

Civics & Social Studies

Packet 4

The Judicial Branch

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1. THE RULE OF LAW

American social, legal, and governmental systems are based on ***the rule of law***. This means that ***everyone must follow the law***. Put another way, it means that nobody is above the law. Regardless of wealth, fame, or position, the law applies to everybody in our nation.



Figure 1. Bernie Madoff stole billions of dollars from investors. He was ultimately found guilty of 11 felonies and sentenced to 150 years in custody, which he is now serving in a federal prison.

In spite of this, it sometimes seems people with important positions or a great deal of wealth are able to take shortcuts around the law. When this happens, the American people can get quite angry, and rightfully so. Although having power will always be an advantage¹, we still know the rich and famous are not supposed to be above the law. Therefore, it is important for the system to hold everyone accountable, and it is up to all of us to make sure our government always applies the rule of law to everyone.

Citizens have a special duty to ensure the rule of law is maintained in our nation. This is why ***one important responsibility that applies to U.S. citizens is to serve on a jury*** when called to do so. Maturely discharging our civic duty to serve on a jury is one way we all ensure that the rule of law continues to guide our society.

¹ Wealth and power give people the ability to hire better lawyers, fund private investigations, and offer tempting out-of-court settlements to their victims. Still, these advantages have their limits. Ultimately, *everyone* is subject to the rule of law.

The supreme law of the land is the United States Constitution.

All other laws at the federal, state, and local levels must be in harmony with the Constitution. Laws that are found to be contrary to the Constitution cannot be enforced.

The judicial branch is one of the three co-equal branches of our government. ***It is the branch that decides if a law goes against the Constitution.*** When the court does determine that a particular law is unconstitutional, that law may no longer be enforced by any agency at any level of government² anywhere in America.

> REVIEW QUESTIONS

1. What is the "rule of law"?
2. What is one responsibility that only applies to United States citizens?
3. What is the supreme law of the land?
4. Name the three branches of the federal government.
5. What does the judicial branch do?

2. THE SUPREME COURT

The Supreme Court is the highest court in the United States. For this reason, it is sometimes called the “court of last resort.” That is to say, decisions of the Supreme Court cannot be appealed since there is no higher court to overturn its decisions.



Figure 2. The Supreme Court building in Washington D.C. was completed in 1935. It has been used ever since as the permanent home of the U.S. Supreme Court.

The judges on the Supreme Court are called ***Justices***. “Each justice has lifetime tenure, meaning they remain on the court until they die,

² The “levels of government” in America are the federal level (governed primarily from Washington D.C.), the state level (governed primarily from Phoenix in the case of Arizona), and the local level, which includes both county and city governments.

retire, resign, or are removed from office. When a vacancy occurs, the President, with the advice and consent of the Senate, appoints a new justice” (Wikipedia, 2022).

Since 1869, nine Justices have ordinarily sat on the U.S. Supreme Court. However, the Constitution does not require a specific number of Justices to operate the Court. Therefore, if the Court loses one or more of its members, it can continue to operate with eight, or even fewer, members. This has happened many times.



Figure 3. John Roberts has been the Chief Justice of the Supreme Court since he was confirmed in 2005.

The organization within the Supreme Court is very simple. There is one Chief Justice who oversees the other eight Justices. ***Currently, John Roberts, Jr. is the Chief Justice of the U.S.***

Supreme Court. All eight of the other judges on the Court are considered ***Associate Justices.*** The rank of the Associate Justices is in order of their time on the court, but this rule does not apply to the Chief Justice. When John Roberts was

nominated as Chief Justice, he immediately became the highest-ranking Justice (even though he was junior-most according to his time on the Court). He will remain senior-most until he dies or retires³.

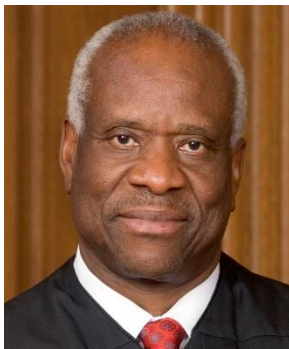


Figure 4. Clarence Thomas is the senior Associate Justice on the Supreme Court.

