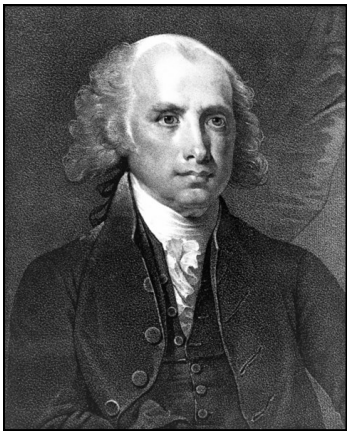
Marbury v. Madison (1803)

Name:

"But the President Said I Could Be a Judge!"

In 1800, President John Adams ran to be re-elected as president, but he lost to Thomas Jefferson. During his last weeks in office, Adams appointed a bunch of men to be justices of the peace in the District of Columbia. Each man would receive a paper commission that was signed and sealed. The commissions were prepared, but they were not sent before Adams left office. When President Jefferson took over, he refused to send them.

One man, William Marbury, was upset. He wanted to be a judge! So he asked the United States Supreme Court to issue a legal order called a writ of mandamus (man-DAY-mus). In this case, the writ would have required Marbury's commission to be delivered.



James Madison was Jefferson's Secretary of State. He was told not to deliver the commissions.

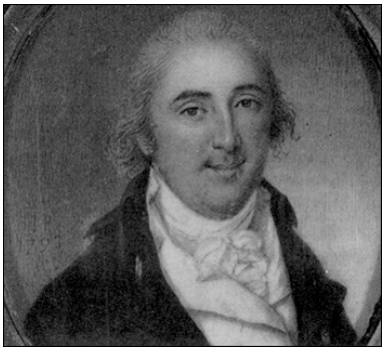
ISSUE
Does the Supreme Court have the power to hear more types of cases than just those the Constitution says it can hear?
DECISION
No. The Supreme Court only has the power to do what the Constitution says.

The Argument

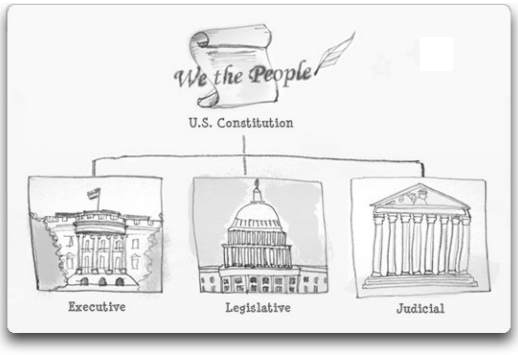
Did you notice that Marbury didn't start in a regular, local court? He started at the Supreme Court. Normally, that would be backwards. But in 1789, Congress had passed a law saying people could start at the Supreme Court if all they wanted was a writ of mandamus. Marbury argued that he was entitled to the writ because his commission had already been created. He also argued that the Supreme Court had the power to issue the writ.

The Decision

The Supreme Court agreed that Marbury had a right to receive his commission, but disagreed that the Court had the power to issue the writ. Why? Because the Supreme Court gets its power directly from the Constitution, and the Constitution says only certain kinds of cases can start at the Supreme Court. That meant the 1789 law passed by Congress was unconstitutional. Congress did not have the power to allow more kinds of cases to start at the Supreme Court. Therefore, the Supreme Court said it could not help Marbury get his commission.



William Marbury never did receive his commission. Photo courtesy of Maryland Historical Society.



Thanks to Marbury v. Madison, today the three branches of government are equal.

So What?

Believe it or not, this is considered one of the most important cases the Supreme Court has ever decided. That's because it was the first time the Supreme Court struck down an act of Congress for being unconstitutional. The idea that the Supreme Court has the final say about what is constitutional is called **judicial review**. Judicial review lets the judicial branch do two things: 1) interpret the Constitution and decide what it means, and 2) stop the executive and legislative branches from doing things that go against the Constitution.

The decision in *Marbury v. Madison* helped cement the judicial branch as equal with the other two branches of government by giving it equal power.

Marbury v. Madison (1803)

Name:

Supreme Court Strikedown: End of the Line for a Law? The Supreme Court may declare a law unconstitutional, but that doesn't always mean the whole law is dead. Congress can change the law, repeal the law and pass a new one, drop the subject, or even amend the Constitution itself!

First, read about four laws the Supreme Court has struck down. Then see if you can correctly guess what happened next! When you're done, match the letter of each law to its answer below. (Hey—no peeking!)

Law	The Supreme Court said...	Guess: What Happened Next? (Check one)
(A) Flag Protection Act of 1989: Makes flag burning a crime	Congress could not make it a crime to burn the U.S. flag. Burning the flag is expression protected by the 1st Amendment right to freedom of speech.	◯ Congress changed the law to make it constitutional. ◯ Change would require a constitutional amendment, but there's not enough support. ◯ An amendment was added to the Constitution banning flag burning.
(B) Line Item Veto Act of 1996: Allows the president to veto parts of a bill, passing the rest	Congress could not give the president the power to veto certain parts of a law. The Constitution says the president must sign a law or return it to Congress—not change it all by himself.	◯ Congress changed the law to make it constitutional. ◯ Change would require a constitutional amendment, but there's not enough support. ◯ An amendment was added to the Constitution giving the president line item veto power.
(C) Stolen Valor Act of 2005: Makes lying about military service awards a crime	Congress could not make it a crime to lie about receiving a military medal. Free speech means the government can't decide some lies are punishable.	◯ Congress changed the law to make it constitutional. ◯ Change would require a constitutional amendment, but there's not enough support. ◯ An amendment was added to the Constitution making these lies a crime.
(D) Voting Rights Act Amendment of 1970: Requires states to change the voting age from 21 to 18	The Constitution does not give Congress the power to make rules about state and local elections. Congress could not give 18-year-olds the right to vote in those elections.	◯ Congress changed the law to make it constitutional. ◯ Change would require a constitutional amendment, but there's not enough support. ◯ The Constitution was amended to give 18-year-olds the right to vote in all elections.

____ In 1971, the 26th Amendment said no state could deny the right to vote to anyone age 18 or over. Amending the Constitution this way means people 18 and over have the right to vote in every election everywhere in the United States.

____ There have been several attempts to amend the Constitution to make it illegal to desecrate the flag. So far these attempts have failed. No law has made it far enough in Congress to even have a debate.

____ Members of Congress revised the law so Congress would have to quickly approve the president's changes before they take effect. This would speed the legislative process up and keep the process constitutional. The new version of this law hasn't passed Congress yet.

____ Members of Congress revised the law so it's a crime to benefit financially from a lie about military honors. This targets people who commit fraud, not people who are just speaking. The new version of this law hasn't passed through Congress yet.