

Article III

The Judicial Branch

Article III: The Judicial Branch

- Job under Separation of Powers:
Interpret the Law
- Marbury vs. Madison- Supreme Court case that established Judicial Review
- Judicial Review- the power of the courts to declare acts of the executive/legislative unconstitutional

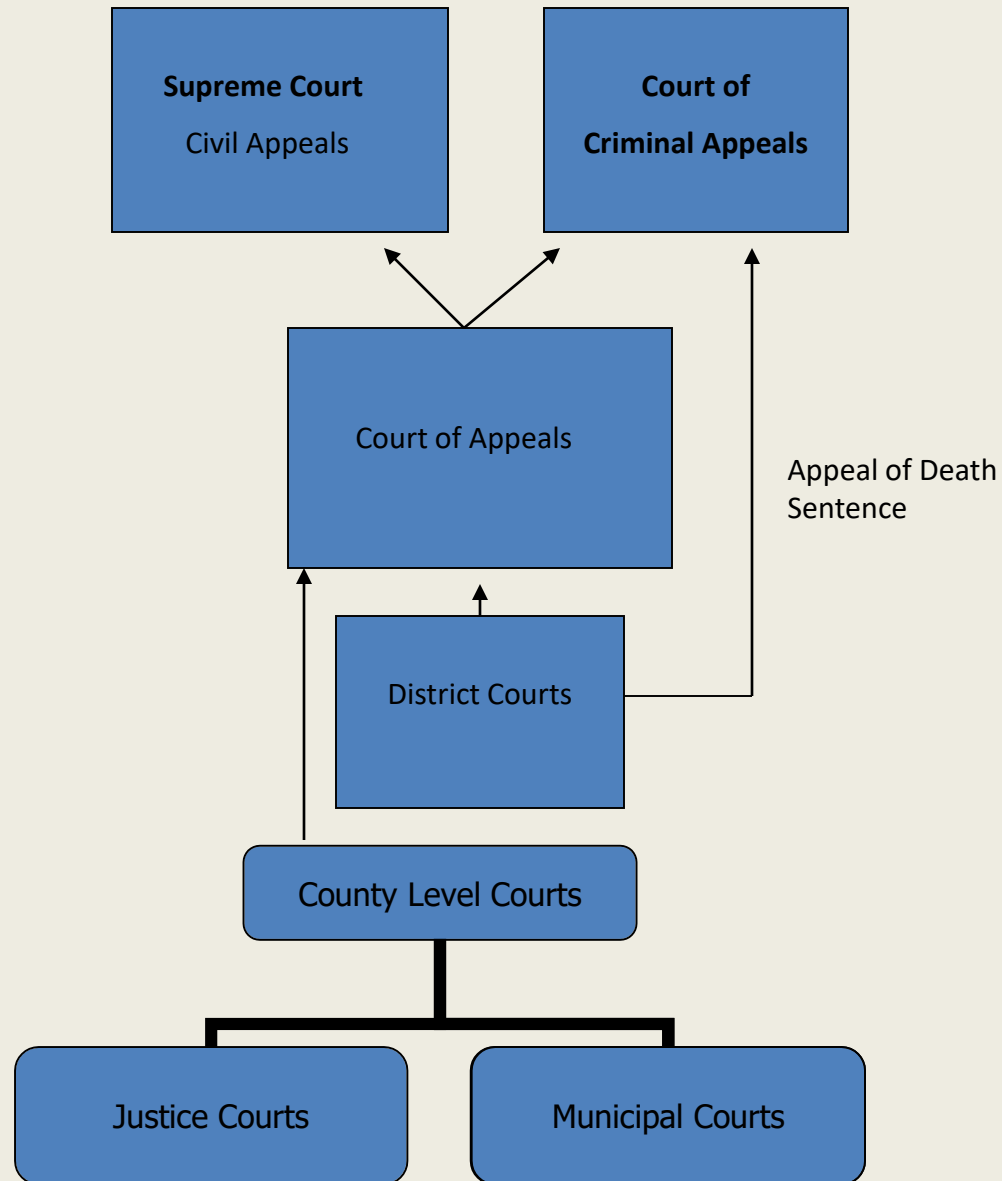
The Courts

- Introduction:
 - Two types of cases:
 - Criminal Law: The government charges an individual with violating one or more specific laws.
 - Prosecutor vs. Defendant
 - Standard for conviction: Beyond a Reasonable Doubt
 - Civil Law: The court resolves a dispute between two parties and defines the relationship between them.
 - Plaintiff vs. Defendant
 - Found liable: Preponderance of the Evidence

