Concurring opinions are written in support of the majority but stress a different legal basis.
 - *Stare decisis*: let previous decision stand unchanged (Often in Lower Courts following higher Court's precedent)
 - Precedent: how similar past cases were decided
 - May be overruled
 - Original Intent: the idea that the Constitution should be viewed according to the original intent of the framers



The Courts as Policymakers



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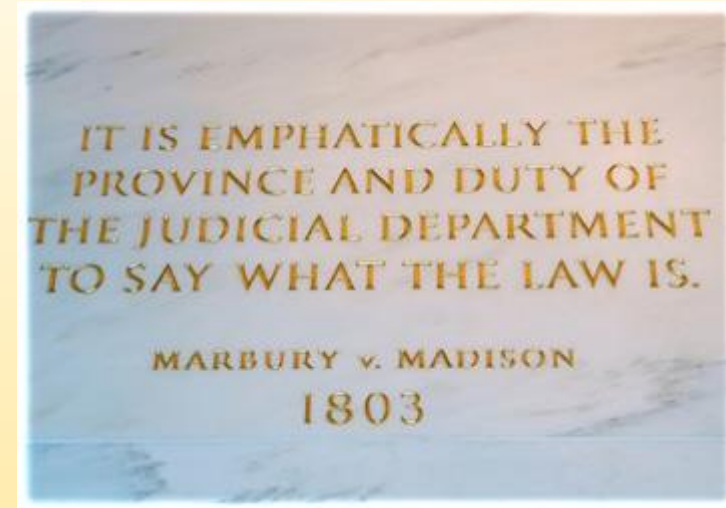
Lesson 5.4 - Famous Cases of the SCOTUS



The Courts and the Policy Agenda

- A Historical Review

- John Marshall and the Growth of Judicial Review
 - *Marbury v. Madison* (1803) established judicial review—courts determine constitutionality of acts of Congress
- The “Nine Old Men”-SCOTUS dismantled many New Deal programs. FDR wanted to pack the Court
- The Warren Court ('53-'69)-Took on segregation & expanded free speech and the rights of the accused: Brown, Gideon, Miranda, Tinker.



Chief Justice
Earl Warren



The Courts and the Policy Agenda

- The Burger Court (69-86) - More conservative and narrowed defendant rights, but upheld affirmative action, required bussing, ruled on Roe v. Wade, and against Nixon in U.S. v. Nixon.
- The Rehnquist Court (86-05) -A conservative Court. Ruled on Bush v. Gore. Limited liberal decisions from previous Courts: defendant's rights and abortion. No longer saw the Court as protector of minority liberties. Protected free speech and free press. Restrained government's power over states.
- 2005 began The Roberts Court



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.



Understanding the Courts



Understanding the Courts

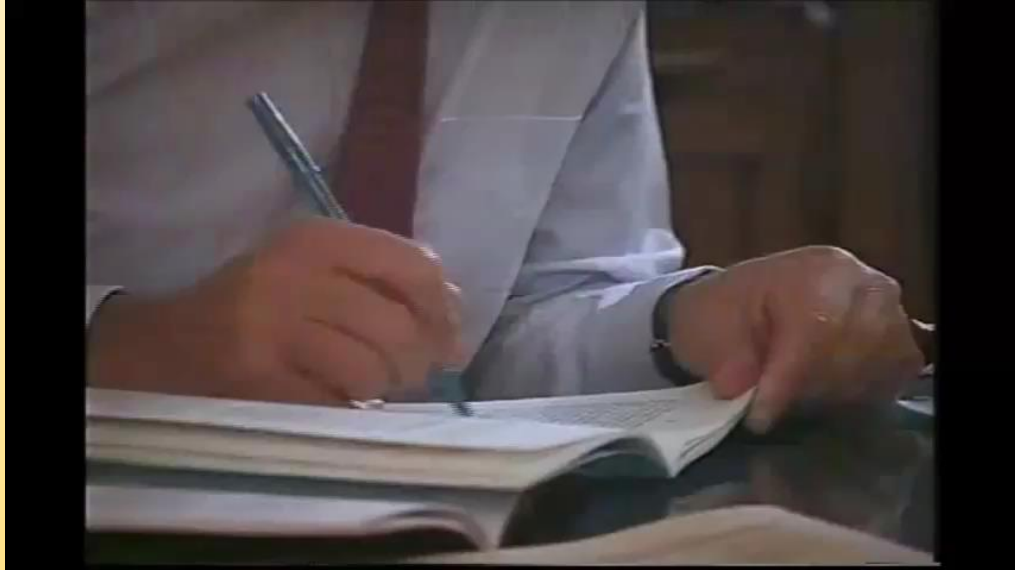


TABLE 16.5

Supreme Court Rulings in Which Federal Statutes Have Been Found Unconstitutional^a

Period	Statutes Voided
1798-1864	2
1864-1910	33 (34) ^b
1910-1930	24
1930-1936	14
1936-1953	3
1953-1969	25
1969-1986	35
1986-present	38
Total	174

^aIn whole or in part.

^bAn 1883 decision in the *Civil Rights Cases* consolidated five different cases into one opinion declaring one act of Congress void. In 1895, *Pollock v. Farmers Loan and Trust Co.* was heard twice, with the same result both times.

Source: Henry J. Abraham, *The Judicial Process: An Introductory Analysis of the Courts of the United States, England, and France*, 7th ed. (Oxford: Oxford University Press, 1998), 309. Used by permission of Oxford University Press, Inc. Updated by the authors.