

PROBLEM 5.2

- a. What reasons can you give for excluding from jury service members of the clergy, attorneys, physicians, police officers, and convicted felons? Should everyone be required to serve on juries? Give your reasons.
- b. If you were a defense attorney questioning jurors at the voir dire in a murder trial, what questions would you ask potential jurors?
- c. For what reasons might an attorney use a peremptory challenge?

Appeals Courts

In an **appeals court**, one party presents arguments asking the court to review the decision of the trial court. The other party presents arguments supporting the decision of the trial court. There are no juries or witnesses, and no new evidence is presented. Only lawyers appear before the judges to make legal arguments.

Not everyone who loses a trial can appeal. Usually, an appeal is possible only when there is a claim that the trial court has committed an error of law. An **error of law** occurs when the judge makes a mistake as to the law applicable in the case. For example, a judge might give the wrong instructions to the jury or permit evidence that should not be allowed. A judge's error is considered minor as long as it does not affect the outcome of the trial. In cases involving minor errors of law, the trial court decision will not be reversed.

When an appeals court decides a case, it issues a written opinion or ruling. This opinion sets a **precedent** for similar cases in the future. All lower courts in the area where the decision was made must follow the precedent set in the opinion. This is what is meant by courts "making law." However, a higher court has the power to reverse or change the precedent. Courts in other parts of the country are not required to follow the precedent. A court in another jurisdiction or state can disagree with this precedent.

Typically, a panel of judges—or justices, as appellate judges are sometimes called—decides such cases. The panel may consist of three or more judges. Nine justices hear cases argued before the Supreme Court of the United States.

When these judges disagree on a decision, two or more written opinions may be issued in the same case. The majority opinion states the decision of the court. Judges who disagree with the majority opinion may issue a separate document called a **dissenting opinion**, which states the reasons for the disagreement. In some instances, judges who agree with the majority's outcome, but for reasons different from those used to support the majority opinion, may write a **concurring opinion**.

Dissenting opinions are important because their reasoning may become the basis of future majority opinions. As society and the views of judges on appellate courts change, so can legal opinion. An example is the 1896 case of *Plessy v. Ferguson*, which upheld racial segregation in

appeals court a court in which appeals from trial-court decisions are heard

error of law a mistake made by a judge in legal procedures or rulings during a trial that may allow the case to be appealed

precedent court decision on a legal question that guides future cases with similar questions

dissenting opinion in a trial or appeal, the written opinion of the minority of judges who disagree with the decision of the majority

concurring opinion an additional written court opinion in which a judge or judges agrees with the decision reached by the court, but for reasons different from those used to support the majority opinion

THE CASE OF...

Taking a Car by Mistake

Joe Harper left the key in his 2008 blue sports utility vehicle (SUV) while he ran an errand. When he came back an hour later, he got into someone else's blue SUV by mistake.

This car also had the key in the ignition. Harper, who did not notice it was a different car, started it and drove away. He was arrested for auto theft as a result of his mistake.

At the trial, the judge told the jury it was not necessary for them to consider whether Harper

intended to steal the car. Instead, the judge instructed the jury that to find Harper guilty of auto theft, they had to decide only whether he was caught driving a car that was not his. Using these guidelines, the jury found Joe Harper guilty.

This case illustrates an error of law that could be appealed. Auto theft law requires that the accused person must have intended to steal the car. Because Harper did not intend to steal the car, the guilty verdict would be reversed by an appellate court.

Landmark Supreme Court Cases

Visit the Landmark Supreme Court Case website at landmarkcases.org for information and activities about *Plessy v. Ferguson* and *Brown v. Board of Education*

railroad cars as long as facilities for whites and African Americans were "separate but equal."

U.S. Supreme Court Justice John Marshall Harlan dissented from the majority opinion because it allowed a state to pass regulations based solely on race, which he believed violated the U.S. Constitution. In the 1954 precedent-setting case of *Brown v. Board of Education*, some of the reasoning expressed in Justice Harlan's dissent in *Plessy* was accepted by the Supreme Court, and the "separate but equal" doctrine was declared unconstitutional.

State and Federal Court Systems

Figure 5.1 illustrates the two separate court systems in the United States—state and federal. State courts are courts of general jurisdiction. They can hear cases that deal with state law as well as many areas of federal law. The federal courts are courts of limited jurisdiction. Their power is limited to deciding certain types of cases. Federal courts hear criminal and civil cases involving federal law. They also hear some civil cases involving parties from different states when the amount in dispute is more than \$75,000. Federal trial courts are known as U.S. District Courts. If you lose a trial in the U.S. District Court, you may be able to appeal to the U.S. Circuit Court of Appeals in your region. The United States has 94 district courts and 13 circuit courts. The court of final appeal is the U.S. Supreme Court.

State Courts

Most state court systems resemble the federal court system in both structure and procedure. All states have trial courts. These are called superior, county, district, or municipal courts, depending on the state.