

# The Judicial Branch of the United States

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**Name:** Ashley Smyth

**Major Topic for the Unit of Instruction:** The Judicial Branch of the United States

**Length of Unit:** Five, 75 minute class periods

## STAGE 1: DESIRED RESULTS

### Standards of Learning:

Virginia Civics and Economics Standard CE.10: The student will demonstrate knowledge of the judicial systems established by the Constitution of the United States by

- a) Describing the organization of the United States judicial system as consisting of state and federal courts with original and appellate jurisdiction.
- b) Describing the exercise of judicial review.
- c) Comparing and contrasting civil and criminal cases.
- d) Explaining how due process protections seek to ensure justice.

### Major understanding:

Students will understand that:

- The judicial function is exercised in a dual court system, which consists of state courts and federal courts.
- The power of judicial review is an important check on the legislative and executive branches of government.
- Courts resolve two kinds of legal conflicts—civil and criminal.
- The right to due process of law is outlined in the 5th and 14th Amendments to the Constitution of the United States of America.

### Essential Question(s):

Why did the Founding Fathers find that it was necessary to create a system of checks and balances where the judicial branch is responsible for interpreting the law?

How would the U.S. be different if the judicial branch and the United States federal court system did not exist?

How do your parents act as the Supreme Court of your family?

### Student Objectives:

Students will be able to:

- Understand that the judicial branch interprets the constitutionality of laws and how they are applied to society.
- Explain how the judicial branch of government operates/function on both the state and federal levels.
- Organize the state and federal courts system in hierarchical chart form based on levels of jurisdiction.
- Distinguish the similarities and differences between civil cases and criminal cases.
- Examine and interpret primary and secondary resources involving the judicial branch of the U.S. government and its relationship to the other branches.
- Explain and analyze how due process protections ensure justice.
- Analyze various documents for information on why judicial review is such an important function of the judicial branch.
- Create their own explanations and responses to questions involving the powers of the judicial branch and its relationship to the other branches of government.
- Explain landmark Supreme Court decisions.

### **Bloom's Taxonomy Skills**

Creating, evaluating, analyzing, applying, understanding, deciding, distinguish, compare, describe, identify, interpret, draw, illustrate, compare, examine, argue, judge, and justify.

### **21<sup>st</sup> Century Learning Skills**

Collaboration, creativity, critical thinking, problem solving, technology based projects, analysis, interpretation.

## **STAGE 2: ASSESSMENT EVIDENCE**

### **List the Performance Task(s)**

- Students will create a set flashcards for the judicial branch online using Quizlet.
- Students will create a Prezi or other form of multimedia presentation that explains the organization of the federal and state court systems.
- Students will create graphic organizers (handmade and electronic) that explain the movement of civil and criminal court cases through the state and federal court systems.
- Students will use the internet to complete a webquest on an overview of the judicial branch.
- Students will analyze and explain political cartoons, Supreme Court records from Marbury v. Madison, and the establishment of judicial review through the completion of a DBQ-Document Based Questioning exercise.
- Students will create a Golgster webpage on the landmark Supreme Court case Marbury v. Madison
- Students will conduct a mock civil and/or criminal trial on a controversial issue playing various roles in the case.
- Students will create a concept/mind map explaining the relationship between the judicial branch and the other branches of government.

- Students will complete section quizzes and a unit test.
- Students will compose individual written responses to one of the judicial branch unit essential questions.

### **STAGE 3: LEARNING PLAN**

#### **Outline of Unit Learning Plan**

Day 1: Overview of the United States Courts System

Day 2: Organization of the Federal and State Court Systems  
(detailed lesson plan included)

Day 3: Judicial Review and the Landmark Supreme Court Case of Marbury v. Madison  
(detailed lesson plan included)

Day 4: Characteristics, Differences, and Similarities of Civil and Criminal Court Cases,  
Due Process

Day 5: Judicial Branch Final Review and Test Day

Ashley Smyth

Lesson Plan #1  
Organization of the United States Judicial System

I. **Subject:** Civics and Economics

II. **Grade level:** 8<sup>th</sup> Grade

III. **Purpose:**

- Students will achieve a thorough understanding of the organization/jurisdiction federal and state court systems.

CE10: The student will demonstrate knowledge of the judicial systems established by the Constitution of Virginia and the Constitution of the United States by

a.) Describing the organization of the United States judicial system as consisting of state and federal courts with original and appellate jurisdiction.

IV. **Objectives:** TSWBAT:

- Understand and explain the meaning of judicial branch vocabulary words related to the organization of the federal and state court systems.
- Sort terms and label charts that properly identify the various types of courts in both the federal and state court systems.
- Students will create a Prezi (form of multimedia presentation) or a handmade mobile that explains the organization of the federal and state court systems.

V. **Materials:**

- Promethean Board
- Active Inspire
- A/V Projector
- CPUs or Lap Tops
- PowerPoint Presentation
- Copies of guided notes sheets
- Copies of federal and state court graphic organizer project direction/rubric sheets
- Copies of judicial system organization work bank/graphic organizer activity
- Copies of judicial system organization check for understanding exit ticket/homework handout
- [www.prezi.com](http://www.prezi.com) (students create their own accounts)
- Printer
- Computer paper

- 8 index cards per student for handmade mobile
- 12 binder rings or roll of yarn
- 1 hole puncher
- Textbooks (optional)

VI. **Procedure:** Includes three components

- **Introduction:** Anticipation Guide Activity (15 minutes)
  - Students will pick up a copy of the Anticipation Guide 10b from the front table upon their arrival to class.
  - An electronic copy of the Anticipation Guide will be projected on the Promethean board.
  - After the bell rings, students will begin working on the Before/After Statement Chart on the Anticipation Guide.
  - As a class, we will go through the daily vocabulary terms and define them as a class in our own words.
  - Praise students for their contributions and encourage others to participate.
- **Development:** PowerPoint with Guided Notes and Graphic Organizers (50min)
  - After completing the Anticipation Guide Activity, I will turn off the classroom lights and begin the Judicial System Organization Notes PowerPoint.
  - Each student will receive a copy of the fill in the blank guided notes which includes graphic organizers for both the federal and state court systems.
  - I will ask the class if someone can explain what the word “dual” means. I will then explain how the word “dual” relates to the judicial branch.
  - I will present the class with a slide on the U.S. Supreme Court and explain that it is the highest court in the land.
  - I will then show students a slide on the U.S. Court of Appeals and explain its characteristics. This is a middle level court.
  - Students will then see a slide on the U.S. District Courts and I will explain its characteristics
  - Next the class will see a graphic organizer depicting the federal court system as a triangle divided into thirds in which as you move up the triangle the courts gain authority and hear appealed cases.
  - I will ask the class if they have any questions pertaining to the lesson or if they need any clarifications on information provided so far during the PowerPoint.

- Praise students for their contributions.
- At this point we will move on to slides about the state court system with emphasis on Virginia courts. Again we will start at the top of the state court system and work our way down.
- I will now show students the slide on the Virginia Supreme Court and explain its characteristics.
- The class will see a slide on the Court of Appeals of Virginia, we will discuss its characteristics and we will review the meaning of jurisdiction.
- I will then show the class a slide on the Circuit courts, explain that these courts are trial courts, its type of jurisdiction, and the types of cases it hears.
- We will now discuss General District Courts and its characteristics.
- Students will then learn about Juvenile and Domestic Relations Courts in the state of Virginia. As a class we will discuss how this type of court deals primarily with matters involving minors and family issues.
- I will then explain to the class what a magistrate is and that all Virginia laws must conform to both the Virginia Constitution and the U.S. Constitution.
- Finally, students will complete a graphic organizer of the Virginia Courts System.
- At this point I will turn off the PowerPoint and hand out the Judicial System Word Bank Activity worksheet. Students will be given 5min. to individually complete the word sort and graphic organizers based on their notes.
- I will then call the class back together and call on students to come to the promethean board and fill in the answers.
- I will clear up any misunderstandings on the day's notes at this point.
- Next, to bring some life and creativity to the court systems, I will give students a small in-class assignment to create a hands-on graphic organizer by using [www.prezi.com](http://www.prezi.com) or if needed I have an alternative assignment for students to create a mobile/model of the dual courts system.
- Students will be given the direction/rubric handout and I will guide them through the process of creating their own prezi account.
- I will also show students models of both the online graphic organizer and the hand-made model to help students understand my level of expectations.
- If students do not finish their organizer project in class they will be required to finish it for homework and submit it to me via a digital drop box or email the link.

