

7-12 *Marbury v. Madison* (1803)

The Marbury versus Madison case revolved around William Marbury, who had been appointed a justice of the peace by President John Adams two days before Adams ended his term. The new President, Thomas Jefferson, denied Marbury the position by directing the Secretary of State James Madison not to deliver the commission. Marbury filed a lawsuit, asking the Supreme Court to issue a writ of mandamus, forcing Madison to deliver the commission. Chief Justice John Marshall ruled that the court was not authorized to issue writs of mandamus and more importantly, in the following excerpt from the decision, made it clear that the Supreme Court did, however, have the power to declare legislation unconstitutional, thereby maintaining the balance of power in government. This is one of the landmark decisions of the Supreme Court, giving them more authority than they had previously held.

[CHIEF JUSTICE MARSHALL DELIVERED THE OPINION OF THE COURT.]

In the order in which the Court has viewed this subject, the following questions have been considered and decided: 1st. Has the applicant a right to the commission he demands? 2d. If he has a right, and that right has been violated, do the laws of this country afford him a remedy? 3d. If they do afford him a remedy, is it a mandamus issuing from this court? . . .

It is . . . the opinion of the Court: 1st. That by signing the commission of Mr. Marbury, the President of the United States appointed him a justice of the peace for the county of Washington, in the District of Columbia; and that the seal of the United States, affixed thereto by the secretary of state, is conclusive testimony of the verity of the signature, and of the completion of the appointment; and that the appointment conferred on him a legal right to the office for the space of five years. 2d. That, having this legal title to the office, he has a consequent right to the commission; a refusal to deliver which is a plain violation of that right, for which the laws of his country afford him a remedy. 3d. It remains to be inquired whether he is entitled to the remedy for which he applies? . . .

This . . . is a plain case for a mandamus, either to deliver the commission, or a copy of it from the record; and it only remains to be inquired, whether it can issue from this court?

The act to establish the judicial courts of the United States authorizes the Supreme Court, "to issue writs of mandamus, in cases warranted by the principles and usages of law, to any courts appointed or persons holding office, under the authority of the United States." The secretary of state, being a person holding an office under the authority of the United States, is precisely within the letter of this description; and if this court is not authorized to issue a writ of mandamus to such an officer, it must be because the law is unconstitutional . . .

The Constitution vests the whole judicial power of the United States in one Supreme Court, and such inferior courts as Congress shall, from time to time, ordain and establish. . . .

In the distribution of this power, it is declared that "the Supreme Court shall have original jurisdiction in all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party. In all other cases, the Supreme Court shall have appellate jurisdiction." . . .

If it had been intended to leave it in the discretion of the legislature to apportion the judicial power between the supreme and inferior courts according to the will of that body, it would certainly have been useless to have proceeded further than to have defined the judicial power, and the tribunals in which it should be vested. The subsequent part of the section is mere surplusage, is entirely without meaning, . . .

It cannot be presumed that any clause in the Constitution is intended to be without effect . . .

To enable this court, then, to issue a mandamus, it must be shown to be an exercise of appellate jurisdiction . . .

The authority, therefore, given to the Supreme Court, by the Act establishing the judicial courts of the United States, to issue writs of mandamus to public officers, appears not to be warranted by the Constitution . . .

1. Summarize the reasoning and legal decision regarding whether or not withholding Marbury's commission was a violation of his right to appointment.
2. Summarize the relationship that exists among the Constitution, the legislative branch of government, and the Supreme Court as it is discussed in this document? What is the role of the Supreme court in relation to the Constitution?