**Marbury v Madison (1803)**

-November 1800 President John Adams and many Federalists lose the election to Thomas Jefferson and the Republicans

-Thomas Jefferson and the Republicans do not take office until March 1801

-John Adams and the federalists’ passed the **Judiciary Act of 1800** creating dozens of new jobs in the federal government, including judgeships. (Known as the Midnight Appointments)

-Marbury never received the commission President Adams granted to him, so he sued the new Secretary of State James Madison.

The Supreme Court had to ask **three questions**:

1) Is Marbury entitled to sue for his commission (job)?

 Why? **7th Amendment**

2) Is Marbury entitled to his commission?

 Why? **Art 2, Sec 2, Par 2**

3) Does the Supreme Court have the authority to issue a Writ to the executive branch to deliver the commission?

 Why? **Art III, Sec 2, Par 2**

 Art III, Sec 2 Par 2 clearly spells out the authority of the Supreme Court

 The **Judiciary Act of 1789** that grants the Supreme Court **original jurisdiction** violates this article and therefore is unconstitutional (null and void).

 The constitution is very specific describing what cases the court would have original jurisdiction authority.

 Most of the Supreme Court’s authority is **appellate jurisdiction** and only a constitutional amendment could change that authority.

 By nullifying the Judiciary Act of 1789 (and diminishing power that Congress granted it), the Supreme Court expanded its power and established a precedent of **judicial review**.