

## APGoPo Unit 6

# THE SUPREME COURT

### KEY POWERS

- Power of judicial review (established by *Marbury v. Madison*, 1803)
  - Declare state laws, federal laws, and presidential actions unconstitutional
- Power to interpret broadly worded laws of Congress
- Power to determine the meaning and application of the Constitution
- Power to overrule earlier Supreme Court decisions (e.g., *Brown* overturning *Plessy*)

### ORIGINAL JURISDICTION

- The Court's original jurisdiction only generates two to three cases a year
- The Supreme Court exercises original jurisdiction in cases involving the following:
  - Two or more states; The United States and a state government; The United States and foreign ambassadors/diplomats

### APPELLATE JURISDICTION

- Most cases come under the Court's appellate jurisdiction
  - Cases appealed from both state supreme courts and federal courts of appeals
- Nearly all appellate cases now reach the SC by a writ of *certiorari*

### WRITS OF CERTIORARI

- A writ of *cert* is an order by the Court directing a lower court to send up the record in a given case for its review
- The *certiorari* process enables the SC to control its own caseload
- Cases must involve a serious constitutional issue or the interpretation of a federal statute, action, or treaty
- Denying a decision may mean any number of things:
  - Case lacks a substantial federal issue
  - Party lacks standing
  - Court agrees with a lower court

### THE RULE OF FOUR

- SC clerks screen the approximately 9,000 petitions that come to the SC each term
- The justices conduct weekly conference meetings where they discuss petitions prepared by their clerks
- For a case to be heard on appeal, at least four of the nine justices must agree to hear the case (the Rule of Four)

### FILING BRIEFS

- Each party is required to file a brief, or detailed written statement, arguing one side of the case
- Briefs cite relevant facts, legal principles, and precedents that support their arguments
- Interested persons and groups that are not actual parties to the case may file *amicus curiae* ("friend of the court") briefs
  - Cases involving controversial issues such as affirmative action and abortion attract a large number of *amicus curiae* briefs
  - Interest groups use *amicus curiae* briefs to lobby the Court

### LISTENING TO ORAL ARGUMENTS

- Oral arguments are open to the public
- Attorneys are allowed exactly 30 minutes to present their case

### DISCUSSION AND VOTING

- The justices discuss each case in a closed meeting held on Friday
- The Chief Justice (John Roberts) presides over the meeting

### WRITING OPINIONS

- After reaching a decision, the justices must write a formal opinion. Opinions present the issues, establish precedents, and set guidelines for lower courts.
- Types of opinions
  - Majority opinion – officially known as "the opinion of the Court," the majority opinion is the law of the land
  - Concurring opinion – supports the majority opinion but stresses different constitutional or legal reasons for reaching the judgment
  - Minority or dissenting opinion – expresses a point of view that disagrees with the majority opinion. Dissenting opinions have no legal standing

### EVADING COURT DECISIONS

- The Supreme Court is the highest court in the land, but it is possible to evade Court decisions:
  - Amending the Constitution; Court cannot strike down something as unconstitutional if it is written in the Constitution
  - When a decision is made, it is "remanded" to a lower court to carry out the SC's decision
    - The lower court will have a certain amount of leeway in doing this
  - The executive branch may simply not carry out the decision
  - State and local governments may simply not carry it out, either (e.g., desegregation, school prayer)