Pols 15B: Pinnell

The U.S. Supreme Court: Procedures to Hear Cases

The actual process by which cases reach the SC is a long and arduous one; today, due to the large number of applications, the procedures of the SC have been used to winnow as much as 90% of applications out per year. Important hurdles to getting a case hear include:

a) Only issues considered *"cases and controversies"* are permitted: this means that laws *after implementation* and cases brought after laws are implemented are considered. A new law is not immediately considered by the Court.

b) The party that brings the case must also have *standing* (direct involvement) to do so. This standard has been expanded to allow interested groups in some cases to bring cases, but cases involving parties directly affected by the decision are preferred.

c) The case must also not be *moot* when it is brought (already resolved, or irrelevant). If the case is moot, it will be rejected from consideration.

Most cases approach the court in a *writ of certioriari*, which asks for a review of a prior lower court decision. These are usually accepted only if a lower court case conflicts with previous S.C. decisions, if a new federalist question has come up, or if there are conflicts between courts. Criminal appeals are usually made as *writs of habeas corpus*. Most accepted cases deal with major issues that show a *pattern of cases* that needs to be evaluated. A minimum of four justices must decide to hear a case for it to be accepted.

If a S.C. case is accepted, both sides prepare *briefs* outlining their positions that include supporting precedents as well as persuasive argument. Parties outside the case can also prepare briefs as *amicus curiae* parties; these briefs can provide additional information about the issues of the case, or the impact of potential rulings.

An *oral argument* is made before the justices to outline the positions of the sides, and to answer questions the justices put to the counsels. This is one of the few relatively public areas of S.C. procedure, and may give important information about how the justices view the issues of the case and its implications.

The S.C. then convenes a *conference* to discuss the materials submitted, and the impact of the case. There could be more than one meeting of this conference, as justices evaluate information, discuss and change their minds over time. A majority vote eventually determines the decision.

One member of the voting majority will write an *opinion*; other supporting members can write opinions as well, and one member of the minority will usually write a *dissenting opinion*, to outline the other side's position. These opinions are useful in terms of showing what the reasoning of the Court was on an issue, which precedents were followed, and whether or not "new law" has come out of the decision.