- **Summary:** Exit Tickets (10 minutes)
  - During the last 10 minutes of class I will, conduct a quick review of the information presented in the Judicial System Organization notes  
Students must complete a quick exit ticket review activity and turn it in to me as they leave class.
  - I will also open the floor for any additional questions pertaining to the lesson.
  - Praise students for their contributions and hard work during the lesson.

Lesson Plan #2  
Judicial Review and the Landmark Supreme Court Case: Marbury v. Madison

- I. Subject: Civics and Economics
- II. Grade level: 8th Grade
- III. Purpose:
- Students will achieve a thorough understanding of the landmark Supreme Court case Marbury v. Madison and the establishment of the power of judicial review.

CE10: The student will demonstrate knowledge of the judicial systems established by the Constitution of Virginia and the Constitution of the United States by

b.) Describing the exercise of judicial review.

- IV. Objectives:
- Students will analyze and explain political cartoons, Supreme Court records from Marbury v. Madison, and the establishment of judicial review through the completion of a DBQ-Document Based Questioning exercise.
  - Students will create a Glogster webpage on the landmark Supreme Court case Marbury v. Madison

- V. Materials:
- Promethean Board
  - Active Inspire
  - A/V Projector
  - CPUs or Lap Tops
  - Copies of Document 1 from the DBQ Activity
  - Copies of Document 2 from the DBQ Activity
  - Copies of Document 3 from the DBQ Activity
  - Copies of the Writing Prompt worksheet from the DBQ
  - Copies of the short story of Marbury v. Madison
  - [www.edu.glogster.com](http://www.edu.glogster.com)
  - Copies of the Glogster Direction and Rubric Sheet
  - Textbooks (optional)

- VI. Procedure: Includes three components
- Introduction: Anticipation Guide Activity (15 minutes)



- Students will pick up a copy of the Anticipation Guide 10b from the front table upon their arrival to class.
- An electronic copy of the Anticipation Guide will be projected on the Promethean board.
- After the bell rings, students will begin working on the Before/After Statement Chart on the Anticipation Guide.
- Students will also be asked to write an answer to the Preview Question of the days lesson before we move on into today's lesson.
- As a class, we will go through the daily vocabulary terms and define them as a class in our own words.
- Praise students for their contributions and encourage others to participate.

- Development: DBQ Activity (20minutes)
- As a class today we will be completing our first DBQ-Document Based Questioning Activity. Since all of my classes are new to this form of learning we will work as a whole class as opposed to small groups so that students can gain a better understanding of how the process should work.
- We will begin our DBQ by taking a look at Exercise A. Analyzing Sources for Document 1 and answer the attached question.
- I will prompt students to look beyond the required questions and see if they notice anything that strikes them as unusual or different than what they know so far.
- Next we will look at Document 2: Excerpts of Supreme Court Chief Justice John Marshall's 1803 decision in Marbury v. Madison.
- I will select volunteers to take turns reading while stopping to discuss the wording of the document and its meaning.
- Students will then discuss with partners their answers to the questions on the back of Document 2.
- At this time, as a class we will discuss Document 3 the political cartoon. Why would the artist depict the three branches of government in this way? Does the depiction make sense? Why or why not?
- Finally, students will be given a short in class writing prompt about the sources we just examined in class.
- Students will be given the opportunity to read their answers if they wish for extra credit points.

- Summary: Glogster Interactive Story Telling Assignment(40 minutes)
- During the last 40 minutes of class I will assign students the task of creating a Glogster page about the Landmark Supreme Court Case Marbury v. Madison.

- Prior to beginning the Glogster students will receive a brief story to read which gives them background into the controversy that forever changed the powers of the judicial branch.
- As a class we will read through the Glogster Project Rubric so that everyone understands the assignment and how to meet expectations. I will also show students a sample Glogster I made on Marbury v. Madison. I will also guide students through the Glogster account set up.
- Based on the short story and all of the information the class learned throughout the Marbury v. Madison DBQ, students will have to create a Glogster webpage which tells the story of the Supreme Court Case: Marbury v. Madison
- Once students begin working I will open the floor for any additional questions pertaining to the lesson.
- I will also circulate around the room during this time to view students work and to make sure students are on task.
- Praise students for their contributions and hard work during the lesson.

Federal and State Courts CE.10a

# Judicial System Organization



**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)**

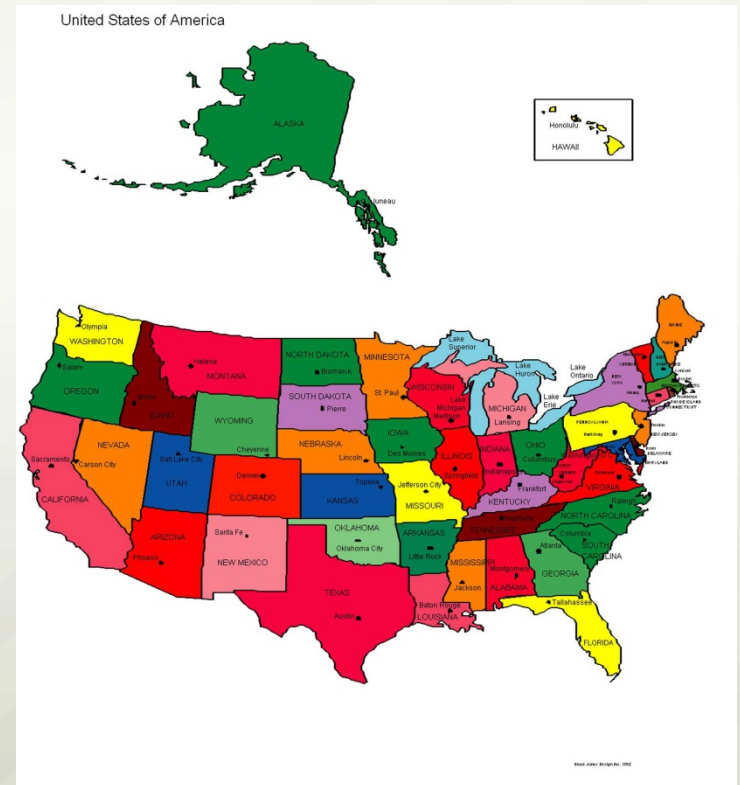
**Court of Veterans Appeals**

**U.S. Tax Court**

**Federal administrative agencies  
and boards**

# Dual Court System

- The judicial function is exercised in a dual court system, which consists of state courts and federal courts.



# Constitution Created Courts

- The United States has a court system whose organization and jurisdiction are derived from the Constitution of the United States and federal laws.