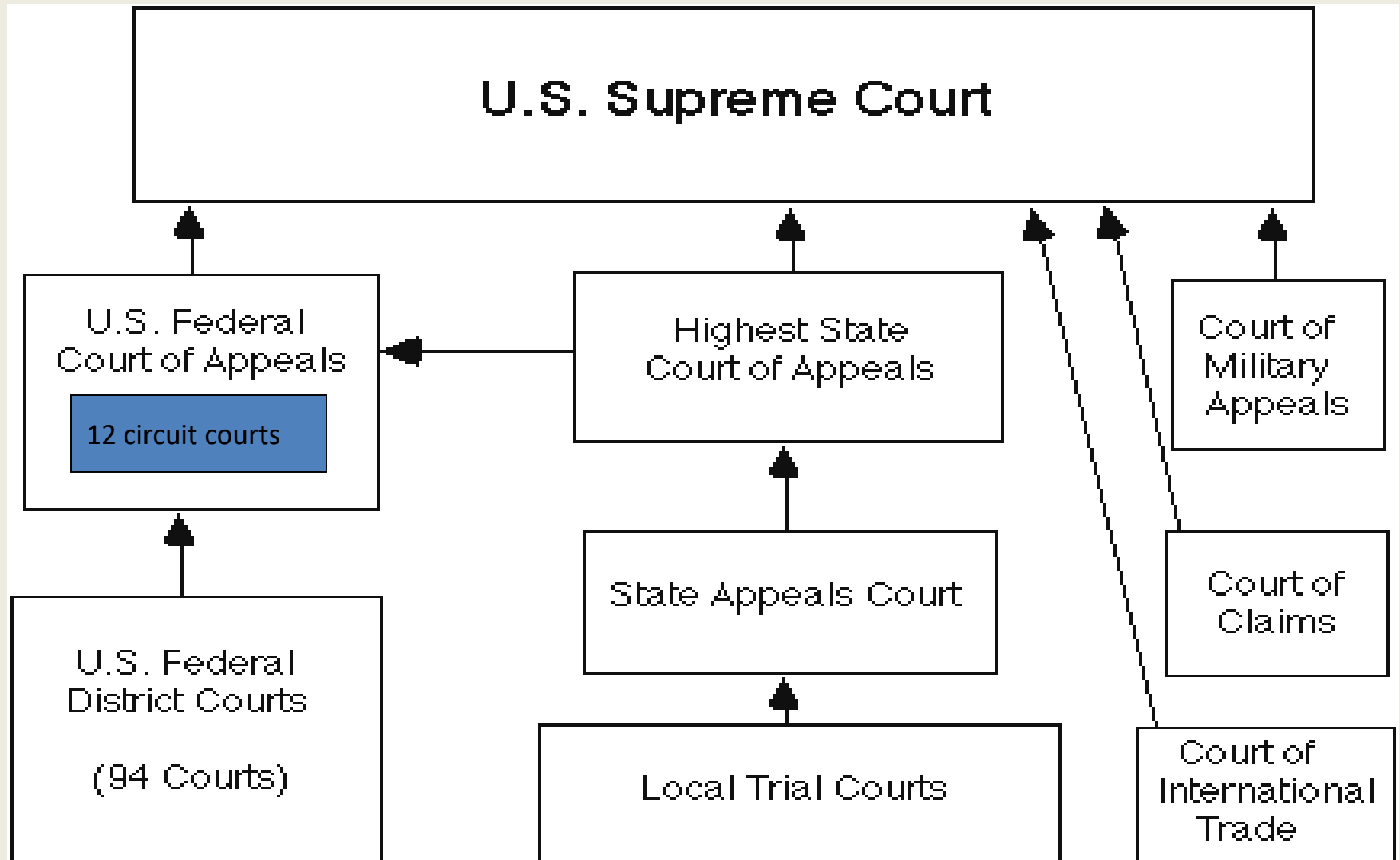
The Courts

- How the Court works
 - Jury - the people (normally 12) who often decide the outcome of a case
 - Criminal cases must be unanimous 12-0 to convict/12-0 to acquit in all but two states, Louisiana and Oregon.
 - A 11-1, 10-2 jury vote, in all but two states, is a hung jury- no verdict so no double jeopardy
