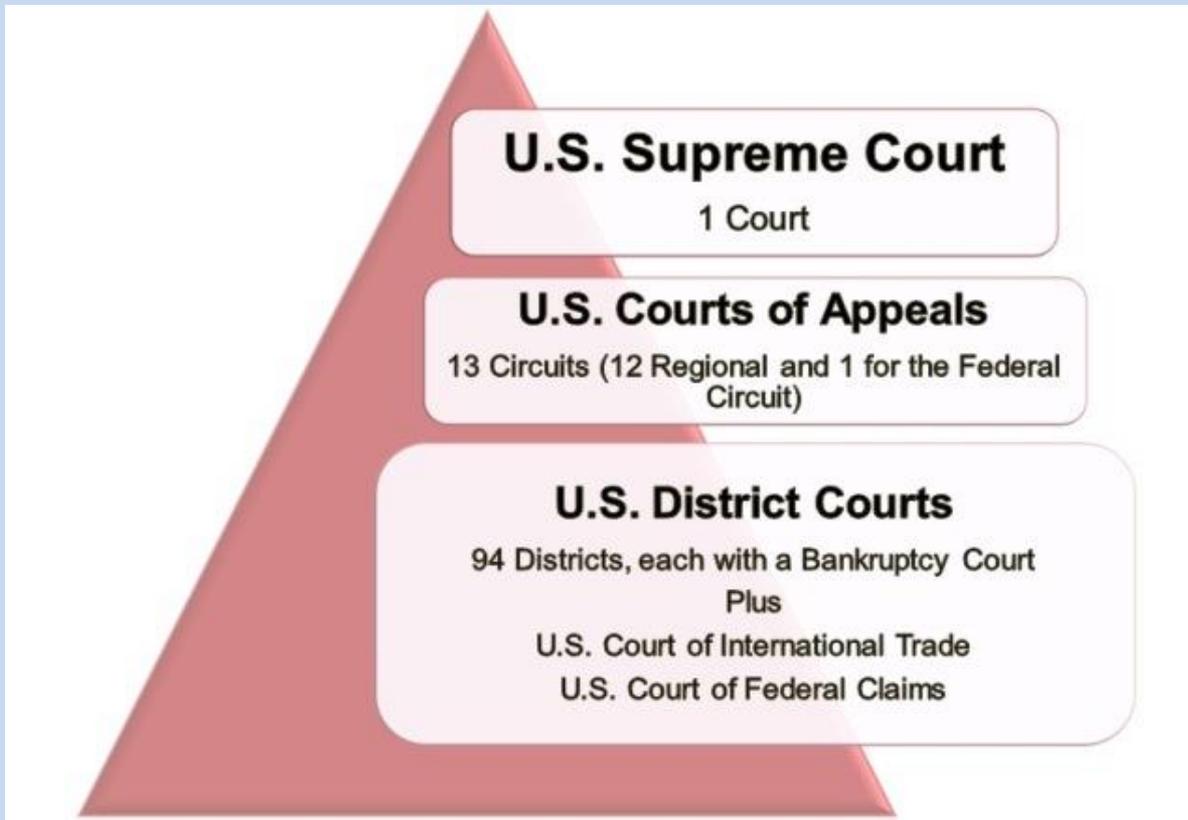


The Federal Judiciary

The federal judicial system has three levels:

District courts in each state, **Courts of Appeals** in thirteen regions, and the **Supreme Court**.



District Courts

- Created by the Judiciary Act of 1789
- Every state has at least one district court
- 80% of all federal cases are heard in district courts
- district courts have **original jurisdiction**, the authority to hear cases for the first time

Courts of Appeals

- Created by Congress in 1891 to lessen the work load of the Supreme Court
- There are 13 Courts of Appeals
- Courts of Appeals only have **appellate jurisdiction**, the authority to hear reviews or appeals of decisions made by lower courts (district courts).

