

The Judiciary

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PLSC 1

Road map

- The Supreme and Lower Federal Courts
 - Structure
 - Role
 - Development
- State Courts



Job **Jobs** Courts

In your words, what is the job of the courts in governing our country?

Collaborate!

Job of Courts

Constitutional Foundation

Article III

- Shortest, least detailed
- Supreme Court, Jurisdiction
- Rest up to Congress (Judiciary Act of 1789)

Appointed by POTUS

Federal Court Structure

U.S. Federal Court System

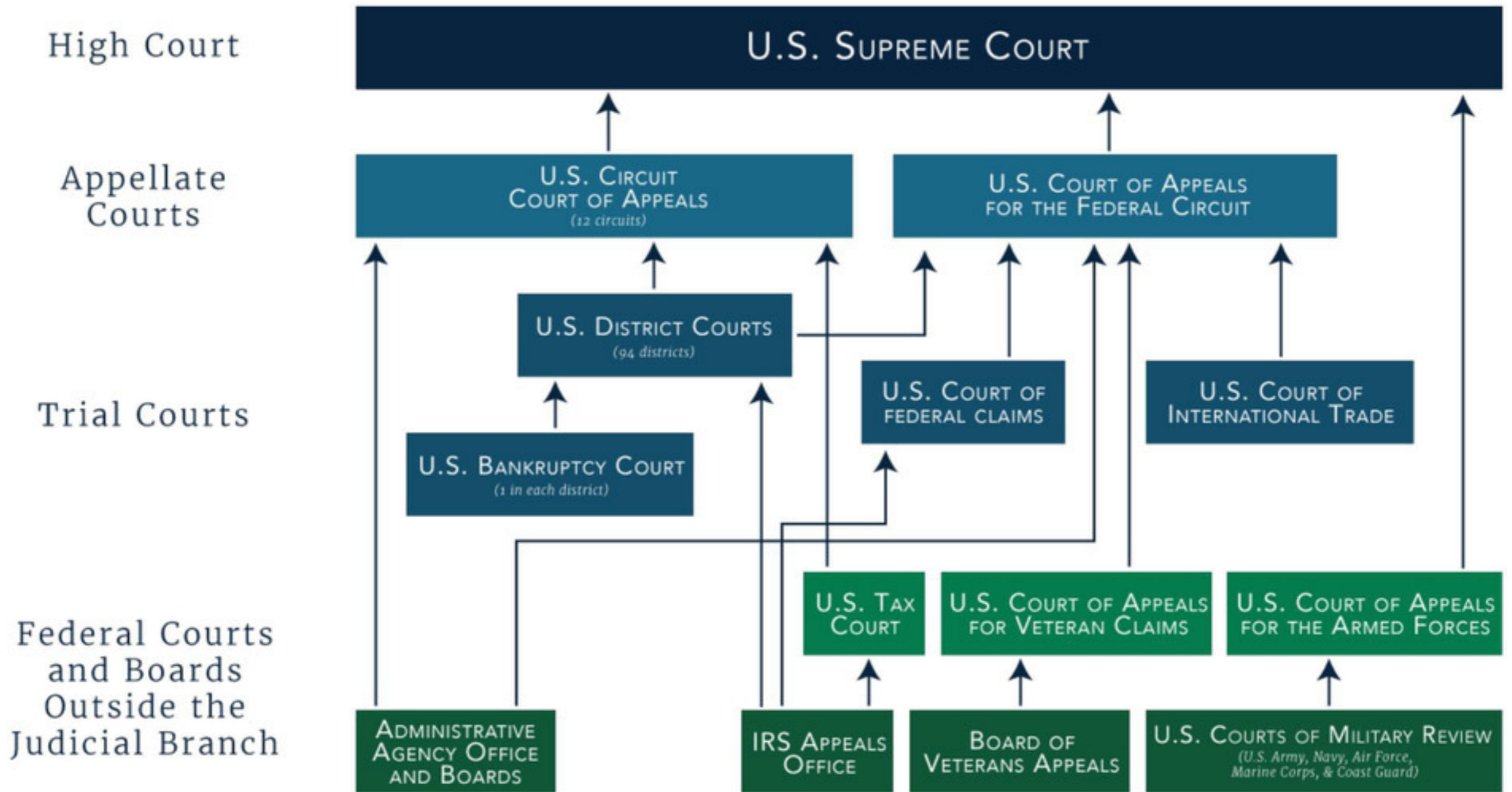


Figure: Source: Link

Federal Court Structure

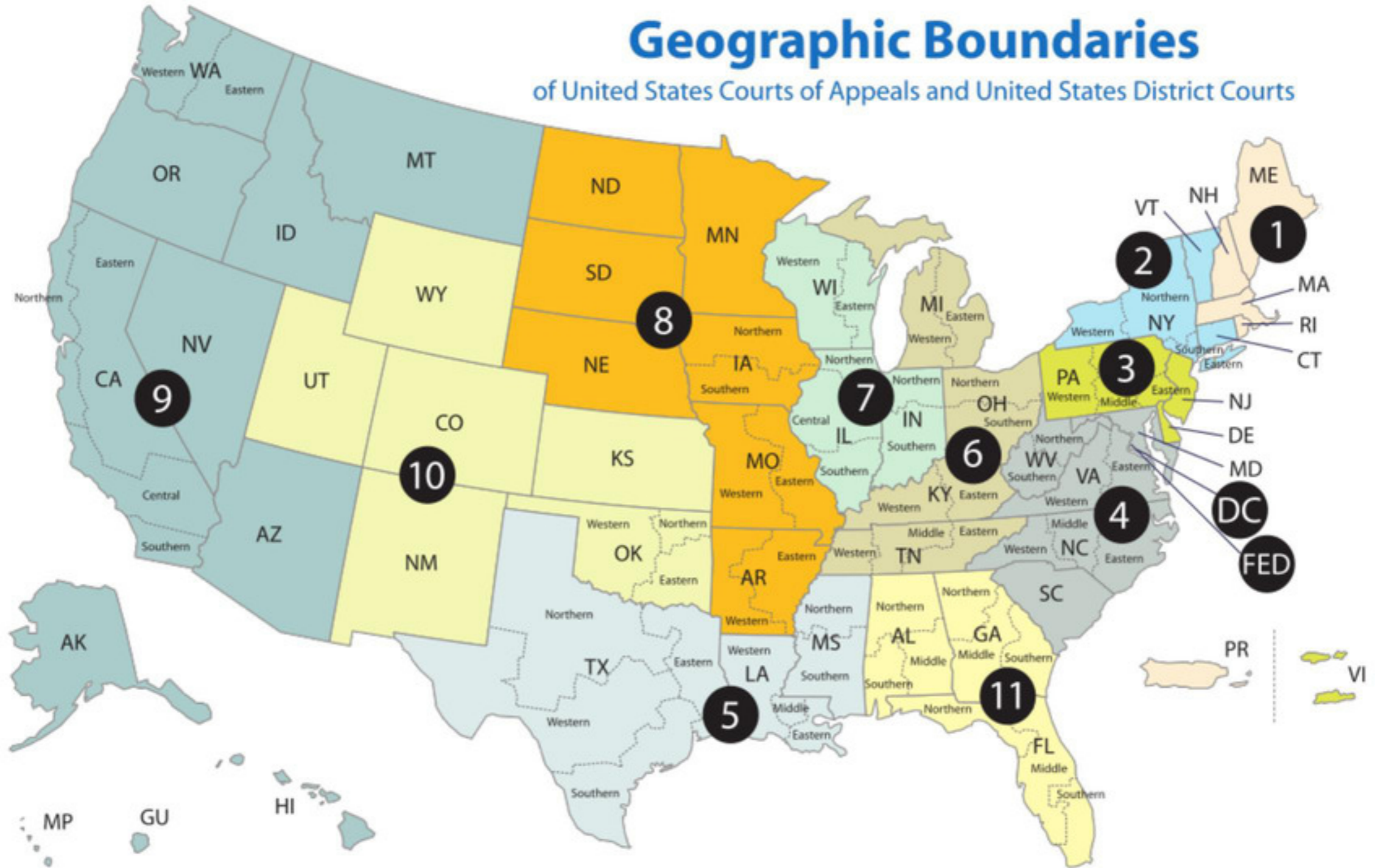


Figure: Source: CC BY-SA 2.5

Jurisdiction

Original

Gather facts (evidence, testimony), make a judgment between parties

Appellate

Review lower court decision, can accept or reverse decision or remand back to lower courts, not gathering new facts, often about procedure

Role

Interpretation

- Interpret federal law and the Constitution
- No power to enforce or create law
- No agenda setting power (sort of)

“... the least dangerous [branch] ... with no influence over either the sword or purse ... [has] neither force nor will, but merely judgment.” – Hamilton

Common Law System

- Law built through decisions
- Allows for interpretation (code system)
- Adversarial system
- A last resort for remedy

Umpire Analogy

“Judges are like umpires. Umpires don’t make the rules, they apply them. ... And I will remember that it’s my job to call balls and strikes and not to pitch or bat.” – John Roberts



Figure: Source: [Link](#)

Open Ended Question

Are judges simply umpires?