 - Standing to sue: plaintiffs have a serious interest in the case; have sustained or likely to sustain a direct injury from the government
 - Voir dire- questioning process for jury selection
 - Most cases are tried and resolved in state, not federal courts.
 - Cases of burglary or divorce

Court Structure of Texas



The Structure of the Federal Judicial System



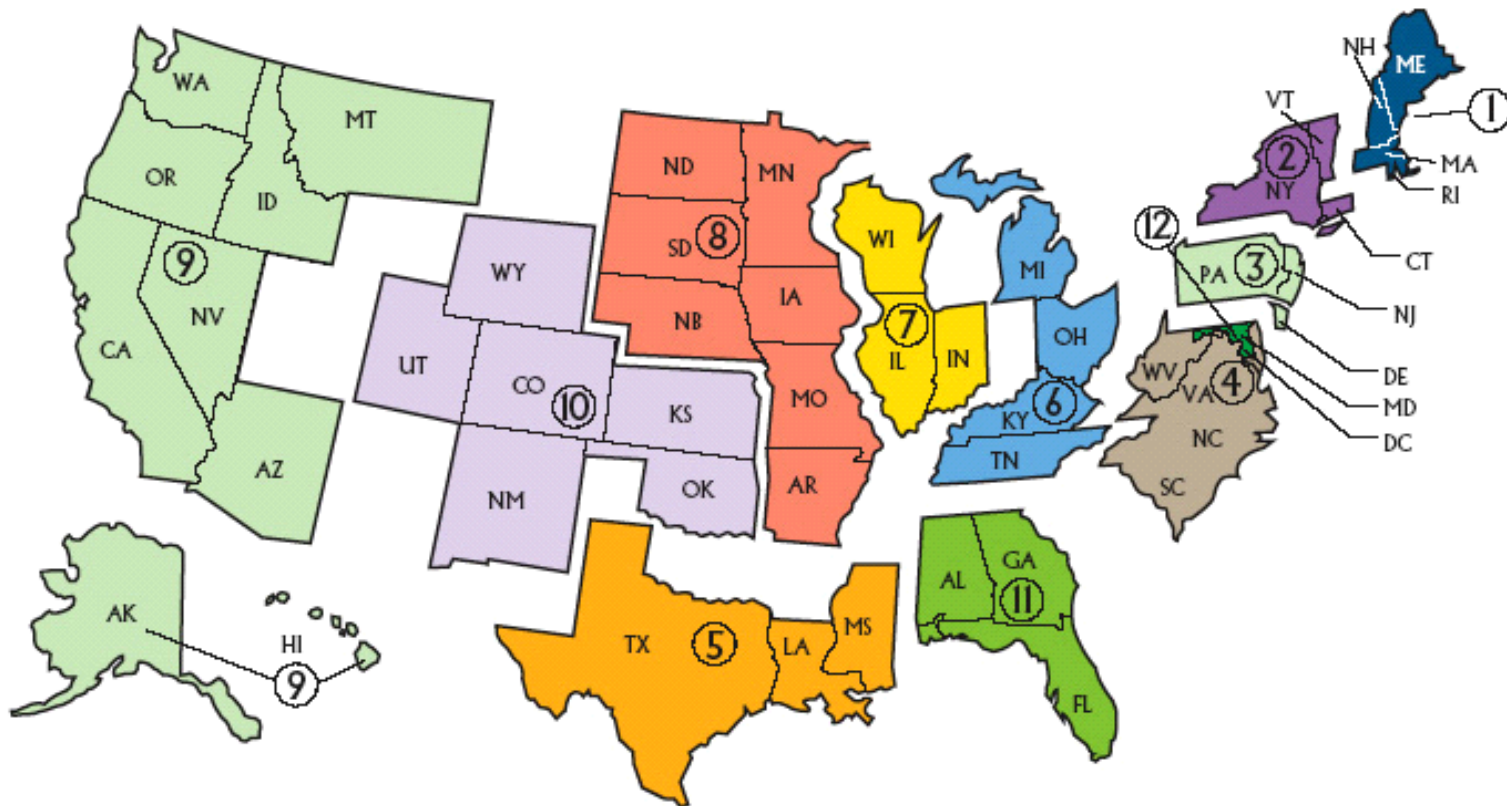
The Structure of the Federal Judicial System

