

# How U.S. Supreme Court justices interpret the Constitution

By The Handy Law Answer Book, adapted by Newsela staff on 01.31.20

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The nine U.S. Supreme Court justices on November 30, 2018. Seated (from left): Stephen G. Breyer, Clarence Thomas, Chief Justice John G. Roberts Jr., Ruth Bader Ginsburg and Samuel A. Alito. Standing (from left): Neil M. Gorsuch, Sonia Sotomayor, Elena Kagan and Brett M. Kavanaugh. Photo by: Fred Schilling/Wikimedia Commons

Supreme Court justices must always think about and interpret the Constitution. When they consider a case, they have to determine if it matches the governing law of the land.

Supreme Court cases are complex. It's rare that interpreting the Constitution is straightforward and easy. So, the nation's highest court uses special approaches, called doctrines. The justices rely on these methods to consider if a case goes against the Constitution or not.

## Original Intent

The first is the doctrine of original intent. It involves thinking about the original intent of the Founding Fathers. Justices who follow this doctrine often review historical documents. They do this to try to "get inside the founders' heads." One example of these documents would be The Federalist Papers, written by Alexander Hamilton, James Madison and John Jay. Madison's notes

at the Constitutional Convention might be considered too. Speeches made during the Constitution's ratifying campaign might be a third source.

### **A Living Document**

Some criticize the original intent method of thinking. They claim that the issues before the court today are more complex than 200 years ago. These critics say current issues were probably never considered by the Constitution's authors. Instead, they view the Constitution as a living document. It can be adapted for changing times, these critics say. A law's constitutionality, they believe, should be judged by considering the entire history of the United States. In short, they say that whether or not a given law is constitutional should reflect society's current conditions and values. Many say this living document doctrine is highly subjective. It comes down to an individual justice's opinion of history, which is a problem.

### **Plain Meaning Of Text**

From these two viewpoints came a third method. It's often called the plain meaning of text doctrine. It says a law's constitutionality is measured against what the words of the Constitution obviously seem to say. Supporters of this method say that it does not require debates about the goals of a small group of men hundreds of years ago. That would set it apart from the original intent doctrine. And unlike the living Constitution theory, it does not invite a personal view of the country's history. However, reviewing the Constitution in terms of what it seems to say is still debated. The Constitution's writers purposely included unclear language. They believed this would help it get confirmed more quickly.

### **Judicial Restraint Vs. Judicial Activism**

Justices consider these different doctrines when voting on a particular case. They also must consider past court decisions, which are called precedents. Should they overturn what previous judges have decided? Sometimes a judge is noted for using judicial restraint. When people exercise restraint, it means they're careful and hold back when deciding whether or not to overturn. Judicial activism, on the other hand, says that sometimes precedents need to be overturned in light of society's conditions today.

## Quiz

1 Read the section "A Living Document."

Which sentence from the section shows how the living document doctrine can be used to decide on a law's constitutionality?

- (A) They claim that the issues before the court today are more complex than 200 years ago.
- (B) These critics say current issues were probably never considered by the Constitution's authors.
- (C) In short, they say that whether or not a given law is constitutional should reflect society's current conditions and values.
- (D) It comes down to an individual justice's opinion of history, which is a problem.

2 Read the section "Judicial Restraint Vs. Judicial Activism."

Select the sentence from the section that shows why a judge might use judicial activism over judicial restraint.

- (A) Justices consider these different doctrines when voting on a particular case.
- (B) They also must consider past court decisions, which are called precedents.
- (C) When someone exercises restraint, it means they're careful and hold back when deciding whether or not to overturn.
- (D) Judicial activism, on the other hand, says that sometimes precedents need to be overturned in light of society's conditions today.

3 Which sentence from the article supports the MAIN idea of the article?

- (A) It's rare that interpreting the Constitution is straightforward and easy.
- (B) Justices who follow this doctrine often review historical documents.
- (C) From these two viewpoints came a third method.
- (D) They believed this would help it get confirmed more quickly.

4 Read the following statements.

1. *Supreme Court justices review Federalist Papers when considering whether a law is constitutional.*
2. *Supreme Court justices have three main methods to determine whether a law is constitutional.*
3. *Supreme Court cases usually are not easy for justices to decide.*
4. *The Supreme Court has to take into consideration how to treat past decisions.*

Which two statements are main ideas from the article?

- (A) 1 and 2
- (B) 1 and 3
- (C) 2 and 4
- (D) 3 and 4