

AMERICAN GOVERNMENT
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Chapter Fourteen

The Courts

Learning Outcomes

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- 14.1 Explain how judges in the American system decide cases, and define *stare decisis*.
- 14.2 Define judicial review and explain the constitutional and judicial origins of this power.
- 14.3 Produce a graphic illustration of the federal court system, and explain how a case moves from the trial court to the highest court of appeals, the Supreme Court.
- 14.4 Explain how judges are nominated and confirmed for the Supreme Court.
- 14.5 Compare the concepts of judicial activism and judicial restraint; link these concepts to the decisions of the Supreme Court in the last few decades.
- 14.6 Discuss the constitutional and political constraints on the Supreme Court.

Sources of American Law

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- Common law
 - *Stare decisis*
- Constitutions
- Statutes and Administrative Regulations
- Case Law

Sources of American Law

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- Judicial Review
 - *Marbury v. Madison*

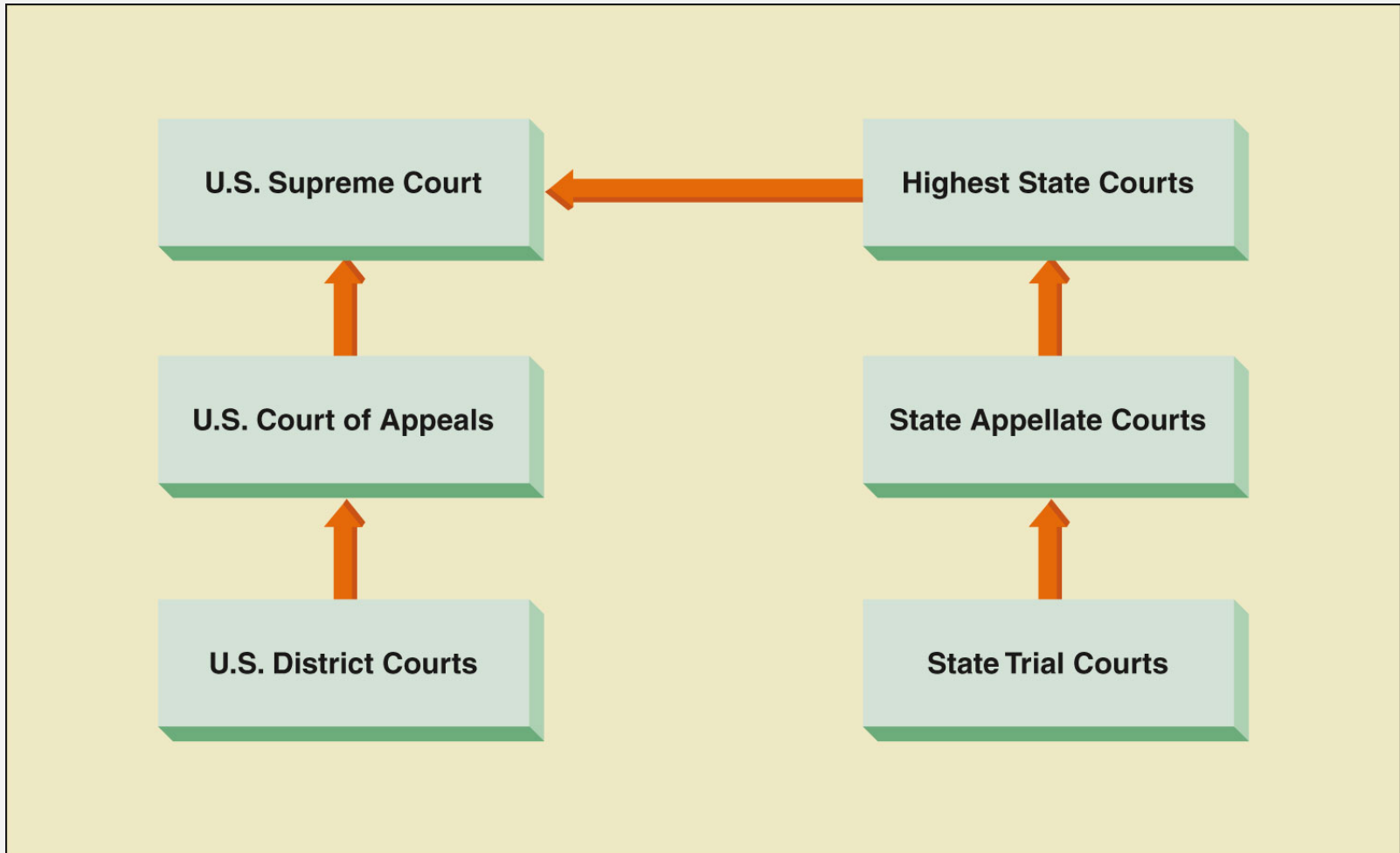
The Federal Court System

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- Basic Judicial Requirements
 - Jurisdiction
 - Federal question
 - Diversity of citizenship
 - Standing to Sue

Dual Structure of the American Court System

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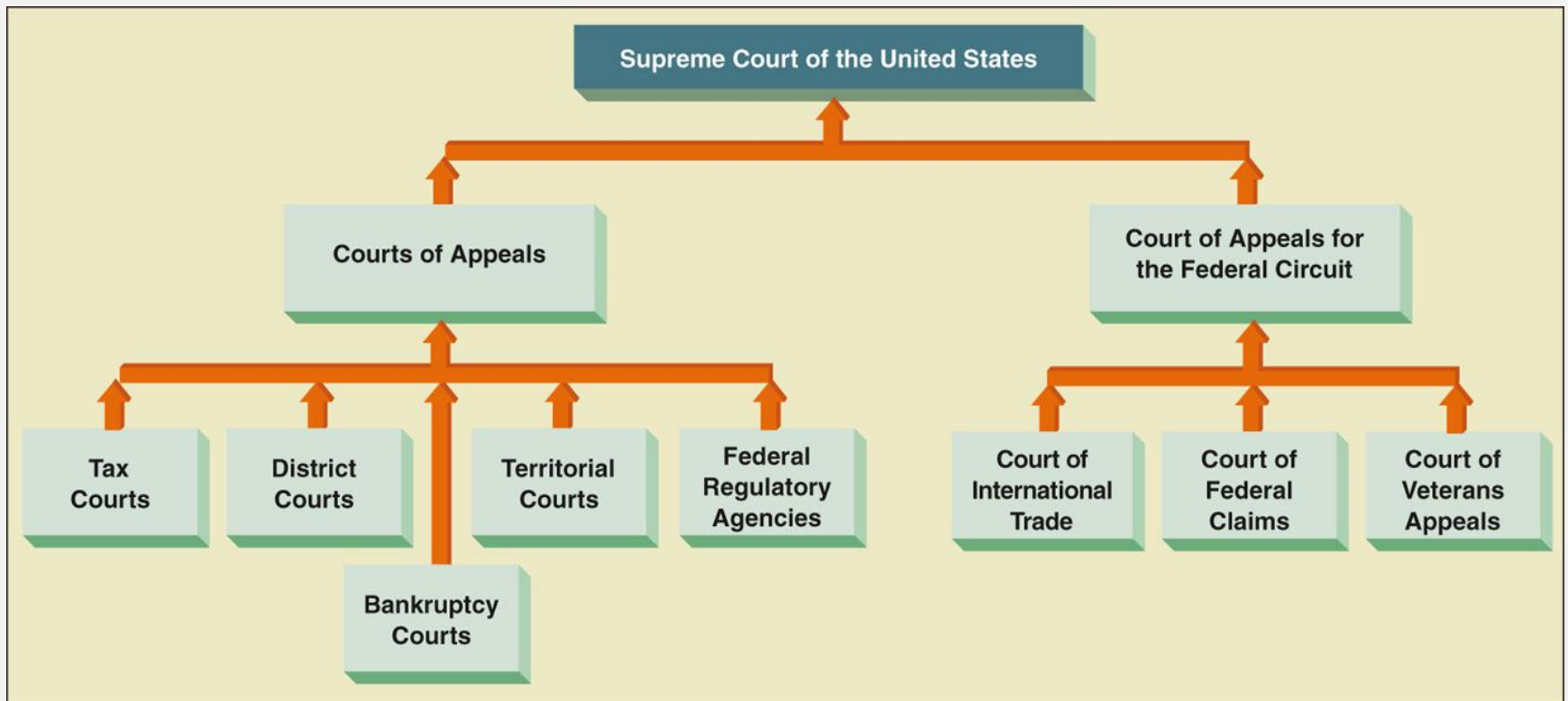


