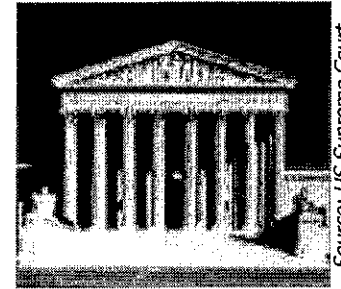


# You Be the Judge

Name: \_\_\_\_\_

Imagine you have just been offered a prestigious job that you are guaranteed to keep for the rest of your life. There are perks: You have a nice office and a fancy robe. But you're also tasked with making complex and often emotional decisions with eight other people, and those decisions affect millions. You can disagree with your coworkers, but you must remain cordial and cooperative. Will you accept the job? Today, you'll take on the role of a Supreme Court Justice and discuss and decide a case! Here are the questions you'll need to know that guide the Supreme Court in hearing cases and rendering their decisions.



Source: US Supreme Court

Supreme Court of the United States in Washington, D.C.



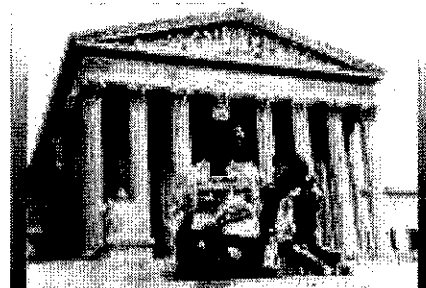
## Should We Take This Case?

The Supreme Court only hears cases in which it has **jurisdiction**, or authority. **Original jurisdiction** cases are those in which the parties are treated like V.I.P.s. These cases actually do involve V.I.P.s. Think states, ambassadors, consuls, and public ministers. Cases like these go directly to the Supreme Court. But most cases are heard because the Court has **appellate jurisdiction**—the ability to review a decision that a lower court has made. The Supreme Court can review cases involving the Constitution, federal laws, or treaties, or cases involving a dispute between parties from different states. The justices can only decide *real* issues between *actual* parties; they can't propose a hypothetical case just to make a stand about a legal issue.

The Supreme Court is not required to review every case brought to its attention. In fact, it can't! Each year, more than 7,000 cases are brought to the Supreme Court, but it only grants a full review (called a **plenary review**) for about 80 of those. Parties who lose in lower courts and want the Supreme Court to hear their case must ask the Supreme Court for acceptance in a written request called a **petition for a writ of certiorari** (pronounced: ser-shee-or-RARE-ee). In the petition, the parties argue why their case is important enough to command the Court's time. The Supreme Court will typically agree to review it if it settles a conflict between lower courts which have reached different decisions on the same issue or if it addresses important legal questions with national significance. Some examples of those legal questions are whether students can engage in political protests at school, whether the federal government can ask about a person's citizenship on a census form, and whether the Constitution guarantees the right to marry to same-sex couples. To grant a writ of certiorari, four of the nine justices on the Supreme Court must agree to accept the appeal.

## What Guides Should We Consult for This Case?

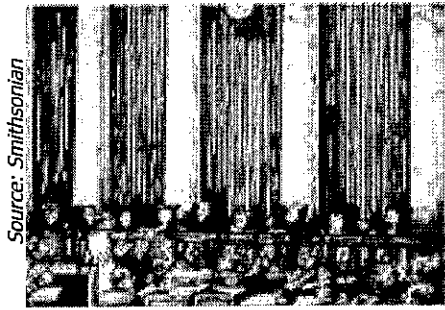
Once the Supreme Court has accepted a case for review, work begins. Often, there has been a trial with a verdict and then an appeal before a case reaches the Supreme Court. The justices will review those records, as well as any relevant sections of the Constitution or federal laws. The Court will also look to **precedent**, principles and guidelines from its own past decisions relating to the legal issue in the case. While lower courts must follow precedents established by the Supreme Court, the Supreme Court can overrule its own past decisions. The Court generally hesitates to do this, though, in order to maintain stability and consistency in the law. The Supreme Court will also heavily consider the parties' **legal briefs**, written arguments that both parties file explaining their position.



