

**Lesson:** Implications and Impact of Court Decisions

**Objective:** Students will know and understand the place of law in Colorado and in the United States (*Colorado Model Content Standards: Civics, Standard 2.3, grades 9-12*)

**Activities:** Teacher lecture (background material and lecture outline provided) and class participation activity.

**Outcomes:** Students understand how court decisions affect the law and how those effects can impact them.

**Grade Level:** Grades 9-12

**Anticipated classroom time:** 45-60 minutes

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**Message from Colorado Court of Appeals Judge Russell E. Carparelli:**

The primary task of our courts is to render justice to each party in each case. Yet court decisions not only impact the parties in that case, they can also impact other courts, other branches of government and the social and economic fabric of our lives. In this way, the justice that is done in individual cases permeates and helps to bring order to our society as a whole.

It is obvious that court decisions impact the parties who are before the court. In criminal matters, court decisions can determine whether the accused is guilty or not and whether the accused will suffer financially, go free or go to prison and even whether the accused will suffer the death penalty. In civil matters, court decisions determine the parties' rights and their obligations to one another. Court decisions can dictate the parties' future actions and can impact their possessions, finances and livelihood. These are the most direct and obvious impacts of court decisions.

Trial courts and appellate courts apply laws that are established by constitutions, statutes, ordinances and regulations. When a court applies the Constitution of the United States or the constitution of a state or commonwealth, it describes the constitutional standard to which other branches of government must conform. For example, when a court declares that the conduct of law enforcement has violated the constitution, the court can restrict the actions of the executive branch of government. When a court declares a statute or ordinance to be unconstitutional, there is an even more profound impact. The practical effect of such a ruling is to state that a law that was enacted by the people's legislative representatives cannot be enforced. Thus, when the courts determine that a statute breaches a constitutional provision, they have the power to override the will of the people.

The decisions of trial courts normally impact the litigants far more than those who are not before those courts. Appellate courts, however, review the trial courts' applications of the law and, thus, can have more far-reaching impact. Appellate courts interpret and apply constitutions, statutory and regulatory laws, legal doctrines and principles of law. Their decisions establish precedents that can require lower courts in the same jurisdiction and often, can require the same court in future cases, to interpret and apply the laws in the same manner in other cases. Moreover, courts in other jurisdictions that are not required to follow the decisions of a particular

appellate court often consider the decisions as informative or persuasive and choose to apply the same reasoning. In these ways, appellate court decisions can have broad impact in future cases.

The decisions of appellate courts also serve to inform others not involved in the case about how laws and policies are likely to be applied in the future. Individuals and corporations can look to court decisions to understand the law, to make decisions and to take actions based on the precedents established those decisions.

You will learn more in this lesson about court decisions that have had profound and historic implications and impacts.

### **Teacher background information:**

*The following article can be found at:*

<http://bensguide.gpo.gov/9-12/government/national/scourt.html>

### **The U.S. Supreme Court**

The Constitution established the Supreme Court as the highest court in the United States. The authority of the Court originates from Article III of the U.S. Constitution and its jurisdiction is set out by statute in Title 28 of the U.S. Code.

One of the Supreme Court's most important responsibilities is to decide cases that raise questions of constitutional interpretation. The Court decides if a law or government action violates the Constitution. This is known as judicial review and enables the Court to invalidate both federal and state laws when they conflict with the Constitution. Since the Supreme Court stands as the ultimate authority in constitutional interpretation, its decisions can be changed only by another Supreme Court decision or by a constitutional amendment.

Judicial review puts the Supreme Court in a pivotal role in the American political system, making it the referee in disputes among various branches of the Federal, as well as state governments, and as the ultimate authority for many of the most important issues in the country. For example, in 1954, the Court banned racial segregation in public schools in *Brown v. Board of Education*. The ruling started a long process of desegregating schools and other institutions.

The Supreme Court exercises complete authority over the federal courts, but it has only limited power over state courts. The Court has the final word on cases heard by federal courts, and it writes procedures that these courts must follow. All federal courts must abide by the Supreme Court's interpretation of federal laws and the Constitution of the United States. The Supreme Court's interpretations of federal law and the Constitution also apply to the state courts, but the Court cannot interpret state law or issues arising under state constitutions, and it does not supervise state court operations.

### **Colorado Appellate Courts**

*Provisions of the Colorado Constitution, Article VI, that outline the judicial review powers of the Colorado Supreme Court:*

**Section 1. Vestment of judicial power.** The judicial power of the state shall be vested in a supreme court, district courts, a probate court in the city and county of Denver, a juvenile court in the city and county of Denver, county courts, and such other courts or judicial officers with jurisdiction inferior to the supreme court, as the general assembly may, from time to time establish; provided, however, that nothing herein contained shall be construed to restrict or

diminish the powers of home rules cities and towns granted under article XX, section 6 of this constitution to create municipal and police courts.

**Section 2. Appellate jurisdiction.** (1) The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be coextensive with the state, and shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law.