# U.S. Supreme Court

- Justices
- no jury
- appellate jurisdiction
- limited original jurisdiction



# U.S. Court of Appeals

- Judges
- no jury
- appellate jurisdiction



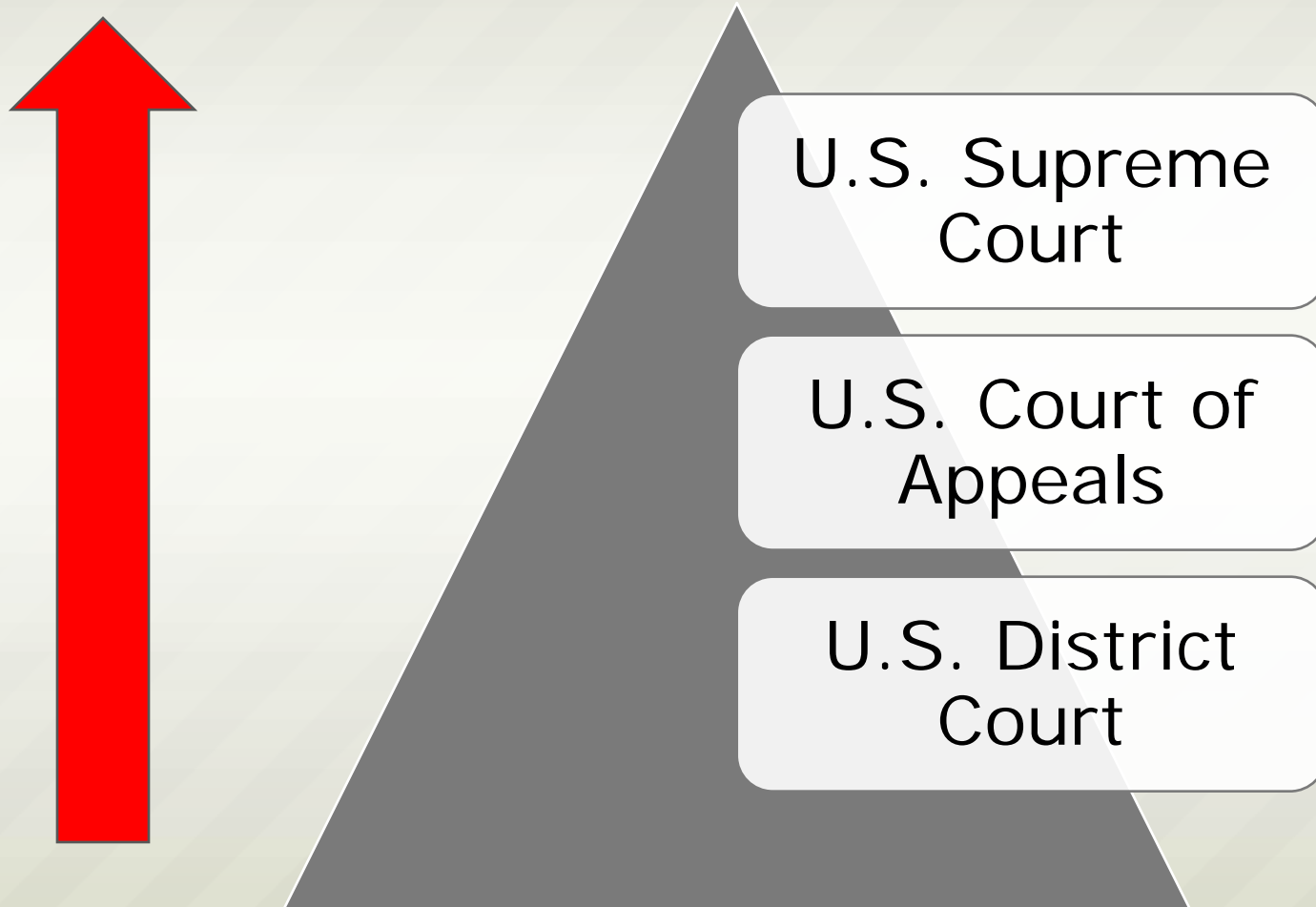


# U.S. District Court

- Judge, with or without jury
- original jurisdiction

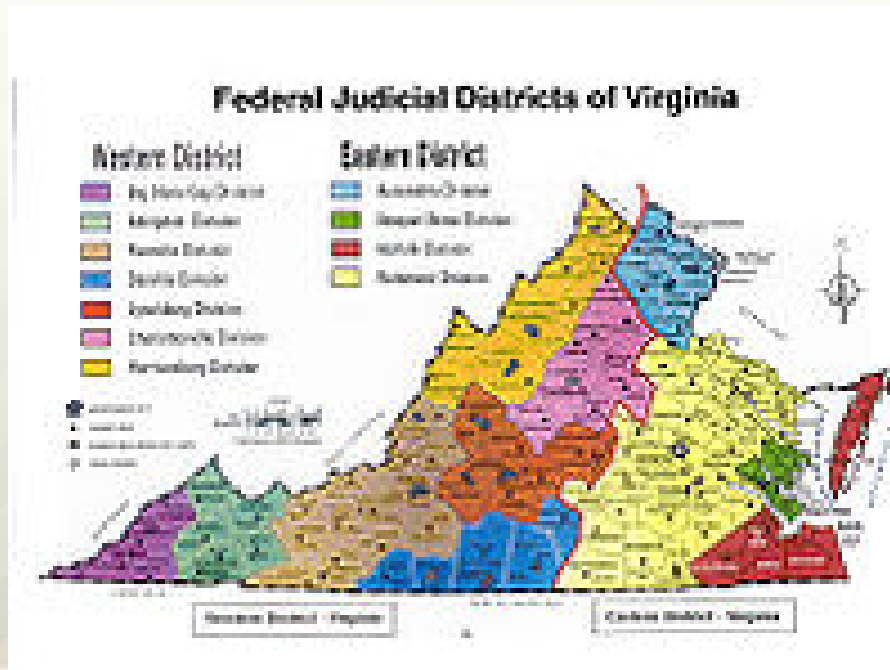


# Hierarchy of Federal Courts



# Virginia Court System

- Virginia, like each of the other 49 states, has its own separate court system whose organization and jurisdiction are derived from Virginia's constitution and state laws.



# Virginia Supreme Court

- This court has justices, but no jury
- It is the court with the highest state appellate jurisdiction
- It has limited original jurisdiction
- It hears criminal and civil cases



# Court of Appeals of Virginia

- This court has judges, but no jury
- It has appellate jurisdiction to review decisions of circuit courts
  - What does this mean? A lower court has already heard the case and made a decision on it
- Court hears criminal and civil cases



# Circuit Court (Trial Courts)

- This court has a judge and a jury. This is the only Virginia Court to have a jury
- It has original jurisdiction for felony criminal cases and for certain civil cases
- It also has appellate jurisdiction from Virginia General District Courts
- It hears criminal and civil cases



# General District Court

- This court had a judge only with no jury
- It has original jurisdiction for misdemeanors in civil cases
- It hears cases generally involving lower dollar amounts
  - Claims of less than \$4,500.00 MUST begin here





# Juvenile and Domestic Relations Court

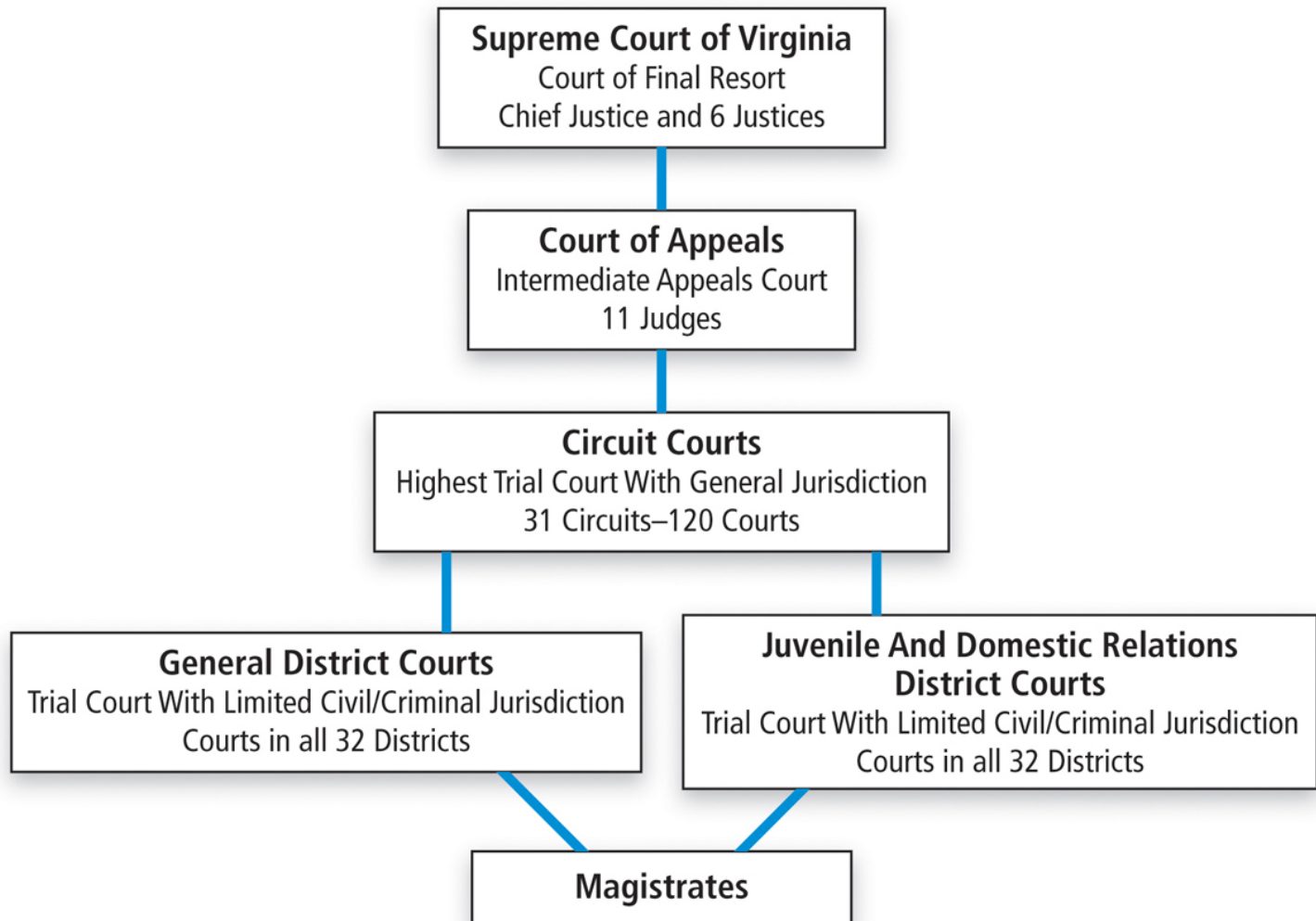




# Virginia Judicial System Facts

- Magistrates issue search warrants, subpoenas, arrest warrants, and summons and they set bail.
- Virginia laws must conform to both the Virginia Constitution and the United States Constitution.

