

Marbury v. Madison / Background ••

Thomas Jefferson, a member of the Democratic-Republican Party, won the presidential election of 1800. Before Jefferson took office, John Adams, the outgoing president who was a Federalist, quickly appointed 58 members of his own party to fill government jobs created by Congress. He did this because he wanted people from his political party in office.

It was the responsibility of President Adams' secretary of state, John Marshall, to finish the paperwork and give it to each of the newly appointed officials. Although Marshall signed and sealed all of the papers, he failed to deliver 17 of them to the appointees. Marshall thought his successor would finish the job. But when Thomas Jefferson became president, he told his new secretary of state, James Madison, not to deliver some of the papers. Those people could not take office until they actually had their papers in hand.

President Adams had appointed William Marbury to be justice of the peace of the District of Columbia. Marbury was one of the last-minute appointees who did not receive his papers. He sued President Jefferson's secretary of state, James Madison, and asked the Supreme Court of the United States to issue a court order, called a writ, requiring that Madison deliver his papers.

Marbury argued that he was entitled to the job and that the Judiciary Act of 1789 gave the Supreme Court of the United States original jurisdiction to issue a *writ of mandamus*, which is the type of court order he needed. When the case came before the Court, John Marshall—the person who had failed to deliver the commission in the first place—was the new chief justice. The Court had to decide whether Marbury was entitled to his job, and if so, whether the Judiciary Act of 1789 gave the Court the authority it needed to force the secretary of state to appoint Marbury to his position.

Questions to Consider

1. Keeping in mind his role in the original appointments, who might Chief Justice Marshall be more likely to side with, Marbury or Madison? Why?
2. If the Court decided that Marbury was entitled to his job, how could it be sure that the executive branch would deliver it? Does the Court have the power to enforce its decisions and force compliance?

3. What might happen if the Court issued the writ, but the executive branch refused to comply?

4. According to Article III, Section 2 of the Constitution (see below), in what types of cases does the Supreme Court of the United States have original jurisdiction? Does Congress have the authority to change the Court's jurisdiction?

Article III, Section 2 of the U.S. Constitution

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states;--between a state and citizens of another state;--between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

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 trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.