

Marbury v madison

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Marbury v Madison of Affiliation The Marbury vs. Madison landmark case sets up the basis of judicial review in the United States. The Supreme Court presented itself as the custodian and watchdog for the constitution which is the supreme law. Any law that therefore conflicts the constitution would be void. In this case, Marbury had received an appointment in the last days of the reign of President John Adam which when Thomas Jefferson assumed the presidency, Madison being Secretary of State never appointment Marbury. Marbury sort the court for a writ of Mandamus to compel Madison to appoint him. In deciding the case the court stated that Marbury had the right to have the appointment however the court had no power to force him to do so. This decision elevated the power of the Judiciary to being the final arbiter in constitutional matters and thus an empowerment to the judicial fraternity. A contrary decision would mean that the congress was the ultimate decision maker and thus would have weakened the judicial power and given the congress higher position on legal matters.

Justice John Marshall had to side with Marbury considering that he had been the previous secretary of state who was part of issuing the appointments to Marbury and hence his working ought to have been respected by his successor Madison. Further, Marshall had to protect the position of the Judiciary as the chief justice and set a precedent of the Courts as the final arbiter and constitutional watchdog.

The court was not convicted that if they compelled the congress to issue the commission it would have complied with the same. To protect itself from any form of embarrassment and a point that it would have created a notion in the public that it was not as powerful as they knew it was prudent that the court stated that the although Marbury was entitled to the appointment but <https://assignbuster.com/marbury-v-madison/>

it could not force the congress to grant the appointment. The court has power to force compliance however this is made use of carefully. Where such order may embarrass the power of the court, the courts have always given reasons why they opt not to pursue the same. Where a writ of Mandamus is advanced by the court and the person being compelled ignores the same, it embarrass the power of the court and makes it look powerless. This explains the careful decision of the Supreme Court in Marbury vs. Madison. (Van Alstyne, W. W., & Marshall, J., 1969 p. 34)

Reference

Van Alstyne, W. W., & Marshall, J. (1969). A Critical Guide to Marbury v. Madison. Duke Law Journal