

## ***Marbury v. Madison*** **(1803)**

**Argued:** There was no oral argument at the appeals stage in this case. **Decided:** February 24, 1803

**Background** Article III of the U.S. Constitution, which provides the framework for the judicial branch of government, is relatively brief and broad. It gives the Supreme Court the authority to hear two types of cases: original cases and appeals. “Original jurisdiction” cases start at the Supreme Court—it is the first court to hear the case. “Appellate jurisdiction” cases are first argued and decided by lower courts and then appealed to the Supreme Court, which can review the decision and affirm or reverse it.

In order to build the court system and clarify the role of the courts, Congress passed the Judiciary Act of 1789. This law authorized the Supreme Court to “issue writs of *mandamus* ... to persons holding office under the authority of the United States.” A writ of *mandamus* is a command by a superior court to a public official or lower court to perform a special duty. These are common in court systems.

In 1801, at the end of President John Adams’ time in office, he appointed many judges from his own political party before the opposing party took office. It was the responsibility of the secretary of state, John Marshall, to finish the paperwork and give it to each of the newly appointed judges—this was called “delivering the commissions.” Although Marshall signed and sealed all of the commissions, he failed to deliver 17 of them to the respective appointees. Marshall assumed that his successor would finish the job. However, when Thomas Jefferson became president, he told his new secretary of state, James Madison, not to deliver some of the commissions because he did not want members of the opposing political party to assume these judicial positions. Those individuals couldn’t take office until they actually had their commissions in hand.

**Facts** William Marbury, who had been appointed a justice of the peace of the District of Columbia, was one of the appointees who did not receive his commission. Marbury sued James Madison and asked the Supreme Court to issue a writ of *mandamus*

requiring Madison to deliver the commission.

The politics involved in this dispute were complicated. The new chief justice of the United States, who was being asked to decide this case, was John Marshall, the Federalist secretary of state, who had failed to deliver the commission. President Jefferson and Secretary of State Madison were Democratic-Republicans who were attempting to prevent the Federalist appointees from taking office. If Chief Justice Marshall and the Supreme Court ordered Madison to deliver the commission, it was likely that he and Jefferson would refuse to do so, which would make the Court look weak. However, if they didn't require the commission delivered, it could look like they were backing down

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out of fear. Chief Justice Marshall instead framed the case as a question about whether the Supreme Court even had the power to order the writ of *mandamus*.

**Issues** Does Marbury have a right to his commission, and can he sue the federal government for it? Does the Supreme Court have the authority to order the delivery of the commission?

### ***Constitutional Clauses and Federal Law***

#### **– Article III, Section 2, Clause 2 of the U.S. Constitution**

“In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.”

#### **– The Judiciary Act of 1789**

This Act authorized the Supreme Court to “issue writs of *mandamus* ... to persons holding office under the authority of the United States.”

**Arguments** There was no oral argument at the appellate stage of this case. Below are arguments that can be made for the parties in the case.

### **Arguments for Marbury**

- Marbury’s commission was valid, whether it was physically delivered or not before the end of President Adams’ term, because the president had ordered it.
- The Judiciary Act of 1789 clearly gives the Supreme Court the power to order the commission be delivered.
- Secretary of State Madison, as an official of the executive branch, was required to obey President Adams’ official act. Therefore, the Court should exercise its authority under the Judiciary Act to issue a writ of *mandamus* against Madison.
- Article III states that Congress can make exceptions to which cases have original jurisdiction in the Courts. The case falls under original jurisdiction of the Supreme Court.

### **Arguments for Madison**

- The appointment of Marbury to his position was invalid because his commission was not delivered before the expiration of Adams’ term as president.

- The appointment of commissions raised a political issue, not a judicial one. Therefore, the Supreme Court should not be deciding this case.
- The case falls under the appellate, not original, jurisdiction of the Supreme Court. It should be tried in the lower courts first.

**Decision** The decision in *Marbury v. Madison* ended up being much more significant than the resolution of the dispute between Marbury and the new administration. The Supreme Court, in this decision, established a key power of the Supreme Court that continues to shape the institution today.

The Court unanimously decided not to require Madison to deliver the commission to Marbury. In the opinion, written by Chief Justice Marshall, the Court ruled that Marbury was entitled to his commission, but that according to the Constitution, the Court did not have the authority to require Madison to deliver the commission to Marbury in this case. They said that the Judiciary Act of 1789 conflicted with the Constitution because it gave the Supreme Court more authority than it was given in Article III. The Judiciary Act of 1789 authorized the Supreme Court to “issue writs of *mandamus* ... to persons holding office under the authority of the United States” as a matter of its original jurisdiction. However, Article III, section 2, clause 2 of the Constitution, as the Court read it, authorizes the Supreme Court to exercise original jurisdiction only in cases involving “ambassadors, other public ministers and consuls, and those [cases] in which a state shall be a party. In all other cases, the Supreme Court shall have appellate jurisdiction.” The dispute between Marbury and Madison did not involve ambassadors, public ministers, consuls, or states. Therefore, according to the Constitution, the Supreme Court did not have the authority to exercise its original jurisdiction in this case. Thus the Judiciary Act of 1789 and the Constitution were in conflict with each other.

Declaring the Constitution “superior, paramount law,” the Supreme Court ruled that when ordinary laws conflict with the Constitution, they must be struck down. Furthermore, the Court said, it is the job of judges, including the justices of the Supreme Court, to interpret laws and determine when they conflict with the Constitution. According to the Court, the Constitution gives the judicial branch the power to strike down laws passed by Congress (the legislative branch) and actions of the president and his executive branch officials and departments. This is the principle of judicial review. The opinion said that it is “emphatically the province and duty of the judicial department to say what the law is.”

This decision established the judicial branch as an equal partner with the executive and legislative branches within the government, with the power to rule actions of the other branches unconstitutional. The ruling said that the Constitution is the supreme law of the land and established the Supreme Court as the final authority for interpreting it.