



Which Court Is Binding?¹

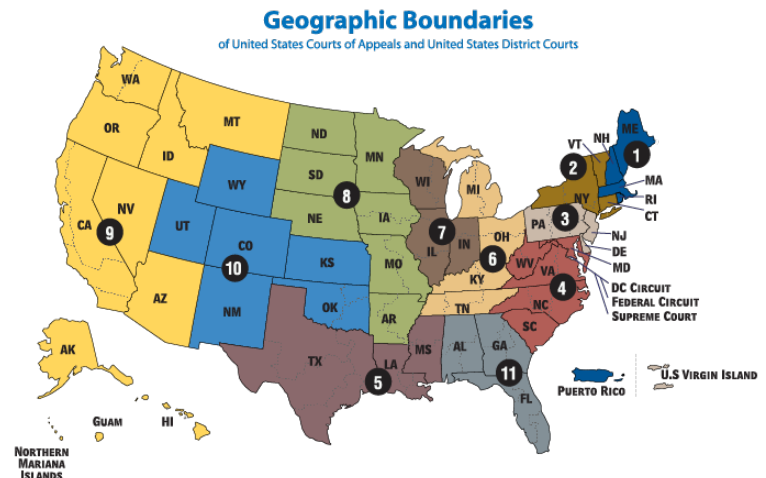
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The United States is a common law country. Unlike civil law countries, where each case is tackled anew without regard for how previous courts have addressed similar issues, common law countries give various degrees of weight to prior judicial decisions on the same question. By adhering to prior decisions, common law judges help build a body of jurisprudence that, hopefully, leads to consistent and predictable outcomes. This common law notion that certain cases bind a court is called *stare decisis*—Latin for “to stand by things decided.”

Under *stare decisis*, courts are obliged to follow some precedents, but not others. Because of the many layers of the judiciary in our system of dual sovereignty (we have both state and federal governments, each with their own courts), it can be difficult to figure out which decisions bind a given court. This handout will first describe the various relationships between courts, both federal and state, and how that affects whether law is binding or merely persuasive.² We start with the structure of the federal system, explain how to determine when cases are binding in the federal system, and then apply the same concepts to the state system.

The Structure of the Federal Judiciary

The Article III federal judiciary contains three layers of courts arranged in a hierarchy: district courts at the bottom, courts of appeals in the middle, and the United States Supreme Court at the top. Each layer divides the United States into distinct geographic regions: there are 94 district courts, which are in turn overseen by 12 courts of appeals. There is also the Federal Circuit Court of Appeals, which is a specialized court that hears appeals from trademark and patent cases but does not oversee any district courts.³ All courts of



¹ By Alan Y. Wayne. Originally by Robyn Painter and Kate Mayer. Previously revised in 2017 by Kate Mathews.

² For more on how to best use binding and persuasive authority to craft legal arguments, see: How to Use Binding vs. Persuasive Authority, https://www.law.georgetown.edu/academics/wp-content/uploads/sites/58/2025/08/Binding_vs_Persuasive_Authority_Within_the_Federal_Courts.pdf

³ See *Courts of Appeals*, UNITED STATES COURTS, <https://www.uscourts.gov/sites/default/files/understanding-federal-courts.pdf>.

appeals are overseen by the Supreme Court. See the diagram to the right.

How to Determine Whether a Case Is Binding

There are two types of binding cases: (1) cases that a court **absolutely must follow** because they come from a higher court; and (2) cases that a court **will follow unless there are exceedingly good reasons not to** because they come from the same court at an earlier date. We'll take each of these two types in turn.

(1) The Relationship Between the Layers of Courts

A court is only bound—its outcomes controlled—by the decisions of higher courts that cover its geographic location. Judicial opinions from courts that do not satisfy these criteria are merely persuasive, i.e. they have force only insofar as the reasoning is convincing. Therefore:

- District court decisions never bind any other court, as district courts are the lowest level.
- Courts of appeals do not bind each other, as they are of equal level.
- Courts of appeals bind only those district courts that are within their geographic boundaries.
- The Supreme Court is bound by no other court.
- The Supreme Court binds every district court and every court of appeals, as the Supreme Court is higher than all other courts for matters of federal law and covers the nation.

One wrinkle in all this: federal courts of appeals actually have two layers within them. Most decisions by a court of appeals are handed down by a three-judge panel. However, every so often, a question will be of great enough importance that the court will decide to review a panel decision *en banc*—that is, the case will be decided by all the judges⁴ on the circuit at the same time. *En banc* courts are considered higher courts than normal panels, and therefore *en banc* decisions are binding on three-judge panels of the same court of appeals. *En banc* decisions will be explicitly noted as such in the Bluebook citation of a case in a parenthetical, e.g., *Long v. Hooks*, 972 F.3d 442 (4th Cir. 2020) (*en banc*). So one more point must be added to the above list:

- *En banc* decisions by courts of appeals bind panels of the same court of appeals in addition to the district courts within their geographic boundaries.

Thus, a district court in North Carolina is bound by decisions from the Court of Appeals for the Fourth Circuit (“Fourth Circuit”), both panel and *en banc*, as well as the Supreme Court. A district court in Ohio is bound by the decisions of the Sixth Circuit, both panel and *en banc*, and the Supreme Court. Tenth Circuit panels are bound by *en banc* decisions of the Tenth Circuit and the Supreme Court. And the First Circuit sitting *en banc* is only bound by the Supreme Court.