- District Courts (94 federal courts)
 - Original Jurisdiction: courts that hear the case first and determine the facts - the trial court
- 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
(5th circuit: Texas, Louisiana, Mississippi)
 - U.S. Court of Appeals for the Federal Circuit – specialized cases
 - Focus on errors of procedure and law
- U.S Supreme Court

The Structure of the Federal Judicial System

Figure 16.2 The Federal Judicial Circuits

Not shown are Puerto Rico (First Circuit), Virgin Islands (Third Circuit), and Guam and the Northern Mariana Islands (Ninth Circuit).



The U.S Supreme Court

- The U.S 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
 - Chief Justice: John Roberts
 - Supreme Court decides which cases it will hear—controls its own agenda
 - Presidents appoint members of the federal courts with “advice and consent” of the Senate.
 - Supreme Court Justices serve for Life
 - In session from Oct.-April
 - The Solicitor General- the government’s lawyer in front of the Supreme Court



The U. S. Supreme Court, 2011: Front row, left to right: Clarence Thomas, Neil Gorsuch, John G. Roberts, Anthony M. Kennedy, and Ruth Bader Ginsburg. Second row, left to right: Sonia Sotomayor, Stephen G. Breyer, Samuel Alito, and. Elena Kagan.

TABLE 16.3 Supreme Court Justices, 2010

NAME	YEAR OF BIRTH	PREVIOUS POSITION	NOMINATING PRESIDENT	YEAR OF CONFIRMATION
John G. Roberts, Jr.	1955	U.S. Court of Appeals	G. W. Bush	2005
Antonin Scalia	1936	U.S. Court of Appeals	Reagan	1986
Anthony M. Kennedy	1936	U.S. Court of Appeals	Reagan	1988
Clarence Thomas	1948	U.S. Court of Appeals	G. H. W. Bush	1991
Ruth Bader Ginsburg	1933	U.S. Court of Appeals	Clinton	1993
Stephen G. Breyer	1938	U.S. Court of Appeals	Clinton	1994
Samuel A. Alito, Jr.	1950	U.S. Court of Appeals	G. W. Bush	2006
Sonia Sotomayor	1954	U.S. Court of Appeals	Obama	2009
Elena Kagan	1960	U.S. Solicitor General	Obama	2010
Neil Gorsuch	1967	U.S. Court of Appeals	Trump	2017

The U.S Supreme Court

- Accepting Cases
 - Use the “rule of four” to choose cases
 - Issues a writ of certiorari to call up the case
 - Supreme Court accepts few cases each year

