



# Judicial Philosophy



MAYBE A SUBTITLE HERE

YOUR HEADLINE HERE



February 18/19, 2020



**Materials needed:** SCOTUS path handout, Judicial Philosophy handout, highlighters, critical thinking, collaboration

**Homework:** Greenwood reading and iCivics Argument Wars (linked in Google Classroom)



### Learning Intentions

I can compare the philosophies of judicial activism and judicial restraint

### Why am I learning it?

So that I can understand the importance of a justice's ideological impact on the court and challenges to its legitimacy

### How do know that I've learned it?

I will be able to identify the judicial philosophy applied to a given case examination.





Before we  
examine judicial  
philosophy, let's  
discuss the path  
of a SCOTUS case



**Watch this  
dog video**

**...Seriously  
- watch the  
video!**



**Watch this  
dog video**

**...Seriously  
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video!**



**Active**



**Restraint**



# Baker v Carr



**BAKER VS CARR**  
**ONE MAN.**  
**ONE VOTE.**



## Judicial Philosophy



**Task:** Read the case opinion below. Highlight, in yellow, the parts of the opinion that indicate whether Justice Gorsuch is applying Judicial Activism or Judicial Restraint. Explain your reasoning in the box below with at least 1 piece of evidence summarized from the excerpt below.

### SUPREME COURT OF THE UNITED STATES

No. 18-431

UNITED STATES, PETITIONER v. MAURICE LAMONT DAVIS AND ANDRE LEVON GLOVER  
ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

[June 24, 2019]

JUSTICE GORSUCH delivered the opinion of the Court.

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In our constitutional order, a vague law is no law at all. Only the people's elected representatives in Congress have the power to write new federal criminal laws. And when Congress exercises that power, it has to write statutes that give ordinary people fair warning about what the law demands of them. Vague laws transgress both of those constitutional requirements. They hand off the legislature's responsibility for defining criminal behavior to unelected prosecutors and judges, and they leave people with no sure way to know what consequences will attach to their conduct. When Congress passes a vague law, the role of courts under our Constitution is not to fashion a new, clearer law to take its place, but to treat the law as a nullity and invite Congress to try again....





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Even the government admits that this language, read in the way nearly everyone (including the government) has long understood it, provides no reliable way to determine which offenses qualify as crimes of violence and thus is unconstitutionally vague. So today the government attempts a new and alternative reading designed to save the residual clause. But this reading, it turns out, cannot be squared with the statute's text, context, and history. Were we to adopt it, we would be effectively stepping outside our role as judges and writing a new law rather than applying the one Congress adopted.





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# Time to investigate and apply your SCOTUS skills!



In your groups, read your selected case together. As you read, highlight the following items in the indicated color.

- title

- yr case decided

- facts of the case

- constitutional question

- decision/holding

- judicial philosophy

Discuss the case- Is it an example of judicial activism or restraint?  
Answer the questions at the bottom TOGETHER!



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