Supreme Court

- Only court created by the U.S. Constitution rather than Congress
- Has both original and appellate jurisdiction (mostly appellate)
- Cases heard by the Supreme Court can also come from state-level Supreme Courts
- Congress establishes the size (number of justices) of the Court
- The Court currently has nine members (since 1869)
- The Court decides which cases it wants to hear and decide (**Rule of Four**: four of the nine justices must agree to hear a case).

All Them Weird Words

writ of certiorari: An order by the Supreme Court directing a lower court to send the records of a case for judicial review. In other words: *the process whereby the Court accepts to hear a case.*

amicus curiae brief: A brief submitted by an outside party expressing support or rejection of an argument made in a case. In other words: *interest groups and other legal scholars expressing their views to the Court.*

Stare decisis: The judicial practice of relying on precedent to formulate decisions in new cases. It means “let the decision stand” and it provides for continuity and predictability.

Recent Supreme Court History

Warren Court (1953-1969): Very liberal. Declared segregation in public schools unconstitutional and expanded the rights of criminal defendants.

Burger Court (1969-1986): More conservative. Permitted abortion and upheld legality of affirmative action.

Rehnquist Court (1986-2005): Even more conservative. Limited, but did not necessarily reverse earlier decisions on abortion and affirmative action. Decided 2000 election.

Roberts Court (2005-present): Just as conservative. Protected free speech of corporations within political process and religious liberty of corporations within health care insurance.

Judicial Philosophy

Judicial activism: The Court plays a role in the policymaking system by deciding important social questions and declaring actions of the executive and legislative branches unconstitutional.

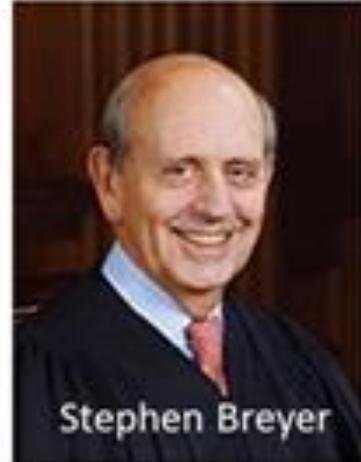
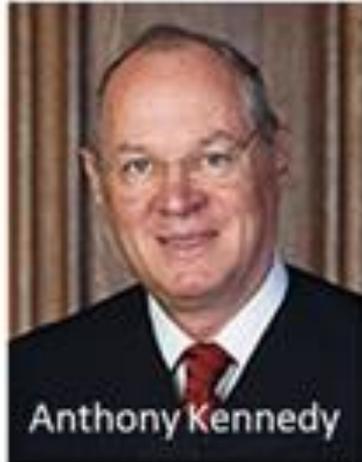
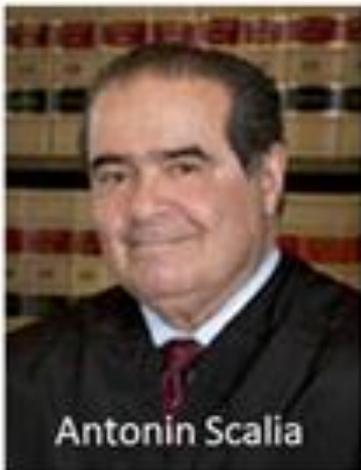
activism = active role

Judicial restraint: The Court refrains from deciding important social questions and attempts to allow actions made by the elected branches of government to stand.

restraint = passive role

Both conservative and liberal justices can be either activist and restraintist judges in how they approach a particular case. Recent Courts have been active in making policy and overturning actions made by Congress or the executive branch.

SCOTUS in 2016 !



The Supreme Court has 6 males and 3 females. 1 African-American and 1 Hispanic. 6 Catholics and 3 Jews.