The senior-most Associate Justice on the Supreme Court is Clarence Thomas. Justice Thomas was nominated by Pres. George H. W. Bush and confirmed by the Senate (52 to 48) in 1991. He replaced Justice Thurgood Marshall, who passed away earlier that year. ThoughtCo (2022) has written that Thomas is “arguably the most conservative Justice in recent US Supreme Court history.”

³ When this happens, the sitting President will get to nominate a new Chief Justice to the Supreme Court.

Justice Stephen Breyer is the second senior-most Associate Justice. He was nominated by Pres. Bill Clinton and confirmed by the Senate (87 to 9) in 1994. Breyer is generally considered a center-left (i.e., moderately liberal) Justice.

In 2022, Justice Breyer announced he will retire once the Court goes into recess this summer. In response, Pres. Biden has nominated Judge Ketanji Brown Jackson to succeed Breyer. The U.S. Senate has already confirmed Jackson (53 to 47), so she will become the junior-most Associate Justice later this year.

Justice Samuel Alito is the third senior-most Associate Justice. He was nominated by Pres. George W. Bush in late 2005 and confirmed by the Senate (58 to 42) early the following year. Alito is considered a moderately conservative Justice. He described his own judicial philosophy as that of a "practical originalist" (Walther, 2014 in *The American Spectator*).

Pres. Barack Obama nominated the next two Associate Justices to the Court during his eight years in office. In 2009, he nominated **Sonia Sotomayor**, who was confirmed by the Senate (68 to 31) later that year. In 2010, he nominated **Elena Kagan**, who was also confirmed by the Senate (63 to 37). Toward the end of his final year in office, Pres. Obama additionally nominated Merrick Garland to the Court following the death of Justice Antonin Scalia in early 2016. However, the Senate refused to consider this nomination arguing that the decision should be left up to the incoming President.

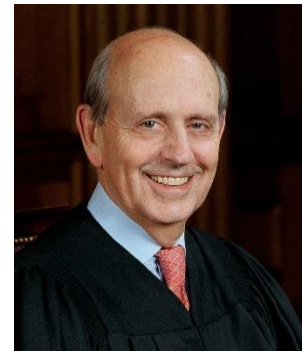


Figure 5. Stephen Breyer is the second senior-most Associate Justice on the Supreme Court. He is set to retire later this year.



Figure 6. Samuel Alito is the third senior-most Associate Justice on the Court.

In his one term of office, Pres. Donald Trump managed to nominate three Supreme Court Justices. In 2017, shortly after taking office, he nominated **Neil Gorsuch**⁴, who was confirmed by the Senate later that year (54 to 45). The following year, Pres. Trump nominated



Figure 7. The current Justices of the Supreme Court. Front row, left to right: Alito, Thomas, Roberts, Breyer, and Sotomayor. Back row, left to right: Kavanaugh, Kagan, Gorsuch, and Barrett.

Brett Kavanaugh to the nation's highest court. A few months later, Kavanaugh was confirmed to the Supreme Court by an extremely narrow margin (50 to 48).

Finally, in 2020, following the death of Justice Ruth Bader Ginsburg, Pres. Trump

nominated Judge **Amy Coney Barrett** to the Court. She was confirmed by the Senate (52 to 48) just one month after her nomination. Justice Coney Barret will remain the junior-most Justice on the Court until soon-to-be Justice Brown Jackson is seated on the Court later this year.

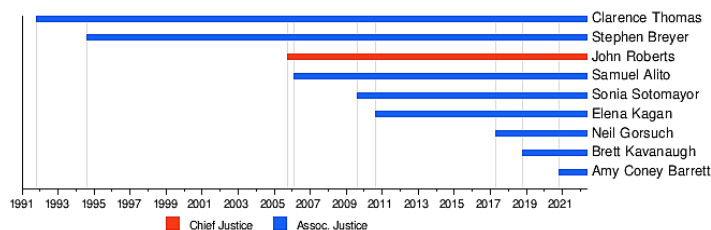


Figure 8. This graphical timeline depicts the length of each of the nine current Supreme Court justice's tenure on the Court.

> REVIEW QUESTIONS

6. What is the highest court in the United States?
7. How many justices are ordinarily on the U.S. Supreme Court?
8. Who is the current Chief Justice of the United States?
9. Who is currently the senior-most Associate Justice on the Supreme Court?
- 10 Can you name two more Associate Justices on the Supreme Court?

