



# Anniversary of Marbury v. Madison: why SCOTUS can kill executive orders and more

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◀ 4

◀ 1

The United States Constitution is all about checks and balances among our three branches of government. The framers went to great lengths to ensure no one branch could gain power over the others. But it didn't manage to get everything just right. Some of our most important checks on governmental power come from case law. Case in point: the 1803 judgment in [Marbury v. Madison](#), in which the U.S. Supreme Court checked itself...and, in so doing, ironically gained a lot of power.

## Marbury's case

William [Marbury](#) was commissioned a justice of the peace for the District of Columbia by President John Adams in the final hours of his administration, one of several last-minute judgeships that came to be known as "midnight appointments." After Adams' successor, Thomas Jefferson, took office, the new president's secretary of state, James Madison, refused to deliver Adams' midnight appointments. [Marbury](#) and three others petitioned for delivery of the commissions. Since [Marbury](#) was appointed in the District of Columbia, which is not part of any state, his case was federal and went directly to the Supreme Court.

What [Marbury](#) sought was a [writ of mandamus](#) – a court order that directs a government official to properly fulfill their duties or correct an abuse. Writs of mandamus were provided for by Section 13 of the [Judiciary Act of 1789](#). When [Marbury](#)'s case reached the Supreme Court, the justices acknowledged the validity of his claim. However, in a unanimous decision, delivered by Chief Justice John Marshall, the Court held that Section 13 of the Judiciary Act was inconsistent with the Constitution and therefore invalid. The Court determined it did not have the power to issue a writ in this case, even though [Marbury](#) should have been commissioned.

## What it means

The immediate effect of the ruling was that the judiciary checked its own power by circumscribing its authority to issue writs of mandamus. But the most significant aspect of the ruling was the statement that "it is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each."

Twenty-six years after the founding of the republic, this judgment on the appointment of a justice of the peace established what most people today think of as the primary purpose of the Supreme Court: judicial review – that is, the power to determine whether executive and legislative actions are [constitutionally](#) valid. This is why the Supreme Court can uphold or overturn executive orders, like President Donald Trump's [travel ban](#), and why the Court can rule that state laws are unconstitutional, as it did in the realm of [sex-same marriage](#). Judicial review is the paramount function of the Supreme Court, and it exists because of the precedent set in [Marbury v. Madison](#).

Tagged [Donald Trump](#), [James Madison](#), [judicial review](#), [Judiciary Act of 1789](#), [Marbury v. Madison](#), [SCOTUS](#), [Supreme Court](#), [Travel Ban](#), [William Marbury](#), [writ of mandamus](#)

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