

# Marbury v. Madison 1803

background knowledge for the case:

## The Judiciary Act of 1789

Section 13: The SC shall have the power to issue writs of Mandamus to any person holding office. (Congress gives the power 2 Supreme court to issue writs of Mandamus.) Act of Congress

↳ The constitutional issue in Marbury v. Madison:

• whether or not this language is constitutional?

↳ Court declared this section, this law that gave the court jurisdiction to issue writs of Mandamus to be unconstitutional

↳ The court has already been doing this during the 1790's but congress had just codified it in Sect. 13

• SC has 2 types of jurisdiction: (key to understand Marbury)

- original (specified in constitution): Disputes between states  
Some type of cases brought by a state & fed govt.  
cases involving foreign diplomatic personnel
- appellate (determined by congress)

if const. says this is your original jurisdiction

+ congress in Sect. 13 has said "You can do this (writs of mandamus)" under your original jurisdiction

= we have a conflict

\* Section 13 = does not appear in const. under the courts e.g. constitution

Q: Did congress expand or change the courts original jurisdiction b/c of section 13?

• congress has included issue (writs of mandamus) as a fifth line in original jurisdiction.

↓  
can congress on its own amend the const. or would you consider this action amending the const.?  
↓  
const. is saying you can do all 4 of the orig. jur. but congress is saying "No we do 5"

Timeline:

who are the players/actors?

After the election: (November) → Adams realizes he is not gonna have a 2nd term + surrender white-house to Jefferson.  
President is John Adams → His Secretary of State is John Marshall.  
↳ during last months of Adams presidency John Adams nominates John Marshall to also be chief justice of SC.  
↳ This case begins when John Marshall is Secretary of State & ends w/ Marshall issuing the opinion in Marbury b/c he has now become the chief justice of SC.  
Then → John Adams loses presidency to Thomas Jefferson → Secretary of State is James Madison

in meantime while all of this is happening:

Adams also nominates Marbury to be SC justice of the peace for district of Columbia.

& the case is decided by John Marshall who was Adams' Sec. of State initially

After Adams loses prez: he puts his 2 goons to SC

cont.

Federalist lost both prez election (Adams) & majority in congress.

→ now they lost 2 the anti-federalist (separatists)

\* Marshall has no prior judicial experience & still affords to SC b/c it's his boy

Important:

Q: this time SC lacked power to influence American politics & Marshall knew this & that is important to this case, is

↑ courts power

federalist one now seemed b/c they might change the policies & laws that they have no in place. ↓

what do the federalists do now?

• they take steps to seize control of the 3rd branch (Judiciary) SC  
↓  
• we can leave our boys to uphold their policies with after this this is over.

Feb. 13 1801

congress (federalist) passed the Judiciary Act of 1801 → creating 6 new circuit courts

↳ one way 2 create or legacy is to create lots of new courts.

in last weeks of prez & nominate a new SC justice

→ they reduced the size of court to 6 to 5 to limit incoming prez to nominate judge

next time a justice dies you cannot appoint additional person

• external check on crt. → congress determ. size of court.

they could give their ways \$6000 a pact to the cts.

Feb 27 1801

passed organic Act → 2 appoint 42 justices of the Peace for D of Columbia.  
1801

march 2 1801

has 42 additional judges names & submit to Senate 2 confirm

↓ one of the 42 is marbury had no experience or anything

(banker + investor)

• Prob donated \$ to federalist b/c of banker.

Final hours

Senate confirmed marbury to become justice & Adams signed the commission

marbury found out & never got commission & this

Suit. under sec 13 of Judiciary act of 1789

↳ issuing SC to issue a writ of mandamus 2 Madison compelling 2 deliver commission

& said they failed 2 deliver these commissions & orders then 2 destroy them

if nominee have been confirmed by Senate, is receiving commission necessary?

bailed 2 deliver 4 of commissions & not intentional

Job of 3rd Marshall  
delivered it to marbury & stamp in (Seal)

→ Next day March 3, 1801 Jeff took office & his new Sec of State (Madison) → goes into his office & finds 4 in his office commissions one of them is marbury & runs to the 3rd

Cont.

Marbury is asking SC to issue a writ of mandamus to new Sec. of State (Madison) to deliver his commission.

Why does Marbury think he can do this?

but Congress said so, not Const.

↳ Congress gave SC under its org. juris. the power to issue mandamus cases  
& this should be no surprise 2 parties involved b/c SC has done this.

- Marshall was drunk & let it slip that he was going to strike down Sec. 13  
of  
unconst.

\* never<sup>done</sup> in US has SC has struck down an act of Congress as unconst.

→ Fed were pissed & abolished courts 1802 term

→ Congress decides when courts meet  
↓  
1 yr.

→

This case is Not about Marbury

↳ The real issue is:

Marshall's view that Sec. 13 is unconst. on the grounds that  
the org. juris. given to the SC by Const. was exclusive, Congress  
could not enlarge it.

↓  
Marshall is like no where in time does  
it say writ of mandamus.

Actual case:

Facts:

Congress passed a law (Judiciary Act of 1801) in that law sec. 13 give the SC the power to issue writs of mandamus under its original jurisdiction, we have an instance where a person wants a writs of mandamus; Marshall says congress gave you the power to issue it, I did not get my commission & want my commission so demand it of Justice Marshall to give my commission

Questions:

1. Did Marbury have a right to commission?
2. Since Marbury had a right to the commission, did the law provide him a remedy? deserving Remedy
3. Was a request for a writ of mandamus filed in U.S. SC, the proper remedy? proper remedy

Final Decision:

1. Did Marbury have a right to commission?

Yes he was app. by Pres → Confir. by Senate → Signed by Pres & Seal by Sec. State

→ delivery is not part of app. process

it's not in const. & is irrelevant.

2. Since Marbury had a right to the commission, did the law provide him a remedy? deserving Remedy

→ yes "if someone is legally wronged, the law must provide remedy."

3. Was a request for a writ of mandamus filed in U.S. SC, the proper remedy?

NO! Sect. 13 was repugnant to consti.

Congress → SC → power writ.  
under our old govt.

but!

our old govt. is a consti. → was not amended therefore act of congress is unconsti. b/c

giving me this power is unconsti.

→ congress gave me more power which went against the old govt. in Article 3.

↓  
you can't give me more power & cannot change Courts old govt. & lacked the authority to decide dispute.



Congress  
itself  
cannot  
amend  
const.  
it takes  
the  
states