⁴ Neil Gorsuch was nominated to fill the vacancy left by Justice Antonin Scalia, who passed away in early 2016. This was the same vacancy that Pres. Obama had unsuccessfully attempted to fill with Merrick Garland a few months earlier.

3. LANDMARK SUPREME COURT DECISIONS

Decisions of the Supreme Court can have an enormous impact on our nation and its people. The most important Supreme Court decisions come out of trials commonly called “landmark cases.” There is no official list of these landmark cases, but most sources would include the following six cases among the landmark decisions handed down by the U.S. Supreme Court throughout our history.

1. Marbury v. Madison (1803)

Marbury v. Madison is widely viewed as the most important Supreme Court case of all time. The details of this early American case are a bit complicated, but the most important part of the decision was declaring a particular law, already passed by Congress, to be unconstitutional. The Constitution never clearly gave the Supreme Court the power of judicial review over Congress, but that is exactly what the Court was doing in this decision. Neither Congress nor the President objected. As a result, the American system of law has accepted the Supreme Court's power of judicial review over Congress ever since.

2. Dred Scott v. Sandford (1857)

A landmark case decided by the Supreme Court shortly before the Civil War is quite embarrassing by today's standards. ***In the Dred Scott case, the Court ruled (7 to 2) that the Constitution does not grant citizenship for people of African descent,*** regardless of whether they were enslaved, emancipated, or freeborn. In the view of the Court, Constitutional rights simply do not, and cannot, apply to African Americans under any circumstances⁵.

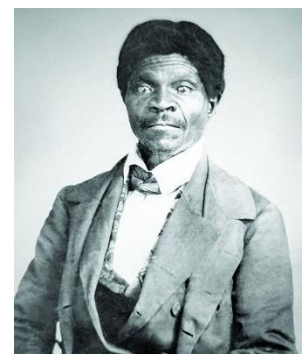


Figure 9. Mr. Dred Scott tried, unsuccessfully, to establish his rights as a citizen through the U.S. court system.

⁵ Even at the time, this decision was very unpopular across America except in the slave-holding southern states (Nowak & Rotunda, 2012).

Fortunately, this ruling was directly undone by passage of the 14th Amendment to the Constitution, which was adopted in 1868 (eleven years after the Dred Scott decision). The first section of this rather lengthy Amendment⁶ begins with the following statement:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

3. Plessy v. Ferguson (1896)

In Plessy v. Ferguson, the Court ruled that racial segregation laws do not violate the Constitution as long as the facilities for each race are equal in quality. This came to be known as the "separate but equal" standard. Of course, in practice the segregated facilities were seldom equal in quality, which is just one of many reasons why this decision was the other great embarrassment in the history of U.S. Supreme Court rulings.

4. Brown v. Board of Education of Topeka (1954)



Figure 10. The Brown v. Board of Education decision was the biggest single Court ruling of the 1950s. It effectively overturned the terrible Plessy v. Ferguson ruling of 1896.

Almost sixty years after the Plessy decision, ***the Supreme Court finally ruled in Brown v. Board of Education that the separate but equal doctrine is unconstitutional*** at least when it comes to public schools and educational facilities.

Although this did not directly overturn Plessy v. Ferguson, it weakened it to a point where the 1896 decision became irrelevant.

⁶ The 14th Amendment is the longest of all the Constitutional Amendments. It contains 424 words and is divided into five articles. It is frequently cited as the basis for Supreme Court rulings in civil rights cases.

5. Roe v. Wade (1973)

Perhaps the most hotly debated Supreme Court decision of all time is *Roe v. Wade*. ***In this case, the Court ruled that the Constitution protects a pregnant woman's freedom to choose to have an abortion without excessive government restriction***⁷.

There is currently an effort to overturn this decision. However, both sides need to understand that such a reversal would not eliminate legal abortions in America. Rather, without *Roe v. Wade*, the regulation of these procedures would simply be turned back to the individual states. If this happens, there will certainly be a few states that limit or even ban abortions entirely, but it is equally certain the procedure will remain accessible in other states, some of which may even expand its availability. In other words, if *Roe v. Wade* is overturned, abortion will still be legal in many places, but it will no longer be the “law of the land”⁸.