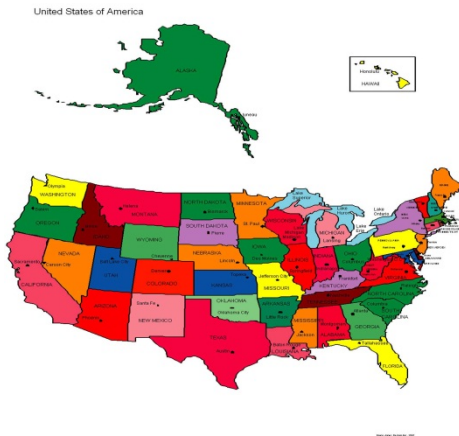
# Hierarchy of Virginia Courts



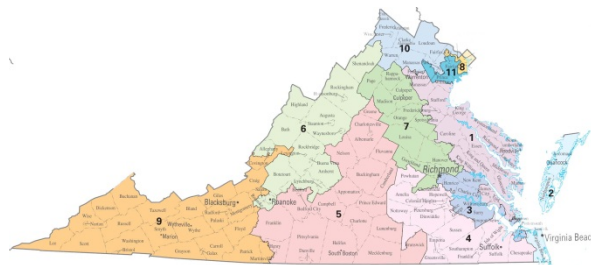
Source: <http://www.courts.state.va.us/courts/cib.pdf>

## Notes CE.10a:

### Judicial System Organization Established by the U.S. Constitution and the Constitution of Virginia



The judicial function is exercised in a dual court system, which consists of state courts and federal courts.



The United States has a court system whose organization and jurisdiction are derived from the Constitution of the United States and federal laws.

- **U.S. Supreme Court:** Justices, no jury; appellate jurisdiction; limited original jurisdiction
- **U.S. Court of Appeals:** Judges, no jury; appellate jurisdiction
- **U.S. District Court:** Judge, with or without jury; original jurisdiction



Virginia, like each of the other 49 states, has its own separate court system whose organization and jurisdiction are derived from Virginia's constitution and state laws.

## Virginia Supreme Court

- This court has justices, but no jury
- It is the court with the highest state appellate jurisdiction
- It has limited original jurisdiction
- It hears criminal and civil cases

## Court of Appeals of Virginia

- This court has judges, but no jury
- It has appellate jurisdiction to review decisions of circuit courts
  - ***What does this mean?*** A lower court has already heard the case and made a decision on it
- Court hears criminal and civil cases

## Circuit Court (Trial Courts)

- This court has a judge and a jury. ***This is the only Virginia Court to have a jury***
- It has original jurisdiction for felony criminal cases and for certain civil cases
- It also has appellate jurisdiction from Virginia General District Courts
- It hears criminal and civil cases

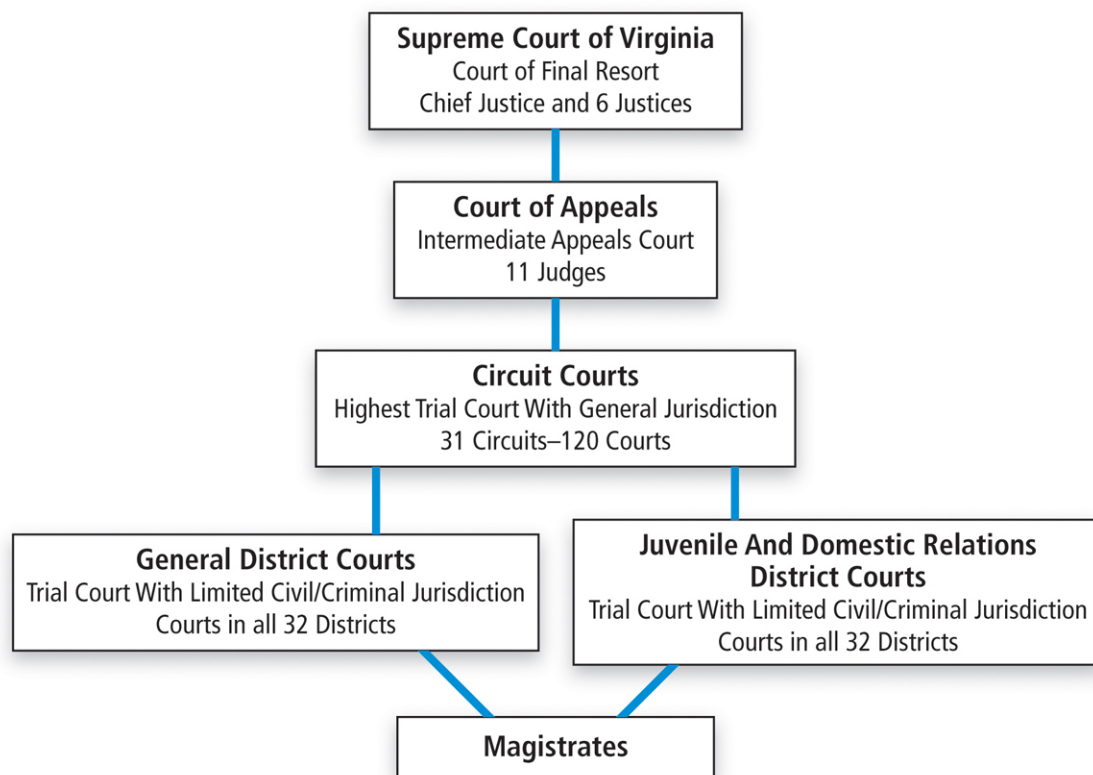
## General District Court and Juvenile and Domestic Relations Court:

- This court had a judge only with no jury
- It has original jurisdiction for misdemeanors in civil cases
- It hears cases generally involving lower dollar amounts
  - Claims of less than \$4,500.00 MUST begin here
- Original jurisdiction in juvenile and family cases

Magistrates issue search warrants, subpoenas, arrest warrants, and summons and they set bail.

Virginia laws must conform to both the Virginia Constitution and the United States Constitution.

