

The Supreme Court

Getting into Court

With few exceptions, the life of a U.S. Supreme Court Case begins when a lower court case ends, since the Supreme Court is primarily a court of appeals. The losing party in a lower court case must request entry onto the court's calendar. The justices then decide whether to hear the case, the crucial factor being whether the case can shed new light on an issue of Constitutional law. The Court hears about 100 of the 10,000 cases that compete for a spot on the court's calendar each year.

Preparing for the Hearing

Once the court agrees to hear the case, lawyers from each side must submit written arguments. Each justice will typically choose a clerk to review the arguments and prepare a memo, outlining the issues the case presents. The lawyers for each side are told the date of their oral arguments. Shortly before oral arguments, justices review the memos, so they can anticipate each party's argument, and the theories behind their reasoning.

Inside the Courtroom

Each party has one half hour for their oral arguments, including questions from the justices. The justices are seated in order of seniority, with the Chief Justice seated in the center. The next senior justice sits to his right. The next senior justice sits to the Chief Justice's left, and so on, in alternating order. Justices often question the lawyers as their arguments proceed.

The Decision

After the oral arguments, there are more arguments, only now they are among the nine justices themselves. They review the case with their clerks (who are recent law school graduates), and chart out an initial impression of their votes. On a day soon thereafter, the justices meet in a conference room, casting their votes. The senior justice on the winning side assigns a justice to the task of writing the majority opinion. That justice will often assign a clerk to prepare a draft of the opinion, usually choosing the clerk who prepared the memo prior to the oral argument. The justice will then use that memo as a basis for writing his or her opinion. The opinion is then passed along to members of the majority, who suggest revisions. Some opinions are revised a dozen or more times before they are announced. When each member of the majority signs off on the opinion, it is ready to be made public. From the bench, the author of the majority opinion will summarize the decision. At that point, the case is forever part of Constitutional law doctrine.



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