6. Obergefell v. Hodges (2015)

In the Obergefell v. Hodges case, the Court ruled that the fundamental right to marry is guaranteed to same-sex couples by the 14th Amendment to the Constitution. The ruling requires all U.S. jurisdictions to perform and recognize the marriages of same-sex couples on the same terms and conditions as the marriages of opposite-sex couples. This case, like many Supreme Court decisions on controversial matters, was barely passed by a 5 to 4 vote among the Justices in favor of the ruling.



Figure 11. Jim Obergefell is the named plaintiff in the Supreme Court case that legalized same sex marriage.

⁷ Critics point out the Constitution never specifically mentions a right to an abortion, or any other medical procedure. Supporters claim other Constitutional protections of liberty imply the right of women to choose to have an abortion if they so desire.

⁸ When people say, “abortion is the law of the land,” they mean it is legal everywhere throughout the United States.

> REVIEW QUESTIONS

11. What decision gave the Supreme Court the power of judicial review over Congress?
12. What Supreme Court decision ruled that African Americans are not U.S. citizens?
13. What decision established the “separate but equal” standard of segregation?
14. What Supreme Court decision eliminated school segregation in America?
15. What decision causes arguments between Pro-Life and Pro-Choice supporters?
16. What decision legalized same-sex marriages everywhere across the United States?

4. LOWER FEDERAL COURTS

The federal court system is more than the Supreme Court. In fact, it consists of over a hundred separate courts. Each of these federal courts is on one of three distinct levels of the federal court system. The Supreme



Figure 12. The federal judicial system consists of three different levels of courts.

Court is, of course at the top level of the system (which is what “supreme” means). Below the Supreme Court are 13 federal Circuit Courts, and beneath the circuit courts are the 94 federal district courts. Nearly all federal cases are first heard in one of the district courts.

The *Evo A. DeConcini Courthouse* on Congress Street in Tucson is an example of a federal district court. It is a general trial court of the federal system with judges who are appointed to their position by the President of the United States and confirmed by the U.S. Senate for a life term. Federal district courts handle both civil and criminal trials.

Once a federal district court has decided a case, it can be appealed to a U.S. Circuit Court. There are 12 federal circuits that divide the country into different regions⁹. The Ninth Circuit, for example, has jurisdiction to hear appeals for cases that were tried in any federal

⁹ Plus the Federal Circuit Court in Washington D.C.

district court in the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

Any case may be appealed to the appropriate Circuit Court once the district court reaches its decision. Ordinarily, cases can be appealed onto the U.S. Supreme Court only after they have been heard in one of the Circuit Courts. (Therefore, most cases tried in the Supreme Court are being heard for the third time.) According to the Supreme Court's website, it receives about 7,500 petitions to hear cases each term¹⁰. Of these, it only ends up hearing about eighty of them.

> REVIEW QUESTIONS

17. What are the 13 federal courts immediately beneath the Supreme Court called?
18. What is the basic federal court called in which most federal cases are first heard?

5. THE ARIZONA SUPREME COURT

Just as the U.S. Supreme Court is the highest court in the nation, the Arizona Supreme Court is the highest court in the state of Arizona. Its primary duties are to review appeals and to provide rules of procedure for all the state courts in Arizona. Like the U.S. Supreme Court, the Arizona Supreme Court has discretionary jurisdiction, meaning it can refuse to review the findings of a lower court. Seven Justices ordinarily serve on the Arizona Supreme Court (azcourts.gov, 2016).



Figure 13. Chief Justice Robert M. Brutinel is the top judge in the Arizona Court system.

> REVIEW QUESTIONS

19. What is the highest court in the state of Arizona?

¹⁰ A Term of the Supreme Court begins, by statute, on the first Monday in October and continues until late June or early July.

6. SYMBOLIC PLACES OF AMERICA



Figure 14. The Statue of Liberty is in New York City.

Many monuments in our nation have become significant national symbols. One of the most important is ***the Statue of Liberty, which is located in New York, NY***. It is a copper statue that, together with its pedestal, stands over 300 feet tall. The interior is hollow, and visitors can climb up to view the harbor from small windows in the figure's crown. The Statue of Liberty was a gift to the United States from the people of France. It has stood on Liberty Island in New York Harbor since its original dedication in 1886.