## Organization of the Commonwealth of Virginia Courts System



Source: <http://www.courts.state.va.us/courts/cib.pdf>

## Federal and State Court Graphic Organizer Project

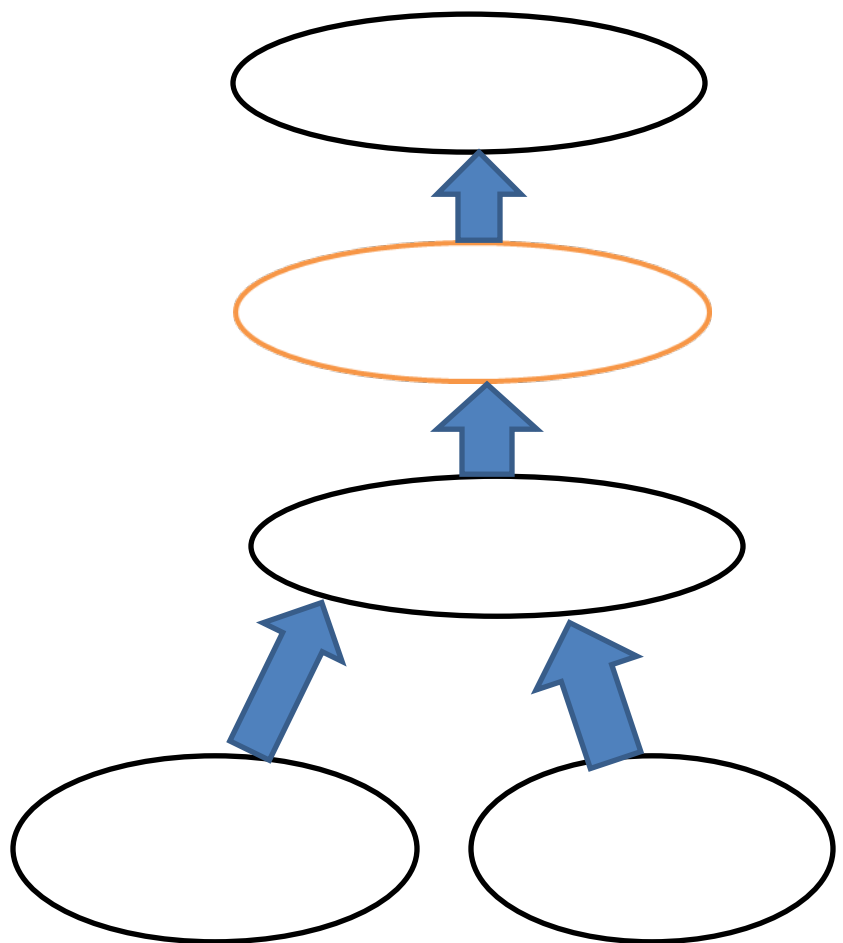
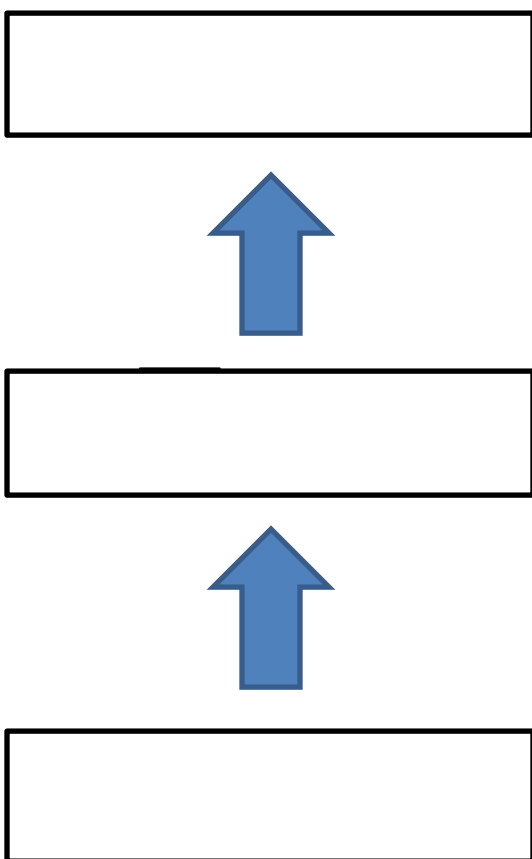
Hand-Made Chart/Mobile of State and Federal Court Systems	Prezi Graphic Organizer of State and Federal Court Systems
<p>Supplies: 8 index cards 12 binder rings or yarn (1roll) 1 Hole puncher</p>	<p>Supplies: computer and printer Prezi account Computer paper</p>
<p>Requirements:</p> <p>Label each index card with the name of one level of the court system.</p> <p>On the back of each index card for each level of court include the characteristics that make it similar or different from the others.</p> <p>When assembling each level of the court system hanging chart/mobile each court card <b>MUST</b> be in the proper order (lowest court at bottom-highest court at top).</p> <p>You must include a small picture that relates to each level of the court system</p> <p>Be sure to write NEATLY</p>	<p>Requirements:</p> <p>Create a prezis that takes viewers through the various levels of the court systems at both the federal and the state levels. You may use any format you like as long as someone can easily follow and understand the organization of the court system.</p> <p>Each level of court included in your Prezi must include a description of the characteristics that make it similar or different from the other levels</p> <p>You must include a small picture that relates to each level of the court system</p> <p>Be aware that using fonts that are difficult to read can result in a lower grade</p>
Total Points: 50	Total Points: 50

## Judicial System Organization CE.10a Word Bank Activity

Using the knowledge you learned in class today take words from the word bank below and use them to correctly fill in the two graphic organizers.

Juvenile and Domestic Relations Court  
U.S. Supreme Court  
Circuit Court  
U.S. District Court  
Virginia Court System

U.S. Court of Appeals  
Virginia Supreme Court  
General District Court  
Virginia Court of Appeals  
Federal Court System



**Closure:** Revisit your anticipation Guide 10a and see if any of your answers are different now that you have learned about the various levels and divisions of the Federal and State Court Systems.

## Judicial System Organization CE.10a Check for Understanding

### Exit Ticket

**Definitions:** Briefly define the following terms in your OWN words.

**Dual** \_\_\_\_\_

**Federal** \_\_\_\_\_

**National** \_\_\_\_\_

**Jurisdiction** \_\_\_\_\_

**Appellate** \_\_\_\_\_

Using the knowledge you gained today in class, place a check-mark or an X in each column of the characteristic that applies to a specific court.

### Organization of the United States Court System

	U.S. Supreme Court	U.S. Court of Appeals	U.S. District Court
Judge			
Jury			
Jurisdiction			

### Virginia's State Court System

	Virginia Supreme Court	Court of Appeals of Virginia	Circuit Court	General District Court and Juvenile and Domestic Relations Court
Judge				
Jury				
Jurisdiction				

**Closure:** Revisit your anticipation Guide 10a and see if any of your answers are different now that you have learned about the various levels and divisions of the Federal and State Court Systems.



**Anticipation Guide 10a**

**Directions: Before reading:** In the column labeled before, place a check next to any statement you agree with and a minus for any statement you disagree.

**During reading:** Read the notes and comprehend what they mean.

**After reading:** Then again use a check or a minus, except place it in the after column. Compare your opinions on those statements with information contained in the text.

Before	Statement	After
	1. Courts are set up as federal or state.	
	2. The U.S. Supreme Court has judges that are called Justices.	
	3. If you received a speeding ticket you would go to district court.	
	4. A jury decides all court cases.	
	5. If you lose a court case, you cannot appeal.	

**Vocabulary 10a**

1. organization	
2. derived	
3. jury	
4. original	
5. appeals	
6. review	
7. criminal case	
8. misdemeanors	
9. circuit	
10. jurisdiction	
11. justices	
12. appellate	
13. supreme	
14. district	
15. felony	
16. civil case	
17. juvenile	
18. domestic relations	

**CE.10a**

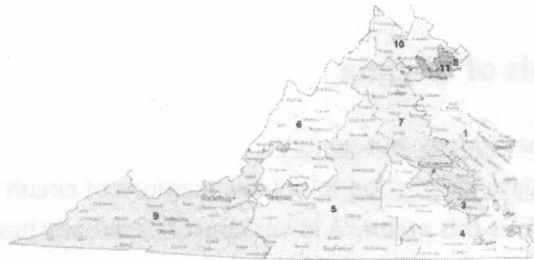
- How are federal courts organized, and what jurisdiction does each exercise?
- How are state courts organized, and what jurisdiction does each exercise?

## Notes CE.10a:

### Judicial System Organization Established by the U.S. Constitution and the Constitution of Virginia

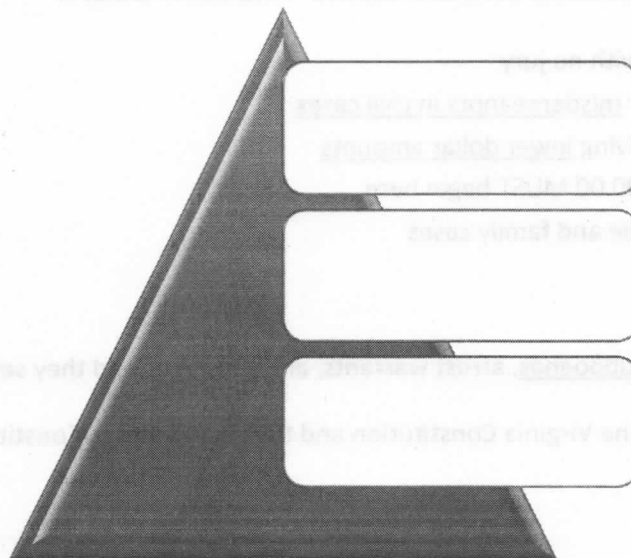


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The United States has a court system whose organization and jurisdiction are derived from the Constitution of the United States and federal laws.