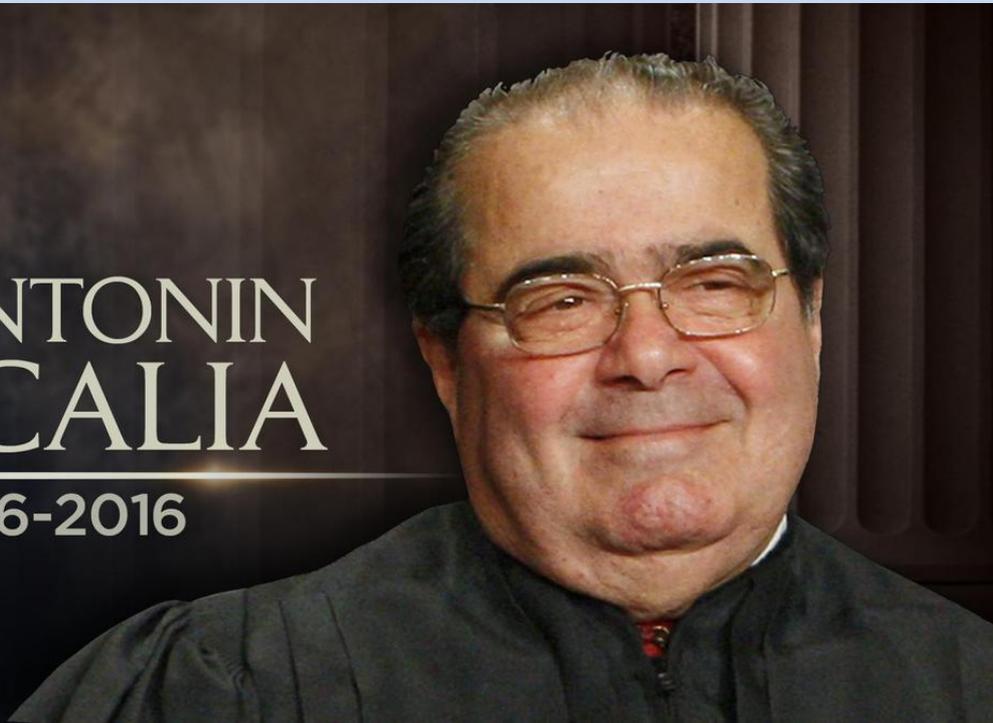


When I'm asked when there will be enough women on the Supreme Court? And I say 'When there are nine.' People are shocked. But there'd been nine men, and nobody's ever raised a question about that."