Another well-known American landmark in New York City is the Empire State Building. This 102-story structure was completed in 1931 and stood as the world's tallest building for nearly 40 years until the World Trade Center was constructed in 1970. Today, there are dozens of taller buildings around the world, and even several taller ones in New York City. Nonetheless, the Empire State Building remains a historic and particularly beautiful skyscraper that still attracts tourists from around the world.



Figure 15. The Washington Monument is in Washington D.C.

Washington D.C., the nation's capital, is home to several important monuments. Perhaps the best known of these is ***the Washington Monument***, which was constructed in honor of George Washington, the nation's first President. This memorial is an obelisk¹¹ situated on the National Mall. At over 550 feet tall, it is the world's tallest stone structure and the world's tallest obelisk. Visitors can enter the Monument and ride an elevator inside the structure to peer out the small windows at the top.

¹¹ An "***obelisk***" is simply a stone pillar. An obelisk typically has a square cross section and a pyramidal top, which perfectly describes the shape of the Washington Monument.

Two other monuments well worth seeing in Washington D.C. are the Lincoln Memorial and the Jefferson Memorial. The Lincoln Memorial was unveiled and dedicated in 1922 and has been a major tourist destination ever since. The Jefferson Memorial was completed in 1943 with a bronze statue of Jefferson being added inside a few years later. Both of these, and many other sites of interest, are part of the National Mall area of the city.

Mount Rushmore, South Dakota is the location of yet another significant American monument. A sculpture is carved into the face of this mountain depicting four U.S.

presidents. The presidents portrayed on Mt. Rushmore are George Washington, Thomas Jefferson, Theodore Roosevelt, and Abraham Lincoln. Sculptor Gutzon Borglum chose these four Presidents

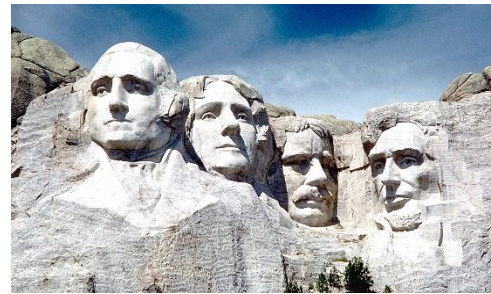


Figure 16. The Mount Rushmore Monument is in South Dakota.

because he thought they represented the most important events in U.S. history. Construction of the monument was completed in 1941.

Less than 20 miles from Mt. Rushmore is the site of the Crazy Horse Memorial, which has been under construction since 1948. It is designed to be an enormous statue with a planned length of 641 feet and height of 563 feet. For comparison, the heads of the four Presidents at Mount Rushmore are each only 60 feet high. Although it is still far from completion, the Crazy Horse Memorial is well worth seeing even now.

Some places serve as American symbols not so much due to monuments constructed there but because they are the sites of important historic events. An excellent example of such a place is **Independence Hall, which is located in Philadelphia, PA.** This is the building where both the U.S. Declaration of Independence and the Constitution were finalized and ratified. Like



Figure 17. Independence Hall is in Philadelphia.

many national landmarks, Independence Hall is now managed and maintained by the National Park Service.

> REVIEW QUESTIONS

20. Where is the Statue of Liberty located?
21. Where is the Washington Monument located?
22. Where is the Mount Rushmore Memorial located?
23. Where was the Declaration of Independence Ratified?

7. OTHER SYMBOLS OF AMERICA

Not all American symbols are places to visit. Certain important dates are also symbols of our nation. Perhaps the most significant of these dates is ***the fourth of July, which is when Independence Day is celebrated each year.*** Other national U.S. holidays include Labor Day, which is celebrated on the first Monday in September to recognize the achievements of the American labor movement, and Veterans Day, which is observed each year on November 11¹² to honor the veterans of all branches of the U.S. Armed Forces.