Natural Feebleness

Marbury v. Madison, 1803

- Judicial review power implied by Constitution
- Made a co-equal branch
- Writ of mandamus in Judiciary Act unconstitutional

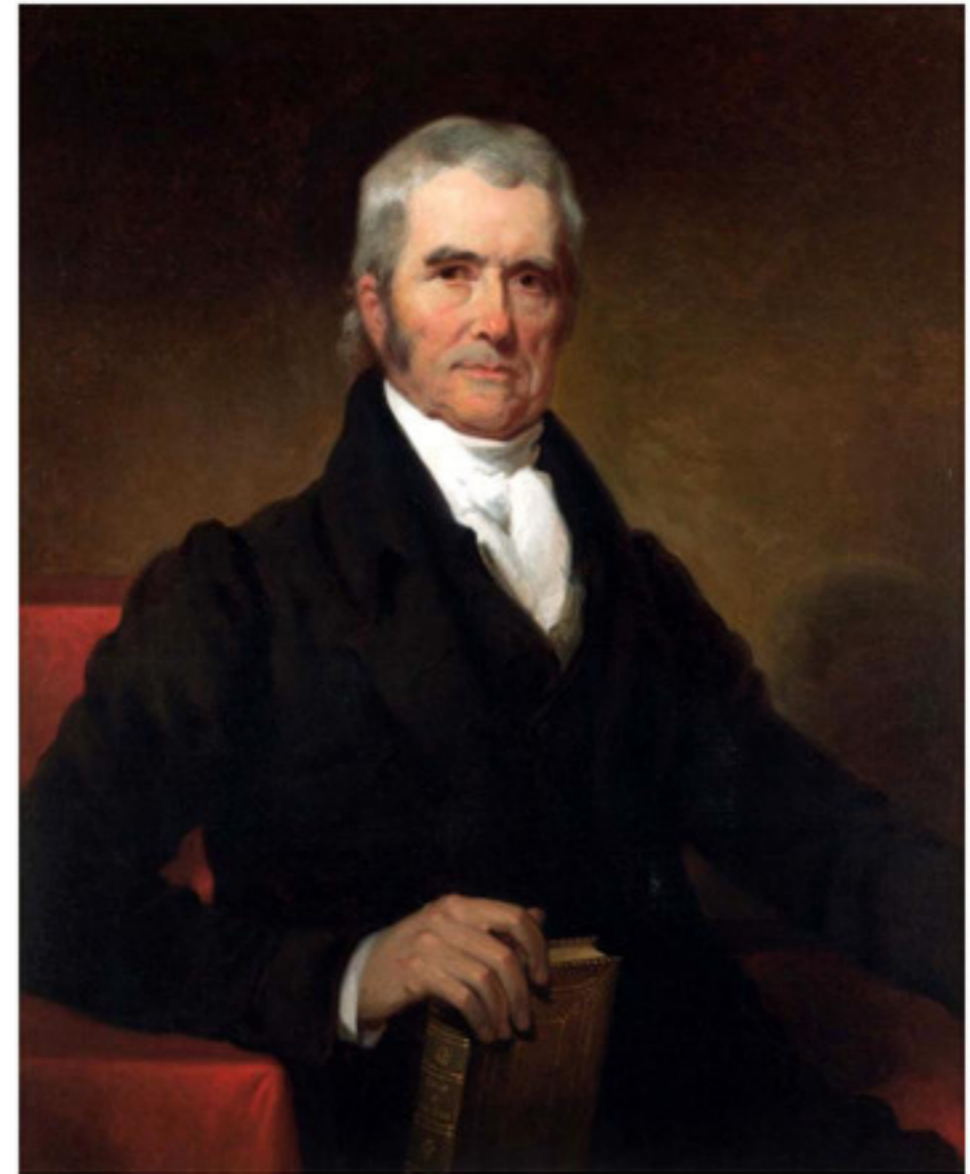


Figure: John Marshall, Public Domain

Decision Making

- Different than legislature or executive
- Can only consider facts presented
- Passive approach to “policymaking”
- Specific decision about specific facts in specific cases
- Evidence that ideology matters, especially in contentious issues
- Also evidence that party, gender, race, and religion matter (a surprise?)

