

**UNIT V**  
**JUDICIAL BRANCH**  
CP Chapters 20, 5, 6, 7  
4/30/07

**Affirmative Action**

- Whenever government takes any positive steps to make up for the effects of past discrimination.

**Appeal\***

- A request made after a trial, asking another court (i.e., the USSC) to decide whether the trial was conducted properly.
- To make such a request is “to appeal” or “to take a case up on appeal.”
- One who appeals is called the petitioner/appellant.
- The one who responds to the appeal is called the respondent/appellee

**Appellate\***

- About appeals – as in an appellate court has the power to review the judgement of another lower court or tribunal.
- The USSC is an appellate court

**Appellate Courts\***

A court that reviews decisions reached by lower courts, usually called trial courts.

**Appellate Jurisdiction\***

- Authority of a court to review decisions reached by a lower court.
- The USSC has appellate jurisdiction.
- See original jurisdiction

**Chief Judge/Justice**

- The judge who has primary responsibility for the administration of a court but also decides cases; chief judges are determined by seniority.

**Courts of Appeals**

- The federal courts with authority to review decisions by federal courts, regulatory commissions, and certain other federal courts. Such courts have no original jurisdiction; they can only hear appeals. There are a total of twelve courts of appeal in the United States and its territories. See *also* Constitutional Court; District Court (14)

**Dissenting (minority opinion) \***

- A Supreme Court opinion by one or more justices in the minority to explain the minority’s disagreement with the Court’s ruling.
- See also Opinion of the Court: Concurring Opinion

**Exclusionary Rule**

- The rule established in the case of *Mapp v. Ohio* which states that evidence found unlawfully cannot be used against a defendant in court.

**Judicial Review**

- The power of the courts to declare acts of the legislature and of the executive to be unconstitutional and hence null and void.
- The power of the courts to determine the constitutionality of the actions of the executive, legislative, and judicial branches of government.
- First established in *Marbury v. Madison*.

### **Jurisdiction\***

- The power to hear and decide a case.
- The USSC has two kinds of jurisdiction: Original and Appellate
- To hear a case, there must be agreement of four justices
- The most important source of the Supreme Courts caseload is its appellate jurisdiction
- With few exceptions, the Supreme Court is free to choose the cases it hears
- powers of the federal government.

### **Majority Opinion\***

- The written statement of the view of the majority of judges in support of a decision made by the court on which they preside

### **Miranda Warnings**

- You have the right to remain silent and refuse to answer questions. Do you understand? Anything you do say may be used against you in a court of law. Do you understand?
- You have the right to consult an attorney before speaking to the police and to have an attorney present during questioning now or in the future. Do you understand?
- If you cannot afford an attorney, one will be appointed for you before any questioning if you wish. Do you understand?
- If you decide to answer questions now without an attorney present you will still have the right to stop answering at any time until you talk to an attorney. Do you understand?
- Knowing and understanding your rights as I have explained them to you, are you willing to answer my questions without an attorney present?

### **Opinion of the court (majority opinion)\***

- A Supreme Court opinion written by one or more justices in the majority to explain the decision in a case.
- See also Concurring opinion: Dissenting opinion

### **Reverse Discrimination**

- Using race or sex to give preferential treatment to some people.
- See UC Regents v. Bakke

### **Search Warrant**

- An order from a judge authorizing the search of a place; the order must describe what is to be searched and seized, and the judge can issue it only if he or she is persuaded by the police that good reason (probable cause) exists that a crime has been committed and that the evidence bearing on the crime will be found at a certain location.

### **Separate But Equal Doctrine**

- The doctrine established in *Plessy v. Ferguson* (1896), in which the Supreme Court ruled that a state could provide "separate but equal" facilities for African Americans."

### **Standing**

- A legal concept establishing who is entitled to bring a lawsuit to court. For example, an individual must ordinarily show personal harm in order to acquire standing and be heard in court.

### **Stare decisis**

- A Latin term meaning "let the decision stand". The practice of basing judicial decisions on precedents established in similar cases decided in the past.

### **Subpoena\***

- A command to a witness to appear and give testimony.

### **Warren Court**

- Refers to the year when former California Governor Earl Warren was chief justice of the USSC.

- 1950-'s and 1960's
- Decisions rendered by the USSC under Warren (a) ruled against malapportionment in state legislatures; (b) voided state statutes that permitted school segregation – Brown v. Board; (c) expanded the rights of criminal defendants – Miranda, and (d) expanded protections for first amendment freedoms.
- Generally viewed as a liberal court; a judicial active court, a court that loosely constructed various clauses in the Constitution and/or the Bill of Rights.