The Federal Court System

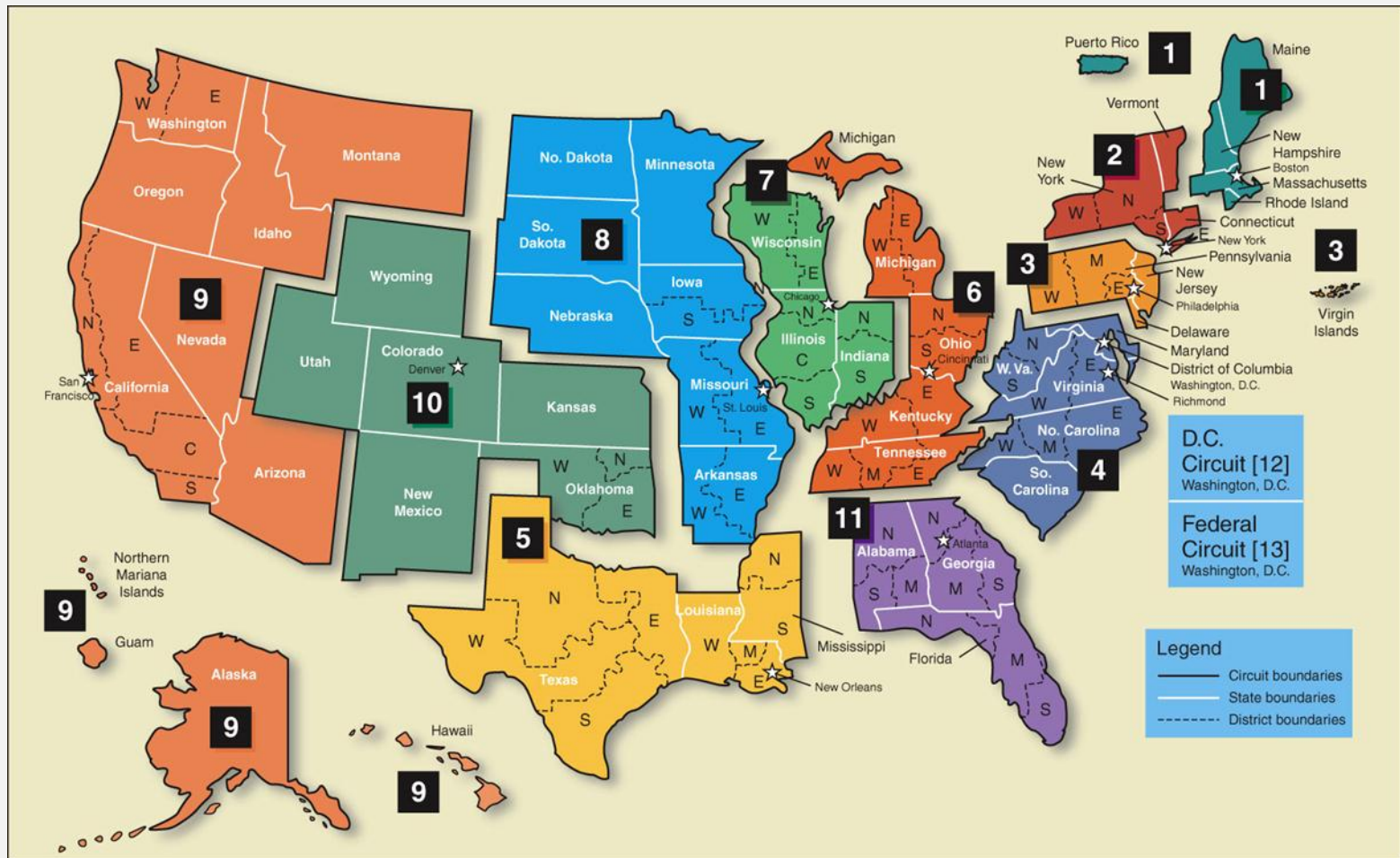
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- Types of Federal Courts
 - U.S. District Courts
 - Trial court
 - U.S. Courts of Appeals
 - Appellate court
 - The United States Supreme Court