Source: Library of Congress

*Brown v. Board of Education was a Supreme Court case that overruled a past decision and ended racial segregation in America's schools.*

## What Questions Do We Have About This Case?



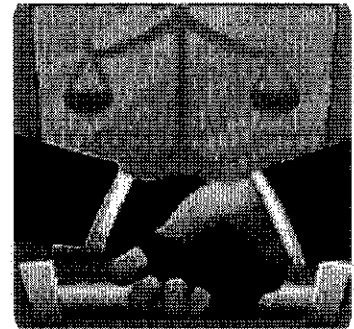
Source: Smithsonian

*People aren't allowed to take photos of a trial in the Supreme Court, but a courtroom sketch artist can draw the scene.*

After the Supreme Court reviews the case records, the applicable laws, the Constitution, its precedents, and the parties' briefs, the Court is ready for **oral arguments**. This is when the attorneys for the parties come before the justices to highlight their most persuasive arguments and answer the Court's questions. Each case is scheduled for one hour, which means that each side has only thirty minutes to convince the Court that they are correct. Attorneys for the **petitioner** (the party who brought the case to the Supreme Court) present their arguments first, followed by attorneys for the **respondent** (the party who won in the lower court). The justices almost always interrupt the attorneys with questions about the facts or laws in the case. In fact, attorneys spend most of their scheduled oral argument time answering the justices' questions.

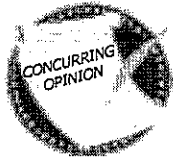
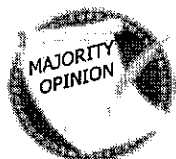
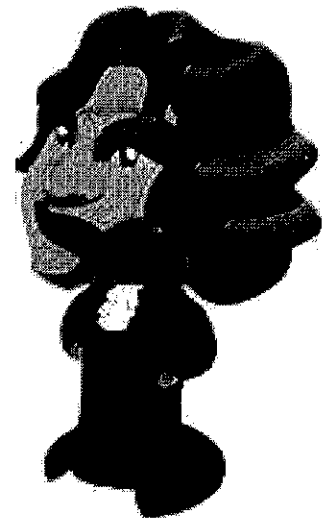
## What Decision Will We Make?

After hearing oral arguments, the justices discuss each case in a **conference**. Discussing a legal issue in a group of nine might be difficult, right? But justices follow traditions to help them get through the conference without much conflict. First, the justices begin each conference as they do each courtroom session—with a traditional handshake. Each justice shakes the hand of every other justice to remind each other that their differences of opinion should never overshadow their common purpose. After this, the justices, without any other staff members present, sit down to frankly discuss each case. The Chief Justice goes first, then each justice gives his or her views and concerns in order of seniority—when they were appointed to the Court—and without interruption from the others. After each justice has spoken, they vote on the case, starting with the Chief Justice and again proceeding in order of seniority. The majority of the justices (five or more) determine the decision in a case. Having an odd number helps the Court avoid a tie decision.



## Who Will Write the Opinion?

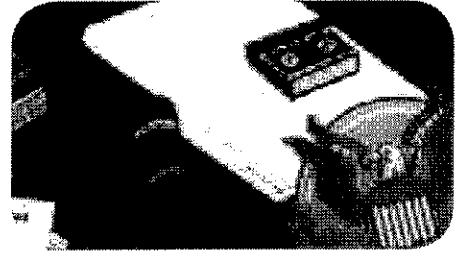
If the majority of justices agree on a decision and the reasoning behind it, they issue a **majority opinion**. The most senior justice in the majority decides who gets to write it. If those in the majority agree on the result in the case, but for different reasons, the Court issues a **plurality decision**, and the justices in the majority may write a **concurring opinion** explaining their reasoning. What about the justices who disagree with the result? Any justice in the minority may write a **dissenting opinion** explaining why he or she disagrees with the decision of the Court. The Supreme Court announces its opinions in open court and releases its written opinion to the public on the same day as the announcement.