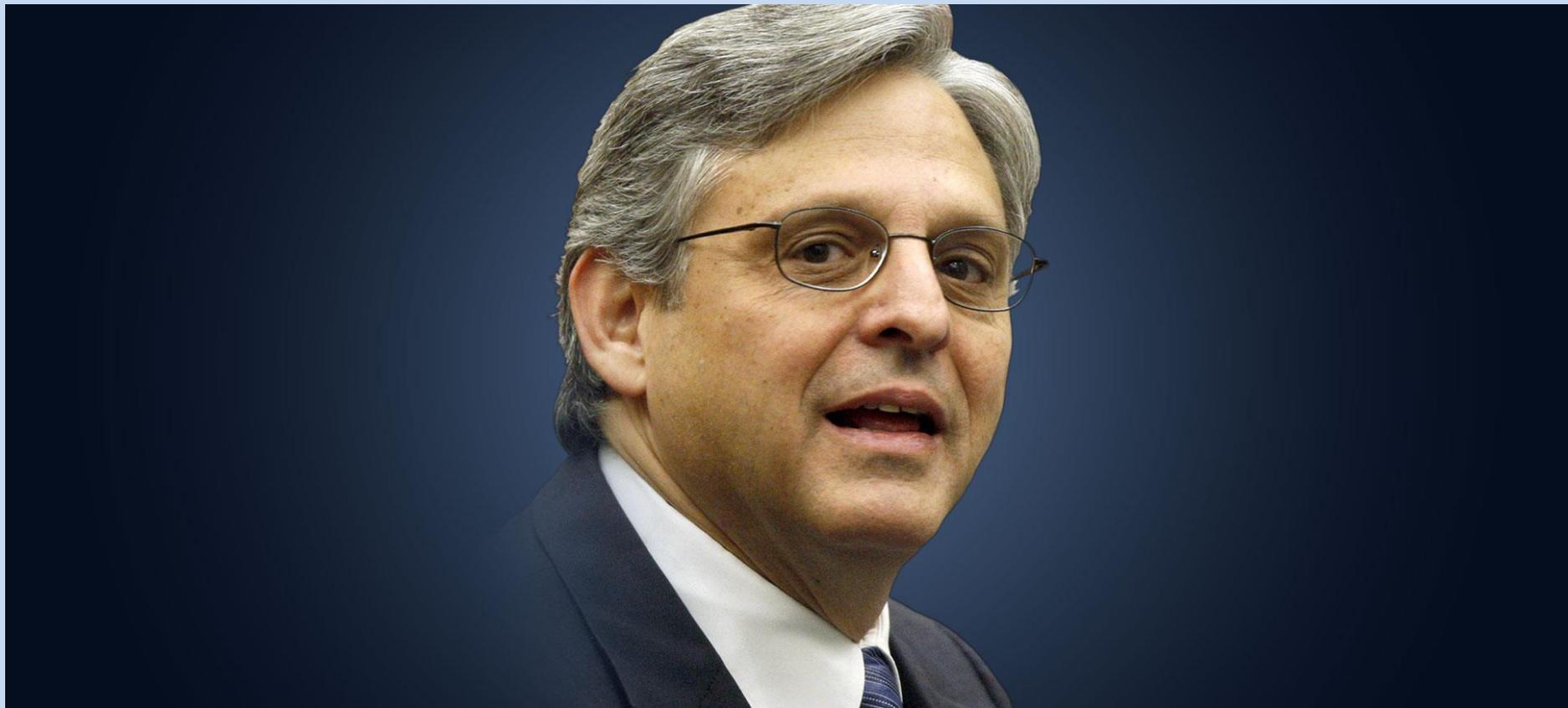
ANTONIN
SCALIA

1936-2016



On February 13, 2016 Justice Antonin Scalia died and that same day Senate Majority Leader Mitch McConnell declared that Republicans would not consider any nominee put forward by President Obama. On March 4, Senate pro tem Orrin Hatch bemoaned that Obama would likely nominate a left-wing judge to appeal to progressive Democrats even though he "could easily name Merrick Garland, who is a fine man."

On March 16, President Obama nominated Merrick Garland, a member of the D.C. Appeals Court. The Republicans made the unprecedented decision to never have any confirmation hearings about his nomination or hold a confirmation vote. Garland is considered a moderate and had the most federal judicial experience of any Supreme Court nominee in history.



On February 1, 2017 President Trump nominated Neil Gorsuch, member of the Tenth Court of Appeals, to the Supreme Court.

The Democrats decided to filibuster his confirmation in protest of the Republican rejection of Garland. In response, the Republicans used the “nuclear option” to remove the filibuster and then confirmed Gorsuch with 54 votes (3 Democrats voting to confirm him).

As a result, the conservative majority on the Supreme Court will remain 5 – 4.



Recently, Justice Anthony Kennedy, a moderate Republican who has been the main swing vote on the court, announced his retirement. President Trump nominated Brett Kavanaugh, a member of the D.C. Court of Appeals, to replace him. If Kavanaugh were to be confirmed the ideological balance of the Supreme Court would shift to the right considerably because all five Republicans would be staunchly conservative Republicans. Reflecting the significance of Kennedy's retirement and the severity of partisan animosity, the confirmation process for Kavanaugh was arguably the most partisan and divisive in American history. He was confirmed 50-48.