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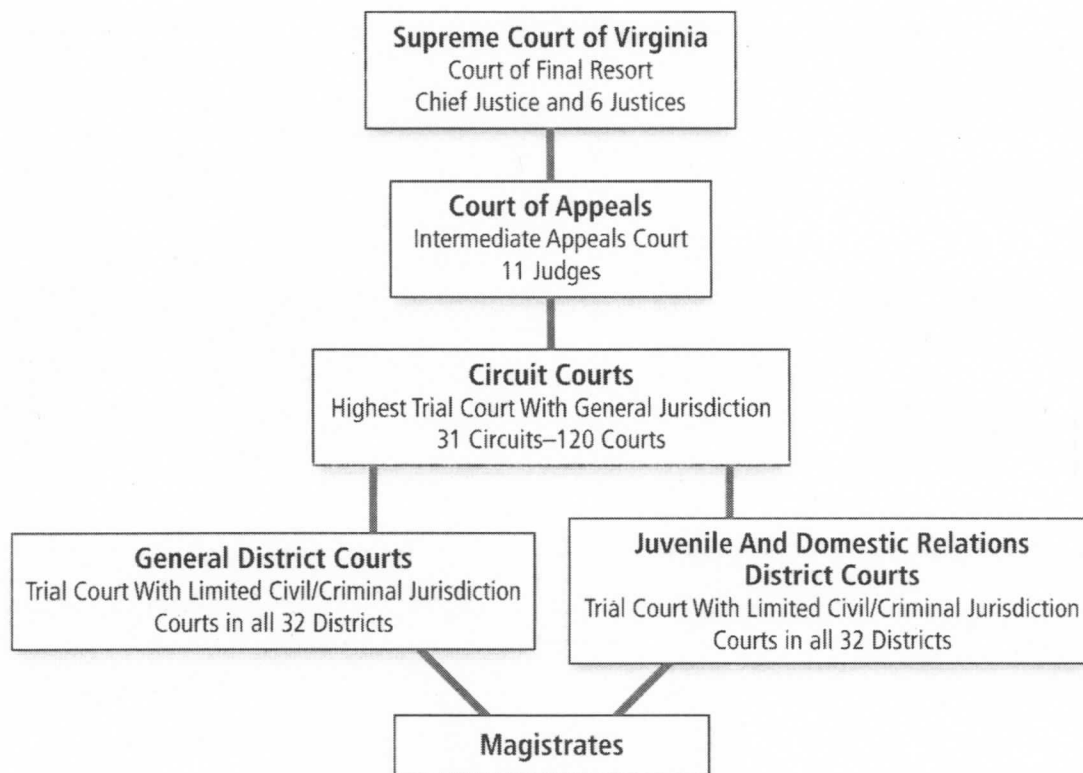
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- Original jurisdiction in juvenile and family cases

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Virginia laws must conform to both the Virginia Constitution and the United States Constitution.

## Organization of the Commonwealth of Virginia Courts System



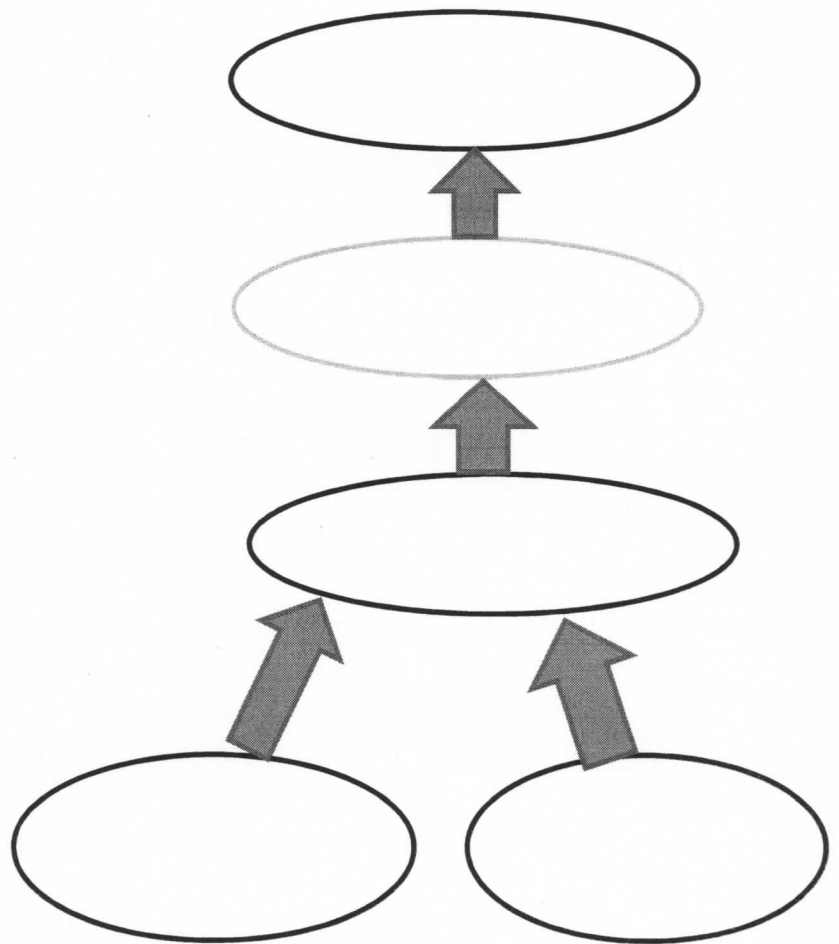
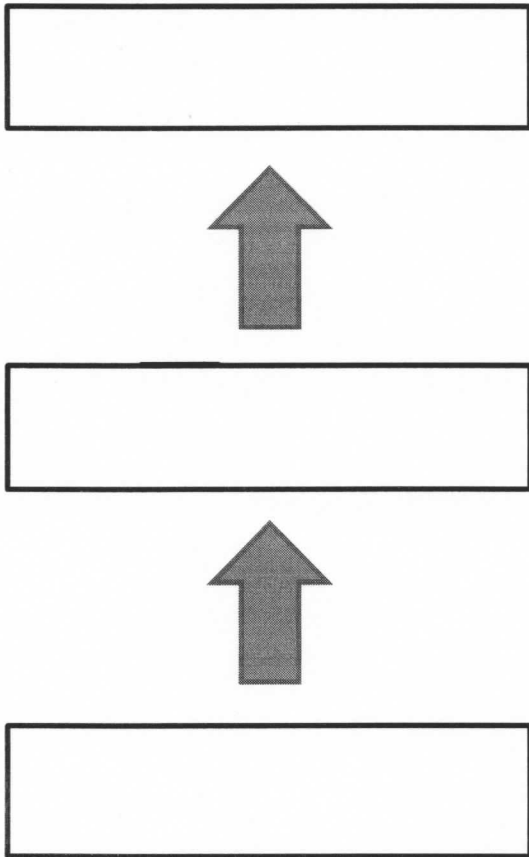
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**Closure:** Revisit your anticipation Guide 10a and see if any of your answers are different now that you have learned about the various levels and divisions of the Federal and State Court Systems.

## Federal and State Court Graphic Organizer Project

Hand-Made Chart/Mobile of State and Federal Court Systems	Prezi Graphic Organizer of State and Federal Court Systems
<p>Supplies: 8 index cards 12 binder rings or yarn (1roll) 1 Hole puncher</p>	<p>Supplies: computer and printer Prezi account Computer paper</p>
<p>Requirements:</p> <p>Label each index card with the name of one level of the court system.</p> <p>On the back of each index card for each level of court include the characteristics that make it similar or different from the others.</p> <p>When assembling each level of the court system hanging chart/mobile each court card MUST be in the proper order (lowest court at bottom-highest court at top).</p> <p>You must include a small picture that relates to each level of the court system</p> <p>Be sure to write NEATLY</p>	<p>Requirements:</p> <p>Create a prezzi that takes viewers through the various levels of the court systems at both the federal and the state levels. You may use any format you like as long as someone can easily follow and understand the organization of the court system.</p> <p>Each level of court included in your Prezi must include a description of the characteristics that make it similar or different from the other levels</p> <p>You must include a small picture that relates to each level of the court system</p> <p>Be aware that using fonts that are difficult to read can result in a lower grade</p>
Total Points: 50	Total Points: 50

## Judicial System Organization CE.10a Check for Understanding

### Exit Ticket

**Definitions:** Briefly define the following terms in your OWN words.

Dual \_\_\_\_\_

Federal \_\_\_\_\_

National \_\_\_\_\_

Jurisdiction \_\_\_\_\_

Appellate \_\_\_\_\_

Using the knowledge you gained today in class, place a check-mark or an X in each column of the characteristic that applies to a specific court.

