

## Marbury v. Madison / Background •

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As you read the background summary of the case below, look for the **important vocabulary terms**. You can find definitions for these terms on the separate vocabulary handout.

The president of the United States has the power to **appoint** judges to the federal courts. Usually, the president appoints individuals who are members of their political party or who share their ideas about politics.

In 1800, John Adams was president. There was a presidential election that year. Thomas Jefferson, who belonged to another political party, got elected. There were many positions in the federal government that were empty. Before he left office, President Adams tried to fill these positions with people who shared his ideas.

President Adams appointed 58 new people. He asked his secretary of state, John Marshall, to deliver the paperwork to these people so they could start their new jobs. Marshall delivered most of the papers. He was in a hurry, so he left some of the papers for the new secretary of state, James Madison, to deliver. When President Thomas Jefferson came into office, he told Madison not to deliver the papers to some of the people Adams had appointed.

One of the people who did not receive his papers was William Marbury. He **sued** James Madison and tried to get the Supreme Court of the United States to issue a writ of *mandamus* to force him to deliver the papers. A **writ** is a court order that forces an official to do something. Marbury argued that a law passed by Congress (the Judiciary Act of 1789) gave the Supreme Court of the United States the power to issue this writ. If the Court issued the writ, Madison would have to deliver the papers. Then Marbury would become a justice of the peace.

The Supreme Court of the United States had to decide the case. The new chief justice of the United States was John Marshall. He was the same person who had been unable to deliver the paperwork in the first place!

### Questions to Consider

1. Why would the president appoint people who are members of the same political party to be judges?
  
  
  
  
  
  
  
  
  
  
2. Why do you think Thomas Jefferson did not want the people Adams appointed to get their jobs?

3. Who is Chief Justice John Marshall likely to agree with, Marbury or Madison? Why?
  
4. When the Supreme Court of the United States makes a decision, how do you think they get people to obey it? In other words, who enforces it? If the Court issued a writ to force Madison, a member of the executive branch, to deliver the commission to Marbury, who would enforce it?
  
5. How would Chief Justice Marshall and the other members of the Court look to the public if they made a decision and people refused to obey it?
  
6. If Congress passes a law that conflicts with the U.S. Constitution, which one are people required to follow: the new law or the Constitution?