### **Writ**

- A formal written order, issued from the court, requiring the performance of a specific act.

### **Writ of Certiorari**

- Order to hear a case, usually on appeal.
- Good news for one who appeals his/her case to the USSC.
- The Supreme Court is most likely to issue a writ of cert in cases where a conflict over the meaning of a unclear regulation issued by an administrative agency occurs. See attached notes

### **Writ of Habeas Corpus**

- "Court order have body"
- See Unit II notes

# PRECEDENT SETTING US SUPREME COURT CASES

4/30/07

## **Marbury vs. Madison (1803)**

- William Marbury had been commissioned justice of the peace in D.C. by President John Adams.
- His commission was part of Adams' "midnight appointments" during his last days in office.
- Marbury's commission was not delivered, so he sued President Jefferson's Secretary of State, James Madison.
- Chief Justice John Marshall held that while Marbury was entitled to the commission the status, which allowed Marbury's remedy, was unconstitutional as it granted the Supreme Court powers beyond what the Constitution permitted.
- This decision paved the way for judicial review, which gave courts the power to declare statutes unconstitutional.

## **Dred Scott v. Sanford (1857)**

- Facts: Dred Scott, a slave, was taken by his owner, Sanford, into northern federal territory. Scott felt that he was free because of the Missouri Compromise of 1820, which excluded slavery from specified portions of United States territories. When he came back to Missouri, Scott sued his owner for his freedom.
- Issue: Whether Dred Scott, a slave, was a citizen of the United States and legally entitled to use the courts to sue.
- Opinion: The Supreme Court of the United States ruled that slaves were property, not citizens. Therefore, Dred Scott was not entitled to use the courts. The Court focused on the rights of the owner, not the slave, saying that black people had no rights that white people were bound to respect. Justice Taney said that freeing Scott would be a clear violation of the Fifth Amendment because it would amount to depriving Sanford of his property without due process of law. He also said that Congress had no power to prohibit slavery in the territory and that the Missouri Compromise was unconstitutional.

## **Plessy v. Ferguson (1896)**

- Homer Plessy refused to leave a railroad car restricted only to whites
- The Supreme Court upheld the Louisiana state law that require "separate but equal" facilities
- The majority stated that the Fourteenth Amendment protected only political equality, not social equality
- Justice Harlan's Dissent argued that "...all citizens are equal before the law," laying the foundation for Brown v. Board of Education of Topeka, which overturned "separate but equal"

## **Brown vs. Board of Education (1954)**

- Supreme Court case which challenged "separate but equal" ruling established in Plessy v. Ferguson
- The Court, led by Chief Justice Earl Warren, held that separate was inherently unequal and instructed states to integrate
- Massive Southern resistance slowed the advance of integration
- Federal troops were used to help nine black students attend an all-white school in Little Rock, despite mobs and the Arkansas National Guard

## **Mapp v. Ohio (1961)**

- Facts: In May 1957, Cleveland police officers received a tip that Miss Mapp was in possession of a large number of betting slips, and that a bomber was hiding in her home. When the police arrived at her house, Mapp refused to admit them without a search warrant. A few hours later, the police knocked again then forcibly opened the door. A struggle ensued and Mapp was put in handcuffs, taken upstairs, and kept there while police searched her apartment. During the search, obscene materials were discovered in a trunk in her basement. Mapp was arrested for possession and control of obscene materials.
- Issue: Whether Miss Mapp's Fourth Amendment right to be secure from search and seizure was violated during the search of her home.

- Opinion: The Supreme Court of the United States ruled that Mapp's Fourth Amendment right to be secure from search and seizure was violated. The Court held that both the Fourth and Fourteenth Amendments protected persons from unwarranted federal and state intrusion of their private property

### **Gideon v. Wainwright ((1963)**

- Facts: Clarence Earl Gideon was arrested in 1961, and charged with breaking and entering a pool hall with intent to commit petty larceny (a felony). He did not have enough money for a lawyer and asked that one be appointed to defend him. The judge denied the request, saying that under Florida state law, counsel can be appointed only in a capital offense. Gideon was sentenced to five years in prison. He then filed a writ of certiorari (petition of appeal) to the Supreme Court of the United States, asking for a case review. The Court granted Gideon's request and appointed Abe Fortas to represent him.
- Issue: Whether the state of Florida violated Gideon's Sixth Amendment right to counsel, made applicable to the states of the Fourteenth Amendment, by not providing him with the assistance of counsel for his criminal defense.
- Opinion: The Court ruled unanimously in Gideon's favor, and held that the Fourteenth Amendment included state as well as federal defendants. The Court said that all states must provide an attorney in all felony and capital cases for people who cannot afford one themselves. Through the Fourteenth Amendment due process clause, the Sixth Amendment guarantee of the right to counsel applies to the states. [Gideon was retried in Florida and found not guilty.]