### Organization of the United States Court System

	U.S. Supreme Court	U.S. Court of Appeals	U.S. District Court
Judge			
Jury			
Jurisdiction			

### Virginia's State Court System

	Virginia Supreme Court	Court of Appeals of Virginia	Circuit Court	General District Court and Juvenile and Domestic Relations Court
Judge				
Jury				
Jurisdiction				

**Closure:** Revisit your anticipation Guide 10a and see if any of your answers are different now that you have learned about the various levels and divisions of the Federal and State Court Systems.

Name \_\_\_\_\_ Date \_\_\_\_\_ Period \_\_\_\_\_

Anticipation Guide 10b

**Directions: Before lesson:** In the column labeled before, place a check next to any statement you agree with and a minus for any statement you disagree.

**After lesson:** Then again use a check or a minus, except place it in the after column. Compare your opinions on those statements with information contained in the text.

Before	Statement	After
	1. The power of the Supreme Court to determine if laws are constitutional is written into the U.S. Constitution.	
	2. Judicial Review was established by an act of Congress.	
	3. Judicial Review was first applied to a situation in the 1803 case of Marbury v. Madison.	
	4. Chief Justice John Marshall helped avoid conflict with the President and Congress when he helped establish judicial review.	
	5. The Supreme Court cannot declare state laws unconstitutional.	
	6. Judicial Review is no longer an important power of the Supreme Court.	

10b Preview Question:

Describe a situation in which you chose to go somewhere or do something but your parents found your decision to be unacceptable and refused your decision (said you couldn't do what you wanted to do).

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Vocabulary 10b

1. judicial review
2. constitutionality
3. versus
4. conform
5. supreme
6. acts
7. checks and balances

CE.10b Review Question

1. What is judicial review?

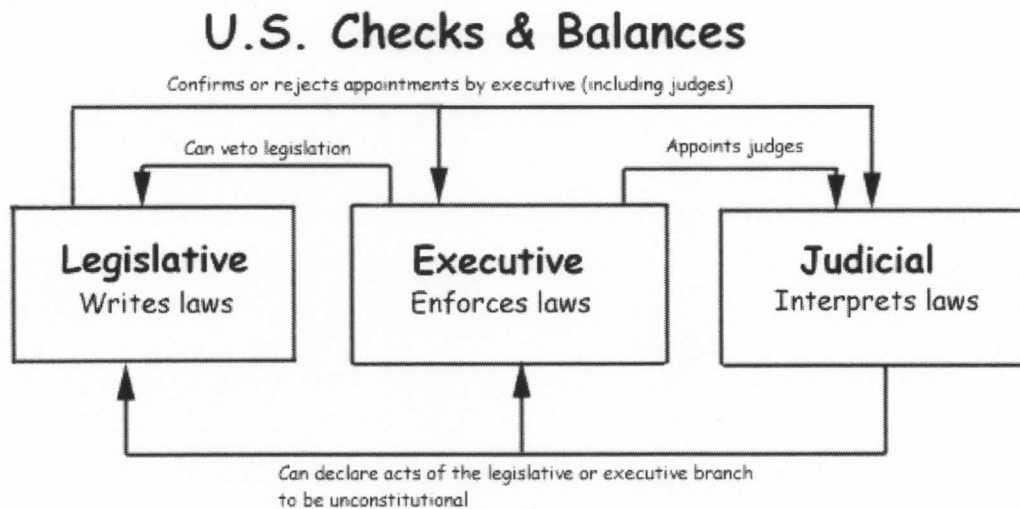


# MARBURY V. MADISON DBQ

## Exercise A. Analyzing Sources

**Directions:** Answer the questions that follow each document.

### Document 1:



1. Which branch of government has the power to declare acts (laws) of Congress unconstitutional?

**Document 2: Excerpts of Supreme Court Chief Justice John Marshall's 1803 decision in *Marbury v. Madison*.**

It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each.

So if a law be in opposition to the Constitution; if both the law and the constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the Constitution; or conformably to the Constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.

If, then, the courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply...

From these, and many other selections which might be made, it is apparent that the framers of the Constitution contemplated that instrument as a rule for the government of courts, as well as of the legislature.

Why otherwise does [the Constitution] direct the judges to take an oath to support it? ...

It is also not entirely unworthy of observation that, in declaring what shall be the *supreme* law of the land, the *Constitution* itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in *pursuance* of the Constitution, have that rank.

Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the Constitution is void; and that *courts*, as well as other departments, are bound by that instrument.

The rule must be

*Discharged.*

1. The 1803 Supreme Court case of *Marbury v. Madison* established the Supreme Court's power of **judicial review** (the power to declare acts of Congress unconstitutional). What did Marshall mean by the phrase "It is emphatically the province and duty of the judicial department to say what the law is"? (tip – write in kid language)

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- 2a. What does Marshall say is the duty of the court "when a law is repugnant to the Constitution"?

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- 2b. What is important about the court "voiding" a law?

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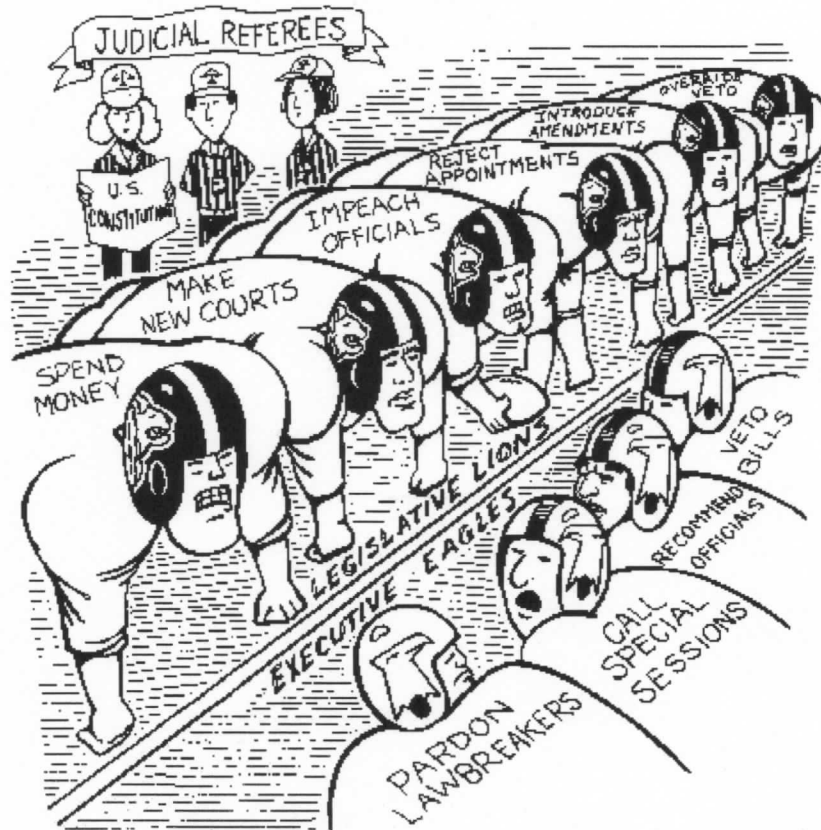
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**Document 3:**



**HOW DO THEY EXPECT US TO STOP THEM?**

1. What three groups in government are represented in this cartoon?  
\_\_\_\_\_
2. What is represented by the writing on the backs of the players?  
\_\_\_\_\_
3. What are the referees using as their “rulebook”?  
\_\_\_\_\_
4. What power did Marbury vs. Madison give the “referees” that is not shown in the cartoon?  
\_\_\_\_\_
5. How does **judicial review** strengthen the role of the judicial branch in this game?  
\_\_\_\_\_

### Exercise B. Writing About Related Sources

**Directions:** Write a paragraph in response to The Big Question below. Be sure to include in your answer at least two details from the documents on the previous pages. Reviewing your responses to the scaffolding questions will help you answer The Big Question well.

## The Big Question:

**Does judicial review really strengthen the Constitutional principal of checks and balances or not? Justify your answer.**

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page or a sheet of stationery designed for writing.

## Attachment V: *Marbury v. Madison*

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In the waning months of President John Adam's term, when Chief Justice Oliver Ellsworth resigned, Adams first sought to reappoint former Chief Justice John Jay to the Court. Jay declined the appointment. Following Jay's refusal, Adams nominated John Marshall. He became the fourth Chief Justice of the United States on February 4, 1801.