2. The Relationship Within a Single Court Across Time

The above only discusses the relation of one court to another. More complicated is the relation of a court to its own past decisions. In general, a court grants substantially greater

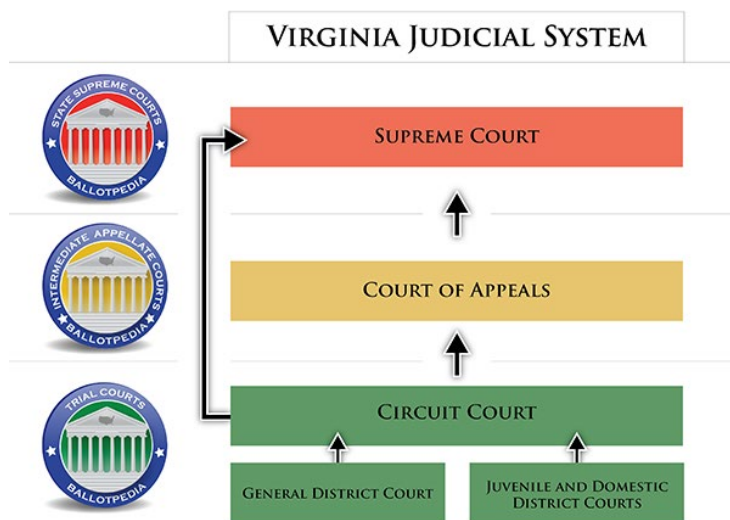
⁴ Two caveats: senior judges do not join the *en banc* court, and the Ninth Circuit only seats 15 judges *en banc*, not all of them, due to its large size.

deference to its own past decisions, requiring good reasons, above and beyond mere disagreement, to come out differently than it has in the past.⁵ Confusingly, most courts say their own past precedents are “binding.” But “binding” in this usage is not the same as the binding nature of decisions from a higher court: a court has the power to reverse itself but does not have the power to reverse a higher court.

For example, imagine the Third Circuit is deciding whether the Fourth Amendment permits the police to search mobile homes with probable cause alone, like a car, or whether a warrant is required for entry, like a house. Of course, if the Supreme Court had addressed the question one way or the other previously, the Third Circuit would be required to follow suit.⁶ However, if the Supreme Court had not ruled on the matter and the only precedent on the question was a case from the Third Circuit itself where it had decided that a warrant was required for entry to a mobile home, the Third Circuit would have to come to the same determination *unless* there was good reason to reverse course beyond mere disagreement with the past decision.⁷ And were the Third Circuit to overturn its past case, it would dedicate substantial explanation to why it was doing so.

Stare Decisis in State Judiciaries

State court systems are entirely separate judicial systems. They are not “below” the federal system; one cannot appeal from the Supreme Court of Virginia to a federal district court. And the decisions of federal district and circuit courts do not bind state courts, even those state courts within their geographic jurisdiction.⁸ The structure of a state court system, however, is often similar to the federal system; the structure of Virginia’s judiciary is provided to the right. There are usually three layers, with trial courts at the bottom (often split out by subject matter, like how Virginia’s has a specialized Juvenile and Domestic trial court), a set of appellate courts in the middle, and a state



⁵ This is less true for district courts than it is for courts of appeals and the Supreme Court. Why district courts are different is complicated. See Joseph W. Mead, *Stare Decisis in the Inferior Courts of the United States*, 12 Nev. L.J. 787, 800-04 (2012).

⁶ The Supreme Court has, in fact, faced this question. See *California v. Carney*, 471 U.S. 386 (1985).

⁷ When a court is deciding whether to overturn its own past case, it will look to, among other things, “the quality of [the past decision’s] reasoning, the workability of the rule it established, its consistency with other related decisions, developments since the decision was handed down, and reliance on the decision.” *Janus v. AFSCME*, 585 U.S. 878, 917 (2018).

⁸ The exception to this is the United States Supreme Court. State courts are courts of “general jurisdiction” and thus are able to hear cases arising under both federal law and state law. But state courts are only masters of state law; cases arising under federal law can sometimes be removed to federal district court, and decisions involving federal law can be appealed to the United States Supreme Court, which is master of questions of federal law no matter what

supreme court at the top. Be warned though—not every state follows this structure. And many states have unintuitive names for their courts. The Court of Appeals in Virginia, for example, is an intermediate court, but the Court of Appeals in New York is the highest court.

Still, the two ways a case can bind a court apply mostly the same way to state courts as they do to federal courts. Higher courts mandatorily bind lower courts, and the same court will bind itself for later decisions unless there is a good reason to overturn the past decision. The difference is that, because each state court system is unique, you will have to understand the ins and outs of the state your case is in. For example, in smaller states, the intermediate appellate courts will often cover the entire state, so there is no need to check geographic jurisdiction.⁹ In larger states, there may be geographic division of the intermediate appellate courts, the same as the federal judiciary.¹⁰ The notion of *en banc* sitting is not usually a thing in state courts the way it is in federal court of appeals. The state of Louisiana is, uniquely, a civil law system and thus has a totally different legal structure. And so on. There is no uniform standard that governs state courts the way there is the federal courts.

court system the question came from. This is a confusing topic that is best explored in a Federal Courts class and is beyond the scope of this handout. Just note that what *law* is at issue is not the same thing as what *court* you are in.

⁹ This is true of Rhode Island, for example, which has just one intermediate court of appeals, called the Superior Court, and one highest court, called the Supreme Court. https://www.courts.ri.gov/PDF/Court_Structure.pdf.

¹⁰ This is true of California, which has six intermediate court of appeals jurisdictions. <https://www.courts.ca.gov/2113.htm>.