Types of Law

Criminal Law

Conflict between a person and the state — break law through action (e.g., DUI) or non-action (e.g., unpaid taxes)

Civil Law

Non-criminal disputes between two entities — one seeking redress for some injury by the other

Most cases handled in state courts; where case goes depends on nature of crime/conflict

Dual Court System

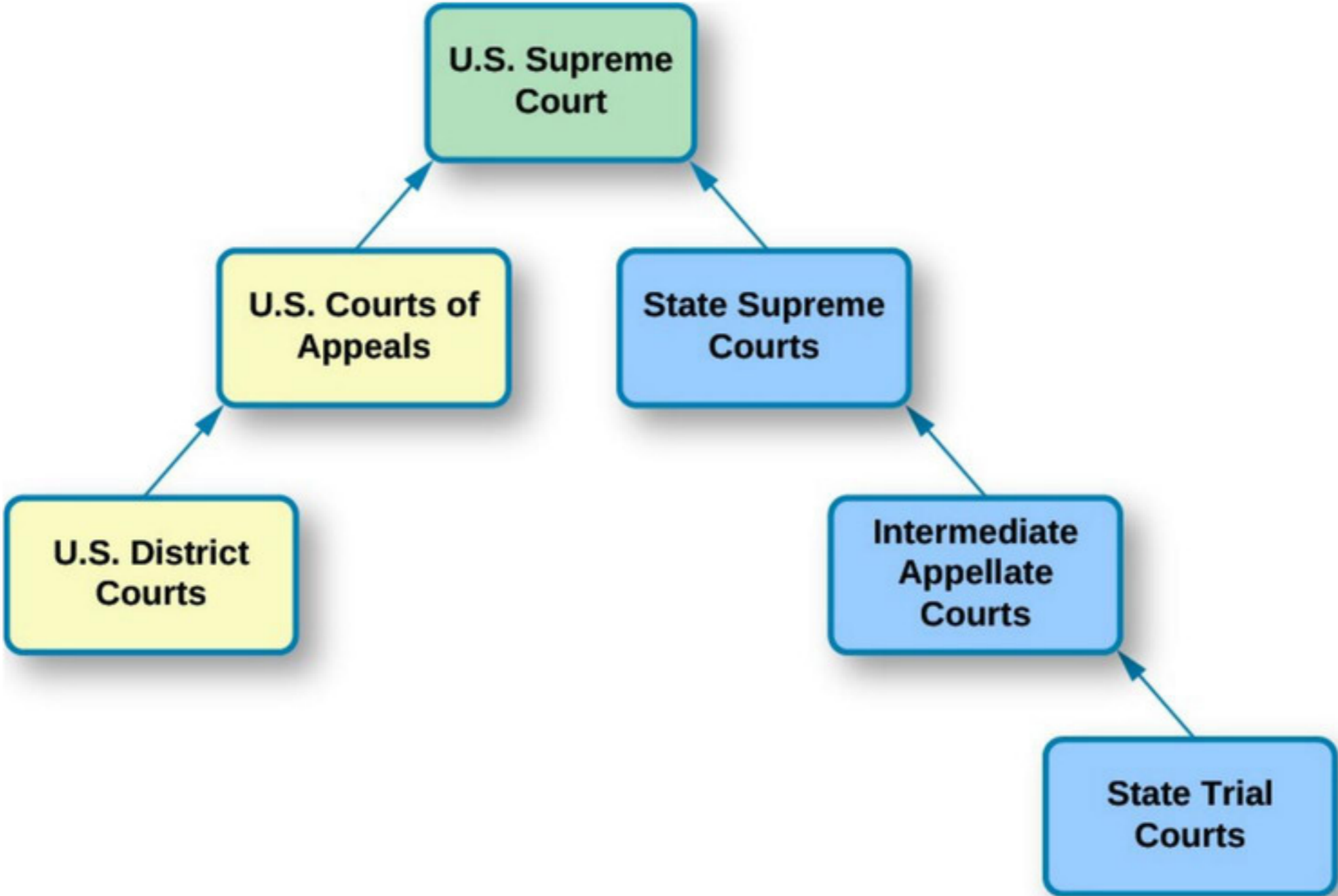
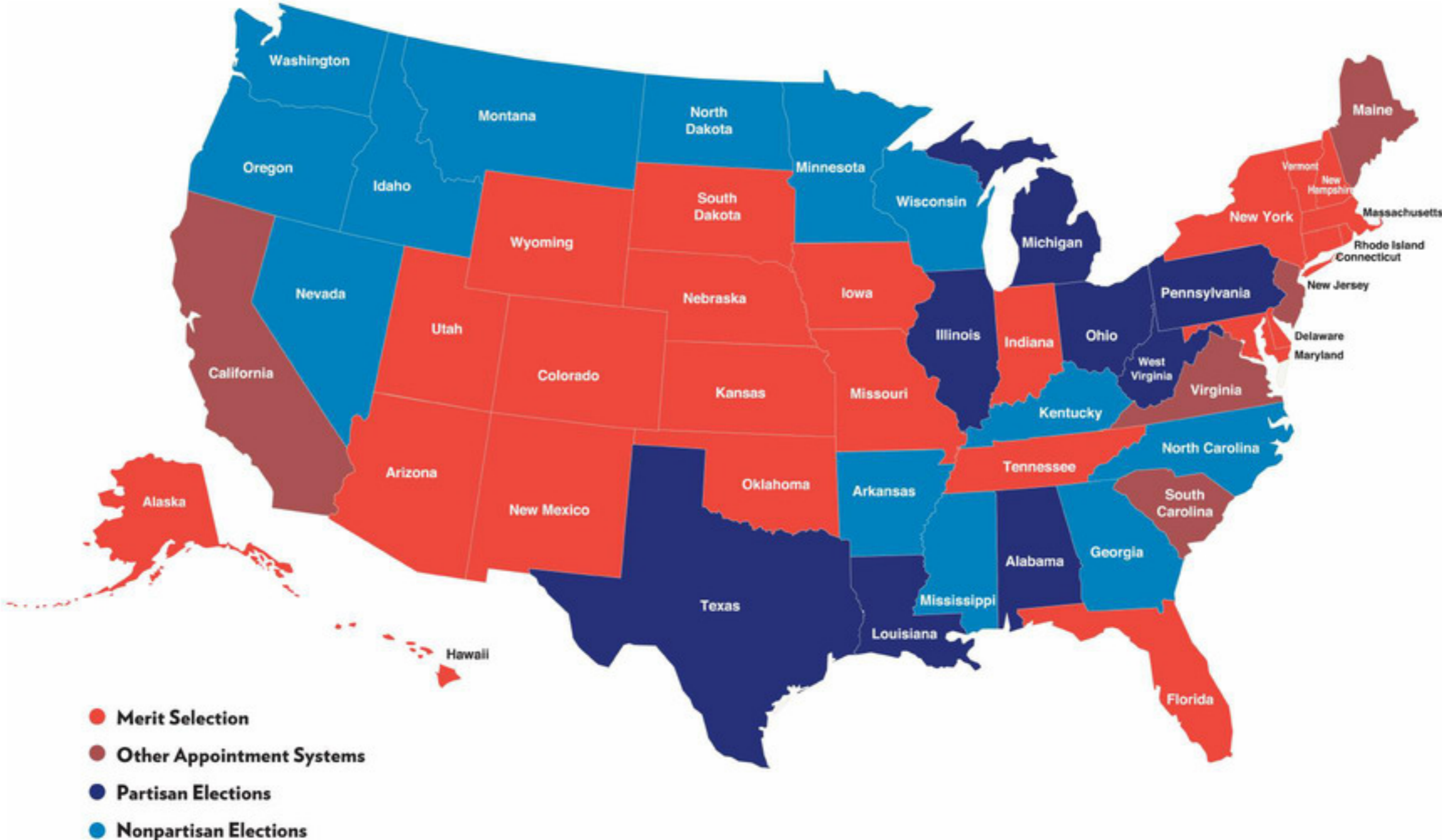


Figure: Source: Krutz Figure 13.4



<https://www.youtube.com/embed/poL7I-Uk3I8>

COLR Selection



Open Ended Question

How might selection method affect how judges do their job? Which is better, appointment or election?

What difference does selection make?

What reformers say

- Appointment reduces independence
- Elections have low turnout, poorly informed voters, party and money influence

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What political scientists find

- Elections decrease racial and ethnic diversity of bench, merit increases it
- Marginal effects on decision making
 - Better “representation”
 - Election effects
 - More cautious
 - Partisan elections encourage partisan voting
 - Increased responsiveness to constituents in non-partisan voting