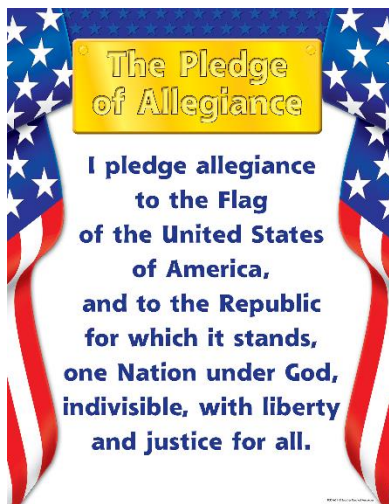


Figure 18. The full text of the Pledge of Allegiance is only 31 words long.

Another symbol of our nation is the Pledge of Allegiance. ***Americans recite this oath to show loyalty to the United States of America.*** It was composed at the end of the nineteenth century and was formally adopted by Congress in 1942. The words “under God” were added in 1954.

Today, the Pledge of Allegiance can be heard in various contexts. U.S.

Congressional sessions open with the recital of the Pledge, as do many other federal, state, and local government meetings. Many public schools

¹² This date is widely observed around the world as Armistice Day to commemorate the official conclusion of World War I on November 11, 1918.

encourage students to recite it frequently, although the U.S. Supreme Court has ruled¹³ that students cannot be *compelled* to recite the Pledge, nor can they be punished for not doing so.

The national anthem is probably even more widely known. ***The name of our national anthem is “The Star-Spangled Banner.”*** The lyrics come from a poem written shortly after the War of 1812 called “*Defence of Fort M’Henry*.” This poem was later set to an existing melody to become the musical composition we know today. “*The Star-Spangled Banner*” was recognized for official use by President Woodrow Wilson in 1916. It was made the official national anthem of the United States by a congressional resolution in 1931.

Perhaps the most obvious American symbol is the American flag, also known as the “Stars and Stripes.” It has ***13 stripes that represent the 13 original colonies.*** This is a constant feature of the flag. It also currently has 50 stars. ***There is one star for each state*** in the Union. Since more states could still be admitted to the Union, it is possible that future American flags may have more stars (even as earlier flags had fewer).



Figure 19. The American flag is the best-known symbol of our nation.

Finally, an often-seen symbol of our country is our national bird, which is the bald eagle¹⁴. This symbol can be seen on emblems and logos of all kinds throughout the nation. It can be found on highly official insignia, such as the Presidential Seal, but it can also be seen as an expression of patriotism on everything from beer cans to baseball caps.



Figure 200. The bald eagle is a popular symbol of America.

¹³ The case was *West Virginia State Board of Education v. Barnette* (1943), which held that the Free Speech Clause of the First Amendment protects students from being forced to salute the American flag or say the Pledge of Allegiance in public school.

¹⁴ While many other countries have eagles as their national bird, only the United States specifically uses the bald eagle (*Haliaeetus leucocephalus*) as its national symbol.

> REVIEW QUESTIONS

24. When is Independence Day celebrated?
25. Name two other national holidays
26. What do Americans show loyalty to when saying the Pledge of Allegiance?
27. Are schoolchildren in U.S. public schools required to say the Pledge of Allegiance?
28. What is the name of the national anthem?
29. Why does the American flag have 13 stripes?
30. Why does the American flag have 50 stars?

7. SYMBOLS OF ARIZONA

The foremost symbol of the State of Arizona is the state flag. ***It has one large copper star***, which is meant to represent the state's copper



Figure 21. The Arizona state flag, which is very distinct, is the foremost symbol of the state.

mining industry. ***Behind the star are 13 rays paying tribute to the original 13 colonies of the United States.*** The rays are red and yellow to recall the colors of the flag of Spain, which first settled the Arizona Territory centuries earlier. The

colors are also meant to represent Arizona's picturesque sunsets. The lower half of the flag behind the star is blue. This color is meant to symbolize the Colorado River (Wikipedia, 2016).

There are, of course, other symbols of Arizona. These include the Cactus Wren, which is the state bird; the Saguaro Cactus Blossom, which is the state flower; and the Palo Verde, which is the state tree. The state motto is "*Ditat Deus*," which is Latin for "*God Enriches*." ***Arizona also has the official nickname of "the Grand Canyon State."*** This nickname is featured on the basic automotive license plates issued by Arizona.

> REVIEW QUESTIONS

31. How many stars are on the Arizona state flag?
32. What is the official nickname of the state of Arizona?

