

Marbury v. Madison: Signed, Sealed, and Delivered?

In the election of 1800, President John Adams was defeated by Thomas Jefferson, a Republican (Democratic-Republican). The new administration did not take their offices until March of 1801. The Federalists wanted to ensure a continued Federalist presence in the government so they packed the judgeships with loyal Federalist supporters, some positions that had been created for this specific purpose by Congress in 1801. Adams signed the commissions for these at the end of his term.

It was the responsibility of the Secretary of State, John Marshall, to "deliver the commissions," finish the paperwork, and give it to each of the newly appointed judges. Although Marshall signed and sealed all of the commissions, he failed to deliver 17 of them to the respective appointees. Marshall assumed that his successor would finish the job, but when Jefferson became President, he told his new Secretary of State, James Madison, not to deliver some of the commissions, because he did not want members of the opposing political party to take office. Those individuals could not take office until they actually had their commissions in hand.

William Marbury, whom Adams had appointed as justice of the peace of the District of Columbia, was one of these last-minute appointees who did not receive his commission. Marbury sued James Madison and asked the Supreme Court of the United States to issue a *writ of mandamus*, a court order that requires an official to perform or refrain from performing a certain duty. In this case, the writ would have ordered Madison to deliver the commission.

Marbury argued that he was entitled to his commission and that the Judiciary Act of 1789 gave the Supreme Court of the United States original jurisdiction to issue a *writ of mandamus*. Madison disagreed. The Court found that although Marbury was entitled to his position, they did not have jurisdiction (power) over the case since it came to them on original jurisdiction as per a clause in the Judiciary Act of 1789. This case did not fit any of the types of cases they could exclude on original jurisdiction as per Article III, Section 2, Clause 2. The Court decided that the part of the Judiciary Act giving them those powers was null and void (unconstitutional). Through this case, the Supreme Court assumed the power of judicial review, the power to declare an act of Congress unconstitutional.

QUESTIONS:

1. Who won the election of 1800? What political party did he belong to?
2. Who lost the election of 1800? What political party did he belong to?
3. The person who lost the election tried to preserve his party's presence (power) by doing what?
4. Whose responsibility was it to deliver the commissions (appointments)?
5. Did he deliver all of the commissions? Who was supposed to deliver the rest of the commissions?
6. Did this person deliver the commissions? Why or why not?
7. Who was William Marbury? Who did he sue? What was the reason he sued?
8. What is a *writ of mandamus*?
9. What was the final decision of the court?
10. What is meant by *judicial review*?