**Marbury v Madison Fact Sheet**

**Facts**

In the final days of John Adams’ presidency he appointed a multitude of justices of the peace under the “Organic Act” deliberately because the oncoming President Thomas Jefferson would not.  The commissions were signed and sealed but were not delivered.  President Jefferson later refused to honor the commissions because they had gone undelivered until Jefferson had held office and therefore felt they were invalid.  Marbury, one of the appointees, later applied to the supreme court for a writ of mamandus, claiming that the Supreme Court could issue such write  “…to any courts appointed, or persons holding office, under the authority of the United States.”

**Issue**

Is Marbury’s appointment valid?

Whether the Supreme Court can award the writ of mandamus.

Whether the Supreme Court has judicial review power.

Is offering the writ of mandamus the appropriate remedy for the court?

**Holding:**

Yes.  It is valid because the appointment was done in full while Adams was still President.  He completed the entire task of the appointment process and did all he could do in such completion.  The appointment is valid when the President undertakes his final act required for the appointment, not upon delivery of the appointment which is beyond the President’s control.  Marbury is entitled to appointment as a remedy because it was a right given to him by President Adams.  In this sense, Marbury was given “a specific right.”  The very essence of government is to provide remedies to rights that are abridged.

Yes, the appointment was a legal right offered to Marbury; and for every legal right violated, the law must afford a remedy.  As such, his remedy is the rightful entitlement to the appointment.  The delivery of the appointment was simply “ministerial” and therefore was owed to him.  The appointment had already occurred prior to the necessity of delivery; and once the appointment was granted, Marbury had a vested legal right.

Yes, but not in the instant case. The Judiciary Act of 1789 clearly gives the Supreme Court judicial review over writs of mandamus.  However, Article III of the Constitution does not give the Supreme Court authority to review the writs.  Therefore, the two laws are in conflict.  As such, the Supreme Court – being charged with upholding the Constitution – must adopt Article III’s application.  Justice Marshall argued that there would be no point for the Supreme Court to exist were it not to uphold the Constitution and strike down laws adopted by Congress that necessarily conflict with the Constitution itself.  In so doing, Marshall established the principle of judicial review.

Yes, but in the instant case the Constitution conflict with the Judiciary Act of 1789 and therefore the remedy cannot be proffered.  In this case, a writ of mandamus is appropriate because it is an order for a public official to carry out his duty.  But for the reasons explained in (3), the order cannot be carried out.

Read the Marbury v Madison Decision

<https://www.law.cornell.edu/supremecourt/text/5/137>