1. **US Constitution Article III, Section 1**
   The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

2. **Structure of Judicial Branch:**
   Dual System

3. **Federal Court System**
   - Supreme Court is the only one mentioned in Constitution
   - Gives Congress power to create others
   - Judiciary Act of 1789
     - Established three-tier structure of federal courts
     - Set size of Supreme Court as six, was expanded to nine in 1869

4. **District Courts**
   - Every state has at least one district court
     - 94 district courts with 700 judges
     - 80% of the federal caseload
     - Typically end in plea bargain negotiated by defense and prosecution
       - 2% decided by trial

5. **Court of Appeals**
   - Appellate court authorized to review district court decisions
   - Do NOT hold trials or hear testimony

6. **Structure of Judicial Branch:**
   Dual System

7. **Supreme Court**
   - Reviews cases for the US court of appeals and the state supreme courts
9 🗿 Jurisdiction
   • Court’s authority to hear a case
   • Four types
     • Original—courts in which a case is first heard
     • Appellate—courts that hear cases brought to them on appeal from a lower court
     • Exclusive—cases that can be heard only in certain courts
     • Concurrent—cases that can be heard in either federal or state court

10 🗿 District Court Jurisdiction
   • Civil actions arising under the Constitution, laws, and treaties of the United States
   • Certain civil actions between citizens of different states
   • Civil actions within the admiralty or maritime jurisdiction of the United States
   • Criminal prosecutions brought by the United States
   • Civil actions in which the United States is a party

11 🗿 State Courts
   • Most criminal cases, probate (involving wills and estates)
   • Most contract cases, tort cases (personal injuries), family law (marriages, divorces, adoptions), etc.
   • State courts are the final arbiters of state laws and constitutions. Their interpretation of federal law or the U.S. Constitution may be appealed to the U.S. Supreme Court. The Supreme Court may choose to hear or not to hear such cases.

12 🗿 Judicial Selection and Appointment
   • District Court
     • Federal judges are appointed by the president and confirmed by majority of Senate
     • Senatorial courtesy
       • Tradition that the Senate will not confirm anyone that is opposed by a senator of the president’s own party from the state in which the nominee is to serve
13 Judicial Selection and Appointment
   • Supreme Court Nomination Criteria:
     • Competence
     • Prior judicial or governmental experience
     • Ideology or Policy preferences
     • Share the president’s policy preferences
     • Race, ethnicity and gender
     •
     •

14 Judicial Selection and Appointment
   • Supreme Court Confirmation Process:
     • Investigation
       • President and others narrow the list, send it to the FBI for a background check
     • Interest Groups: protests, appearances on TV, advertisements, editorials
     • Senate Judiciary Committee
       • Hearings
       • Recommendation made to full Senate
     • Vote
     •
     •

15 Supreme Court- Selecting Cases
   • Original Jurisdiction
     • Two or more states
     • US and state government
     • US and foreign ambassadors and diplomats

16 Selecting Cases: Everyone Else
   • Petition SC to grant a writ certiorari
     • Higher court directs lower court to send up a case for review
   • Involve a federal or constitutional questions
17 □ Getting Your Case to the Supreme Court
• Rule of Four
  • At least four justices must vote to hear the case
• Clerks
  • Perform initial screening of petitions (9,000 each term)
  • Draft memos to summarize cases
  • Write first draft of an opinion

18 □ How many cert petitions are considered
• In recent terms, there have been between 7,000 and 9,000 cases appealed to the Supreme Court each year
• Out of approx. 8,000 petitions in the average year, about 80 are granted (1%)

19 □ Cert: The Justices’ Role
With 8,000 petitions per year:
If a Justice spent 40 hours per week, 50 weeks per year ONLY reading cert petitions, they would be able to allocate approximately 15 minutes to each petition (which may include the petition itself, the brief in opposition, a reply brief, and amicus briefs).
The Justices cannot possibly read all the cert petitions. They just don’t have the time.

20 □ Increasing Your Chances
• Solicitor General
  • Fourth ranking member of the Department of Justice
  • Responsible for handling all appeals on behalf of the US government
  • Influences which cases will be heard
  • Conflict among courts- lower and higher courts or state and federal courts
  • Civil Right/Liberties

21 □ More reasons to deny than to grant!
• A better case “in the pipeline”
• The issue hasn’t “percolated” enough
• A petition that raises too many questions (prefer focusing on one issue)
• Bad vehicle for reaching this legal issue
• Case is deemed “frivolous”

22 □ Who gets their case heard?
Ranking tends to be:
  #1 - U.S. government
  #2 - Corporations
  #3 - States
  #4 - Organized groups
  #5 - Individuals

23 □ Hearing and Deciding a Case
• Briefs
  • Submitted by both sides and interested parties
  • Detailed written statement arguing one side of the case
  • Amicus brief—submitted by interested party

24 □ Hearing and Deciding a Case
• Oral Arguments
  • Purpose:
    • Assures lawyers that justices have heard both sides
    • Provides Court with additional information (30 minutes)
    • Allow justices to ask questions and highlight issues
    • Open to public, but no video recording!!

25 □ Hearing and Deciding a Case
• Conference and vote
  • Weekly meeting, closed to public
  • Discussion and then a vote

26 □ Hearing and Deciding a Case
• Decisions
  • Affirm: declare that the court ruling is valid and must stand
  • Reverse: annul or make void a court ruling on account of some error
• Remand: send a case back to the court that originally heard it
  • Includes instructions—start case over or look at an aspect it hadn’t considered the first time

27 □ Writing Opinions
  • Majority Opinion
    • Written by one to represent views of 5 or more
    • Legal reasoning justifying decision
    • Becomes precedent
  • Concurring Opinion
    • Justice who agrees with outcome, but not the legal rationales

28 □ Writing Opinions
  • Dissenting Opinion
    • Justice(s) who disagree with the outcome
    • No precedent, but important indicator of legal thought on Court