In the last few weeks of Adams' administration, before President Thomas Jefferson took office, Congress authorized the appointment of 42 justices of the peace in the District of Columbia and Alexandria, Virginia. President Adams made appointments to these positions, and the Senate confirmed them on March 3, the day before Jefferson took office. The formal letters announcing the appointments were to be delivered by the Secretary of State's Office. However, not all of the commissions were delivered by the deadline that night.

William Marbury was one of those justices of the peace appointed by Adams who failed to receive his appointment letter (commission) on time. He brought suit against Secretary of State James Madison for failing to deliver his commission. Marbury went right to the Supreme Court and filed an *original action* seeking a *writ of mandamus* to compel Madison to deliver the commission. Marbury asserted that the Supreme Court was the proper jurisdiction to start this action under Section 13 of the Judiciary Act of 1789. This is the section of the Act that the Supreme Court later declared unconstitutional because it conflicted with Article III of the United States Constitution.

President Jefferson believed that a court could not order him to have the commissions delivered and Secretary of State Madison refused to appear before the Supreme Court. The Court then ordered Jefferson to show cause as to why the President should not comply with the writ of mandamus.

In *Marbury*, the Supreme Court at the beginning of its 1803 term asserted its power to review the constitutionality of Executive and Legislative actions. At the same time, the Court limited its power in this case. The Court decided that it would be unconstitutional for it to issue a writ of mandamus as an original action—as provided for in the Judiciary Act—because doing so would violate Section III of the Constitution.

### Legal Questions

- Issue #1: Whether Marbury Had a Right to the Commission
- Issue #2: Whether Existing Laws Established a Remedy for the Deprivation of the Right
- Issue #3: Whether the Court Should Issue a Writ of Mandamus Requiring Delivery of the Commission

### Opinion of the Supreme Court

On February 24, 1803, Chief Justice Marshall delivered the opinion of the Supreme Court in *Marbury v. Madison*. Justice Marshall began the opinion by outlining the case in terms of three issues. First, whether Marbury had a right to the commission; second, whether the laws of the country allowed a remedy for his situation; and third, whether a mandamus could be issued in an original action before the Supreme Court.

**Issue #1: Whether Marbury Had a Right to the Commission**

Yes. Marshall found that Marbury had a right to the commission once it was signed by the President and sealed by the Secretary of State. The Court might have held that the commission was not in force until it was delivered. However, the justices stated that the commission went into effect as soon as the President signed it.

**Issue #2: Whether Existing Laws Established a Remedy**

Yes. The opinion found that a legal remedy was required for a legal wrong. Since the government of the United States is one "of laws and not of men", the courts must grant a remedy for violation of legal rights. The Supreme Court decided that if an Executive branch duty is established by the Constitution or federal law, the Judiciary could enforce it.

**Issue #3: Whether the Court Should Issue a Writ of Mandamus Requiring Delivery of the Commission**

No. Marshall found a conflict between the Judiciary Act of 1789, established by Congress, and the United States Constitution. He found that Section 13 of the Act allows writs of mandamus, such as the action involved in this case. However, he found Section 13 of the Judiciary Act to be unconstitutional because it was in direct opposition to Article III of the Constitution.

The opinion admitted that Congress has the power to alter the jurisdiction of the Court. However, the original jurisdiction for a writ of mandamus, such as the one in this case, was not permitted by the Constitution. In the opinion, Marshall established that a law in conflict with the Constitution is not valid. It also held that the Supreme Court had the power to invalidate such a law.

The decision in *Marbury v. Madison* greatly expanded the power of the Supreme Court by establishing its right to overturn acts of Congress, a power not explicitly granted by the Constitution. The Court exercised the system of checks and balances by assuming the authority to declare acts of Congress, and by implication, acts of the President, unconstitutional. After *Marbury v. Madison*, the Court became the final authority on what the Constitution means. The Supreme Court became, in fact as well as in theory, an equal partner in government. It has played that role ever since.

Source: Excerpted from "Two Centuries Later: The Enduring Legacy of *Marbury v. Madison* (1803)."  
Administrative Office of the United States Courts.

### Glogster Rubric for Digital Storytelling

Category	10	8	6	4	2
Content	The glog has a clear purpose; the writer selects advanced word choice that includes active verbs and precise nouns & adjectives; there are no convention errors.	The glog has a clear purpose; the writer selects grade level words that include active verbs , & precise nouns and adjectives; there are a few conventions.	The glog's purpose is vague; the writer selects below grade level words and there are several convention errors.	The Glog lacks purpose, originality and creativity; the word choice is below grade level and there are many convention errors.	
Labels	All items of importance are clearly labeled with labels that can be easily read.	Almost all items of importance are clearly labeled and labels can be read.	Some items of importance are clearly labeled and labels can be read.	Few items of importance are labeled and labels are difficult to read.	Labels are too small to view or no important items were labeled.
Graphics-Relevance	Graphics are related to the theme /purpose of the Glog; enhance reader interest & understanding; highly organized & are displayed neatly on the page without distracting the reader.	Graphics are related to the theme/purpose of the Glog; enhance reader interest and understanding; are organized & do not distract the reader.	Graphics are related to the theme/purpose of the Glog, enhance reader interest and understanding; somewhat organized and arrangement distracts the reader.	Few graphics relate to the topic and are not organized; distracting to reader.	No graphics relate to the topic.
Attractiveness	The Glog is exceptionally attractive in terms of design, layout, and neatness.	The Glog is attractive in terms of design, layout, and neatness.	The Glog is fairly attractive, but a bit messy.	The Glog is poorly designed and very messy.	The Glog is distractingly messy and unattractive.
Grammar	There are no grammatical–mechanical mistakes on the Glog.	There is 1 grammatical–mechanical mistake on the Glog.	There are 2-3 grammatical–mechanical mistakes.	There are 4 grammatical–mechanical mistakes.	There are more than 4 grammatical–mechanical mistakes.



# Marbury vs. Madison (1803)

Marbury petitioned to the Supreme Court in an attempt to gain his post. He wanted the Court to issue an order forcing Madison to give Marbury his commission. Marbury argued that the Judiciary Act of 1789 had given the Supreme Court the power to issue such an order.

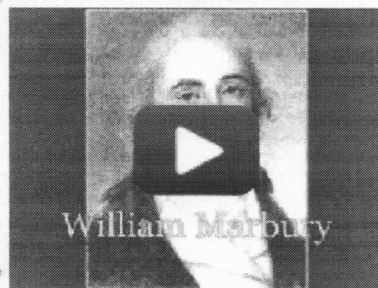
## The BIG Issue

# Judicial Review

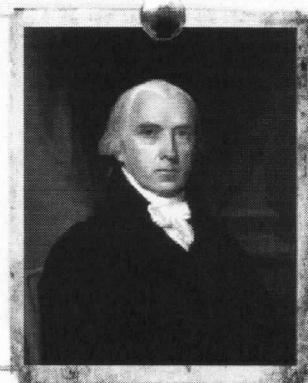


**William Marbury**

Appointed to the position of Justice of the Peace by outgoing President John Adams

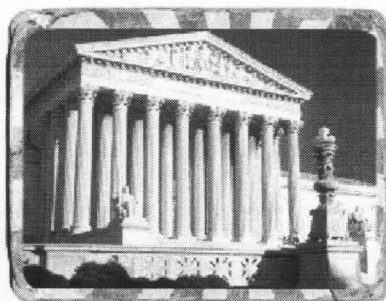


William Marbury



**James Madison**

Secretary of State to incoming President Thomas Jefferson



The landmark decision helped define the "checks and balances" of the American form of government.

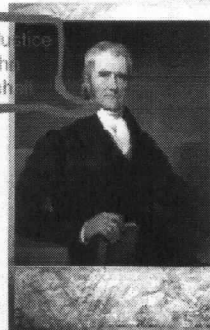
IT IS EMPHATICALLY THE PROVINCE AND DUTY OF THE JUDICIAL DEPARTMENT TO SAY WHAT THE LAWS ARE.

MARBURY vs. MADISON  
1803

## A Landmark Decision is Made

For the first time the Supreme Court declared an executive act "unconstitutional" establishing the concept of judicial review in the United States.

Chief Justice John Marshall



President Thomas Jefferson



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### The BIG Issue

## Judicial Review



William Marbury

Appointed to the position of justice of the Peace by outgoing President John Adams



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### A Landmark Decision is Made

For the first time the Supreme Court declared an executive act "unconstitutional" establishing the concept of judicial review in the United States.