# You Be the Judge

Name: \_\_\_\_\_

**A. Order in the Court!** Put the steps the Supreme Court takes when deciding a case in the correct order, from 1 to 6.



- \_\_\_\_\_ The parties write their legal arguments in briefs and submit them to the Court.
- \_\_\_\_\_ The Supreme Court sits down in a conference to discuss and vote on the case.
- \_\_\_\_\_ A party loses a case in a lower court and asks the Supreme Court to review the lower court's decision in a petition for a writ of certiorari.
- \_\_\_\_\_ The Supreme Court announces its decision in open court and issues a written opinion on the same day.
- \_\_\_\_\_ Attorneys for the parties appear before the justices for an hour of oral arguments, during which the justices question the attorneys about the case.
- \_\_\_\_\_ The justices write opinions explaining the reasoning behind their decisions.

**B. Supreme Court Summary.** Using the word bank, help summarize the Supreme Court's decision-making process in this fictitious case. (Hint: Not every term will be used, but no term will be used more than once!)

plenary review	appellate jurisdiction	dissenting opinion
original jurisdiction	precedent	legal brief
petitioner	respondent	concurring opinion
majority opinion	oral arguments	petition for a writ of certiorari

Orville was arrested for protesting on a public sidewalk about the need to stop global warming. His lawyer argued that the arrest was unconstitutional because the First Amendment gives Orville the right to speak freely and petition the government. A jury found Orville guilty and sentenced him to twenty years in prison. The appeals court affirmed (agreed with) the jury's decision. Orville's attorneys filed a \_\_\_\_\_ with the Supreme Court, asking them to hear Orville's case under its \_\_\_\_\_ authority. The Supreme Court agreed to hear the case, beginning its \_\_\_\_\_ process. As attorneys for the \_\_\_\_\_,



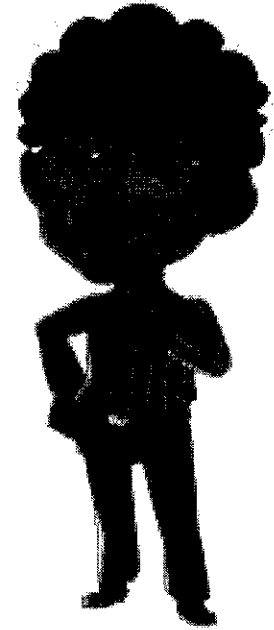
Orville's attorneys had to file their \_\_\_\_\_ first. At the \_\_\_\_\_, Orville's attorneys argued forcefully that Orville's rights had been violated and the Supreme Court justices asked many questions. After discussing the case in a conference, the Supreme Court decided unanimously that Orville's First Amendment rights had been violated. Later that month, the Supreme Court issued its \_\_\_\_\_ overturning the lower court decisions and setting Orville free!

# You Be the Judge

Name: \_\_\_\_\_

## C. Sort it Out! Which term goes with which definition?

- |                                       |                         |
|---------------------------------------|-------------------------|
| ___ plenary review                    | ___ respondent          |
| ___ original jurisdiction             | ___ precedent           |
| ___ appellate jurisdiction            | ___ petitioner          |
| ___ majority opinion                  | ___ oral arguments      |
| ___ petition for a writ of certiorari | ___ concurring decision |
| ___ legal briefs                      | ___ dissenting opinion  |



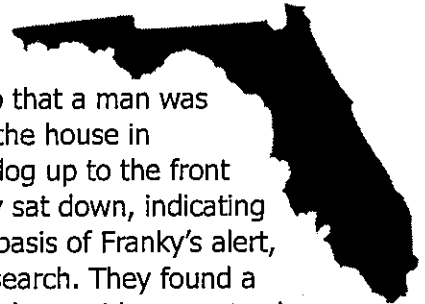
- A. Attorneys for the parties appear before the Supreme Court to present their strongest arguments and answer the justices' questions
- B. An opinion disagreeing with the majority in a Supreme Court ruling
- C. An opinion written by one (or more) justices who agree with the majority decision of the court but for a different reason
- D. The authority to hear a case before any other court does.
- E. The authority of the court to review a lower court's decision
- F. A formal written request to the Supreme Court that it review a lower court decision
- G. The party who won in the lower court but must present its arguments so the Supreme Court will affirm, or agree with, the lower court's decision
- H. Principles and guidelines from prior Supreme Court decisions
- I. A full consideration of a case, including legal briefs, oral arguments, and a decision
- J. Five or more justices who agree on a decision write this type of opinion
- K. The party who lost in the lower court and is bringing the case to the Supreme Court for review
- L. Written legal arguments that parties file with the Supreme Court

