



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
- watch the
video!**



Active



Restraint



Baker v Carr



A graphic with a white background and black borders. At the top, it says "BAKER VS CARR" in large, bold, black letters, with "VS" in red. Below this, it says "ONE MAN. ONE VOTE." in large, bold, black letters, with "MAN." and "ONE" in red. To the left of the text is a cartoon illustration of a smiling man wearing a hat and a patterned jacket, holding a ballot box labeled "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.

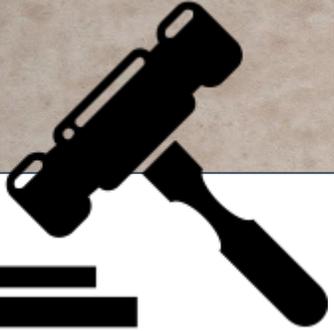
In our constitutional order, a vague law is no law at all. Only the people's elected representatives in Congress have the power to write new federal criminal laws. And when Congress exercises





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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