The Federal Court System



Geographic Boundaries of Federal District Courts and Circuit Courts of Appeals



The Federal Court System

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- Specialized Federal Courts and the War on Terrorism
 - The FISA Court
 - Alien “Removal Courts”
- Parties to Lawsuits
 - Litigate
- Procedural Rules

The Federal Court System

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AP Photo/Brennan Linsley

Why did the United States create the prison at Guantánamo Bay?

The Supreme Court at Work

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- Which Cases Reach the Supreme Court?
 - Factors That Bear on the Decision
 - Granting Petitions for Review
 - Writ of *certiorari*
 - Rule of four
- Deciding Cases
 - Oral arguments

The Supreme Court at Work

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- Decisions and Opinions
 - Decision
 - Affirmed
 - Reversed
 - Remanded
 - Opinion
 - Unanimous
 - Majority
 - Concurring
 - Dissenting

The Supreme Court at Work

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AP Photo/Kevin Wolf

Justice Ruth Bader Ginsburg being interviewed in 2008. She noted the presence of two Jewish justices on the court and that their religion plays no role in their decisions.

The Selection of Federal Judges

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- Judicial Appointments
 - Senatorial Courtesy
 - Federal District Court Judgeship Nominations
 - Federal Courts of Appeals Appointments
 - Supreme Court Appointments
 - The Special Role of the Chief Justice

The Selection of Federal Judges

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- Partisanship and Judicial Appointments
- The Senate's Role



Ryan Kelly/Getty Images

The Selection of Federal Judges

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SIPA USA/SIPA/Newscom

On August 7, 2010, Elena Kagan is sworn in as the 112th U.S. Supreme Court justice and the Court's fourth female justice.

Policymaking and the Courts

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- Judicial Review
- Judicial Activism and Judicial Restraint
- Strict versus Broad Construction
- Ideology and the Rehnquist Court
- The Roberts Court

Policymaking and the Courts

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Molly Riley/ABACAUSA.COM/News.com

Attorneys David Bois and Ted Olson leave the Supreme Court building after arguing for overturning California's prohibition against gay marriage. The Supreme Court ruled in their favor in 2013.

What Checks Our Courts?

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- Executive Checks
 - Judicial implementation



Time & Life Pictures/Getty Images

What Checks Our Courts?

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- Legislative Checks
 - Constitutional Amendments
 - Rewriting Laws
- Public Opinion

What Checks Our Courts?

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- Judicial Traditions and Doctrines
 - Hypothetical and Political Questions
 - The Impact of the Lower Courts

Elena Kagan's Supreme Court Appointment

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Click picture to view video



Video Discussion Questions

1. What must a president consider when nominating a new justice?
2. Does the current Supreme Court need more demographic diversity? If so, in what ways?
3. How can ideology affect the judicial confirmation process?