### **Miranda v. Arizona (1966)**

- Facts: Ernesto Miranda was convicted of rape and kidnapping. His conviction was based in part of incriminating statements he made to the police while they interrogated him. At no time during the questioning did the police inform Miranda that he did not have to talk to them or that he had the right to a lawyer when being questioned by police.
- Issue: Whether the state of Arizona violated the constitutional rights of Miranda under the Fifth, Sixth, and Fourteenth Amendments when they interrogated him without advising him of his constitutional right to remain silent.
- Opinion: The Supreme Court of the United States, in a 5-4 decision, ruled that the police were in error. The Court held that the police must inform suspects that they have the right to remain silent, that anything they say may be used against them, and that they have the right to counsel before the police may begin to question those held in custody.

### **University of California Regents v. Bakke ( 1978)**

- Allan Bakke, a white male, applied to the University of California at Davis Medical School. He was denied permission because he did not meet the standard entrance requirements. Davis Medical School also had a special admissions program for minorities. Sixteen per cent of the available places were reserved for minorities who did not meet the standard entrance requirements. Bakke argued that the requirements for special admissions to the medical school were discriminatory because only African-American, Chicano, and Asian students could compete for these places. The University of California argued that its special admissions program remedied the long-standing historical wrong of racial discrimination.
- Whether the University's special admissions program, which accepted minority students with significantly lower scores than Bakke, violated Bakke's Fourteenth Amendment equal protection rights; and whether the University was permitted to take race into account as a factor in its future admissions decisions.
- The Supreme Court of the United States did not render a majority opinion in this case (i.e., one in which five or more of the nine justices agree). Six separate opinions were written, and no more than four justices agreed in whole in their reasoning. The Court ordered Bakke's admission to Davis Medical School and invalidated the University's special admissions program because the program barred people like Bakke from applying for the special admission seats in the medical school. However, of much greater significance was the fact that the Court allowed admissions decisions. Justices Brennan, White, Marshall, and Blackman said that this aspect was the central meaning of the case: "Government may take race into account when it acts not to insult any racial group but to remedy disadvantages cast on minorities by past racial prejudice.

### **Plyler v. Doe (1982)**

- In 1981, the state of Texas passed a statute (Tex. Educ. Code Ann. Sec. 21.031) which prohibited the use of state funds for the education of any children who were not citizens of the United States. They did this for 3 reasons: first, it would prevent illegal immigrants from wanting to enter the state; second, the state would not be burdened with educating illegal immigrants; and, third, the state would not be educating people who would likely leave the state.
- Does a state in denying an education to the children of illegal immigrants deprive them of equal protection of the law as found in the 14th amendment?
- In a 5-4 decision of the Supreme Court of the U.S. ruled that a state may not deny a public education to the children of illegal immigrants unless they can show a substantial state interest. The court ruled none of the 3 reasons given by Texas were substantial enough to allow the state to deny a public education to these illegal immigrants' children. The Court also said that denying the children an education could lead to illiteracy and would deny them an ability to become productive participants in our civic society.

### **Veronia v. Acton (1995)**

- Facts: Veronia school district of Oregon, concerned about the drug problem among athletes and students in their own school community and America in general, sought to reduce the problem by creating a student-athlete drug policy. School officials worried that drug use by athletes might produce more risk of sports-related injuries. The Veronia school district student-athlete drug policy authorized urinalysis drug testing of student athletes. James Acton refused the urinalysis test and was disallowed participation in the school's junior high football program.
- Issue: Does drug testing of student athletes violate their protection against unreasonable search and seizure provided in the Fourth Amendment?
- Opinion: In a 6-3 decision, the Supreme Court of the United States reasoned that drug testing of student athletes was constitutional. The Court accepted the argument that student rights were lessened at school if it was necessary to maintain student safety and to fulfill the educational mission of the school