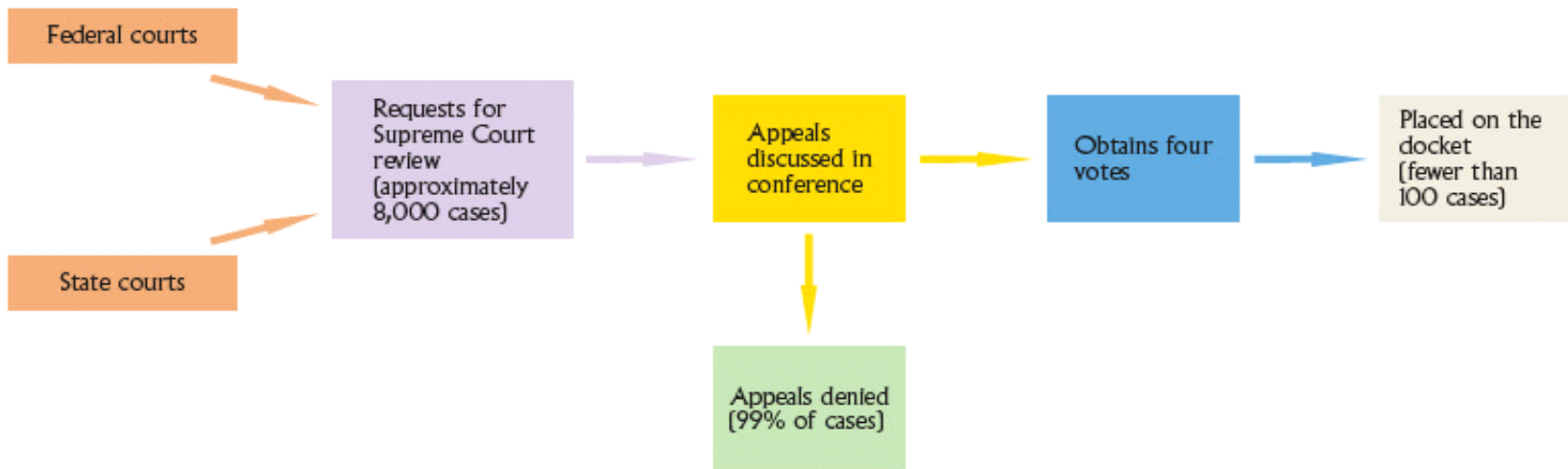
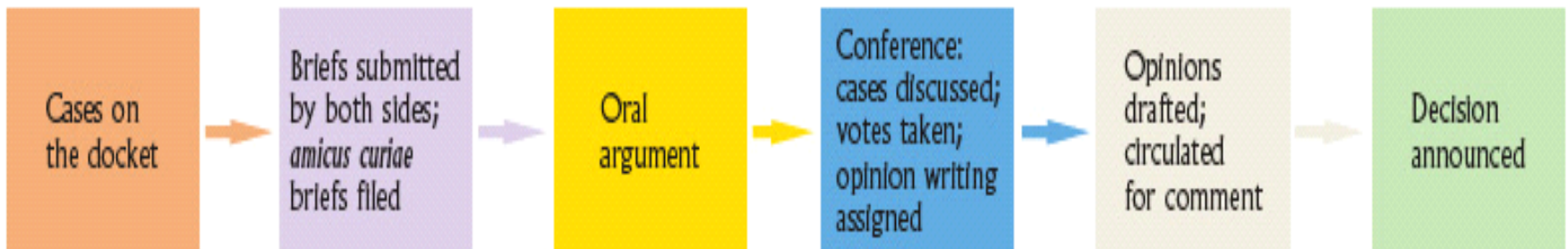


Figure 16.4

The U.S Supreme Court

- Making Decisions
 - Briefs-lawyers submit to the court, prior to oral arguments, presenting their side of the case
 - *Amicus Curiae* briefs used to influence the courts
 - “friend of the court” briefs used to raise additional points of view and information not contained in briefs of formal parties
 - Oral arguments heard by the justices
 - Justices discuss the case in Conference
 - Opinions are issued



The U.S Supreme Court

- Court's Opinion
 - One justice will write the majority opinion (statement of legal reasoning behind a judicial decision) on the case
 - Concurring opinions are written in support of the majority but stress a different legal basis.
 - Dissenting opinions are written by justices who oppose the majority.
 - *Stare decisis*: let previous decision stand unchanged
 - Precedent: how similar past cases were decided
 - May be overruled

Supreme Court Opinions

<http://www.supremecourt.gov/opinions/slipopinions.aspx?Term=12>

Precedence

- *Plessy vs. Ferguson*- separate but equal was constitutional
- *Brown vs. Board of Education*- separate but equal was unconstitutional; overturned *Plessy*