(2) Appellate review by the supreme court of every final judgment of the district courts, the probate court of the city and county of Denver, and the juvenile court of the city and county of Denver shall be allowed, and the supreme court shall have such other appellate review as may be provided by law. There shall be no appellate review by the district court of any final judgment of the probate court of the city and county of Denver or of the juvenile court of the city and county of Denver.

**Section 3. Original jurisdiction - opinions.** The supreme court shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction, and such other original and remedial writs as may be provided by rule of court with authority to hear and determine the same; and each judge of the supreme court shall have like power and authority as to writs of habeas corpus. The supreme court shall give its opinion upon important questions upon solemn occasions when required by the governor, the senate, or the house of representatives; and all such opinions shall be published in connection with the reported decision of said court.

### **Colorado Constitutional Provisions**

#### *Information provided by the Colorado Supreme Court*

The Colorado Constitution (Article VI, § 1) recognizes two kinds of courts: (1) those that are enumerated in the Constitution itself (the Supreme Court, district courts, and others); and (2) additional courts that are established by the General Assembly (the Court of Appeals).

Both the Court of Appeals and the Supreme Court are courts of appellate jurisdiction. This means that, with limited exceptions, these courts will hear only cases where the trial court has rendered a final judgment on the outcome of the case. The Court of Appeals has jurisdiction to hear most cases where there is a final ruling by the trial court. The Supreme Court, on the other hand, generally hears only cases where the parties have had a trial and have appealed to the Court of Appeals, and where there is a question of law presented in the case that has not already been decided by the Supreme Court or that has been interpreted in conflicting ways by different divisions of the Court of Appeals. For cases involving certain topics, such as the death penalty or water rights, the Supreme Court must hear appeals.

In addition, the Supreme Court may also exercise original jurisdiction to grant relief when it decides that justice requires it to hear the case before a trial or appeal to the Court of Appeals is completed. An example of original jurisdiction can be found in search and seizure cases: the Supreme Court must hear appeals when evidence from a police search is suppressed at the trial court.

#### **Classroom activities:**

- 1) Begin with the questions in the class outline below.
- 2) Go through the information in the short lecture
- 3) Ask the class the following discussion questions:
  - What would life be like if one of these cases had been decided differently?
  - What might society be like if the principle of judicial review had never been established?

- How do you feel about courts holding this kind of power?

**Class outline:**

Opening questions:

- Where do your rights to freedom of speech and expression come from? What decides the line between what speech is acceptable and what isn't?
  - Can you publish an untrue parody about a public figure? What about a private citizen? (*Hustler v. Falwell* – yes in first case, in second case no)
  - Can you quietly express your political views in school, such as by wearing an armband? (*Tinker v. Des Moines School District* - yes)
  - Can the KKK march around a burning cross and say bad things about African-Americans and Jewish people? (*Brandenburg v. Ohio* - yes)
  - Can a city display religious items, such as a nativity scene at Christmas, on public property? (*Lynch v. Donnelly* – yes, as long as more than one religion is represented)

## Lecture

- The answer to the question of who made the decisions listed above is the court system. Each of the situational questions comes from a pivotal case in the United States Supreme Court.
- Even though laws are made by legislatures, it is the court system that ultimately reviews specific cases and decides whether the actions involved, and even whether laws in question, are Constitutional or not. This practice of a court being able to veto a law as unconstitutional is called “judicial review.”
- Judicial review was established in 1803 by the United States Supreme Court in a case called *Marbury v. Madison*. In this case the court found that a federal law was null and void because it violated the U.S. Constitution. Even though this precedent was set by the federal court system, the same principle works in the state courts with regard to state laws.
- Just a few of the major contributions the Federal court system has made to the protection of civil liberties are:
  - The Bill of Rights protects citizens from state laws, as well as federal laws (*Gitlow v. New York was the first to begin this process and dealt with freedom of speech; many other cases followed, applying other elements of the Bill of Rights to the state level bit by bit*).
  - The president of the United States can invoke executive privilege only in cases involving national security or other top secret information, not in criminal proceedings (*U.S. v. Nixon*).
  - Schools may not segregate children based upon race (*Brown v. Board of Education*).
  - Police need to have a warrant to collect evidence through a wiretap. (*Katz v. US*)
  - Every defendant has a right to a lawyer in any criminal case. (*Gideon v. Wainwright*).
  - Police must read you your rights when arresting you and before interrogating you (*Miranda v. Arizona*).
- Colorado Constitution Article VI provides for judicial review of state cases by the Colorado Supreme Court.
- Colorado Court of Appeals is the first appellate court in most cases
- Court of Appeals was established by the General Assembly under authority from Colorado Constitution.
- Some Colorado appellate cases protecting civil liberties:
  - Police investigators cannot search bookstore receipts for information to use against a criminal defendant (*Tattered Cover, Inc. v. City of Thornton*).
  - Abortion protestors must stay at least 8 feet away from persons entering medical clinic (*Hill v. Thomas*).
  - Where suspect was described as “Hispanic” male, the fact that defendant’s photo was the only picture of a Hispanic male in a photo lineup was impermissibly suggestive (*Bernal v. People*).