# CASE INTRODUCTION: You Be the Judge

Justice:

## The Facts

In December 2006, police in Miami, Florida, received an anonymous tip that a man was illegally growing marijuana plants in his home. The police approached the house in question with Franky, a trained drug-detection dog. They brought the dog up to the front door of the residence. Franky sniffed at the front door and immediately sat down, indicating that he detected the smell of marijuana from inside the home. On the basis of Franky's alert, the police obtained a warrant and returned to the house to conduct a search. They found a large growing operation inside the house with over 175 live marijuana plants with a street value of over \$700,000. Police then arrested Mr. Jardines, the occupant, and charged him with marijuana trafficking.



## Lower Court Decisions

### Florida Trial Court Decision

At trial, Mr. Jardines' attorney argued that the dog's sniff at the front door was a search under the Fourth Amendment and so the police should have had a warrant to bring the dog up to Mr. Jardines' front door. According to Jardines' attorney, without a warrant for the dog's sniff, the subsequent search was illegal, and the police should not be able to use any of the evidence obtained in the search. The trial court agreed and threw out the evidence.



### Florida Appellate Court Decision

Attorneys for the state of Florida appealed and argued that bringing a dog to a home's front door did not constitute a search under the Fourth Amendment. The Florida Appellate Court agreed, finding the sniff and the subsequent warrant and search to be legal.



### Florida Supreme Court Decision

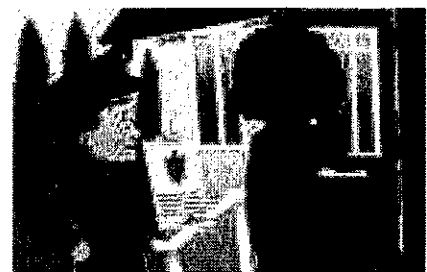
Mr. Jardines' attorney appealed and once again argued that bringing a drug-detection dog onto private property and right up to a front door constitutes a search. A divided Florida Supreme Court agreed with Mr. Jardines' attorney and the original trial court judge. Once again, the state of Florida appealed, this time to you, the Supreme Court. You have agreed to hear the case.

## The Fourth Amendment

The Fourth Amendment is part of the **Bill of Rights**, the first ten amendments which grant civil rights the government may not violate. The Fourth Amendment regulates how authorities can find and preserve evidence of a crime. It states that people have the right "to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures." If authorities want to search a person's body, house, car, or other personal belongings, they must have **probable cause** (a reason to believe someone may have done something illegal) and they must obtain a **warrant** (a legal document authorizing permission) from a judge before conducting a search. If they fail to do so, any evidence they acquire may not be used in court, as it was unlawfully obtained.

## The Issue Before the Court

When police bring a trained narcotics detection dog to sniff at the front door of a home in which they suspect marijuana is being grown, is that a Fourth Amendment search?



## GUIDING QUESTIONS: You Be the Judge

Justice:

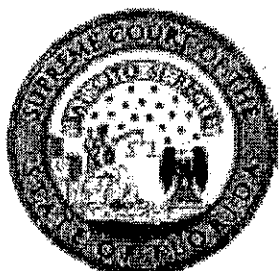
**Guiding Questions.** How closely did you read the *Florida v. Jardines* case? Answer the questions below.



1. Who are the parties involved?

2. What are the important facts in this case?

3. Which constitutional right is involved in this case?



Source: Supreme Court of Florida

4. How did the Florida Supreme Court rule?

5. Which party is bringing this appeal to the U.S. Supreme Court? (In other words, which party lost in the Florida Supreme Court?)

6. Which two precedents do you think are most similar to this case, and why?