

Judge Gustavo A. Gelpí

Nominee for the United States Court of Appeals for the First Circuit

President Joe Biden [nominated](#) Gustavo A. Gelpí, Jr. to the United States Court of Appeals for the First Circuit on May 12, 2021. If confirmed, Gelpí will be only the second person from Puerto Rico to ever serve on that court.

Nominee Profile

Judge Gustavo A. Gelpí currently serves on the United States District Court for the District of Puerto Rico, unanimously confirmed by the Senate in July 2006. Gelpí became chief judge of the District Court in 2018. Prior to this appointment, Gelpí served as a Magistrate Judge for the District of Puerto Rico from 2001 to 2006.

Biography

Judge Gelpí was born in San Juan Puerto Rico in 1965. His father, Gustavo Gelpí, Sr. is a prominent San Juan attorney. Judge Gelpí earned his B.A. from Brandeis University in 1987 and graduated from Suffolk University Law School in 1991. In 2006, Suffolk University Law School granted him an Honorary Doctor of Laws Degree. Judge Gelpí credits his commitment to public service to the example set by his grandmother, a civilian who worked for the U.S. Navy for over 43 years.

Legal Career

Following law school, Gelpí clerked for Judge Juan M. Perez-Gimenez on the United States District Court for the District of Puerto Rico from 1991 to 1993. For the next four years, he represented low-income criminal defendants before the First Circuit Court of Appeals as an Assistant Federal Public Defender for the District of Puerto Rico. In 1996, he was also detailed to serve as special counsel for the United States Sentencing Commission.

Judge Gelpí then worked at the Puerto Rico Department of Justice in many different roles from 1997 to 2001. He served as special aide to the Attorney General, Assistant Attorney General at the Office of Legal Counsel, and ultimately, Solicitor General of Puerto Rico. During his time as Solicitor General, Judge Gelpí argued several cases in state and federal courts, including [Igartua de La Rosa v. United States](#) before the First Circuit, wherein he argued that citizen-residents of Puerto Rico are entitled to vote in United States presidential elections.

Judge Gelpí briefly left public service to work as special litigation counsel at McConnell Valdes, one of the largest Hispanic-owned law firms in the world, based in San Juan. That same year, 2001, Gelpí was appointed as a Magistrate Judge for the District of Puerto Rico and served in that role until he was nominated to the District Court in 2006.

Judicial Experience

During his 15 years on the District Court for the District of Puerto Rico, Judge Gelpí has heard over 1,600 cases and sat by designation with the First Circuit numerous times.

As a Puerto Rican jurist, Judge Gelpí brings a needed perspective to the federal judiciary. He has written extensively on the constitutional evolution of Puerto Rico and other territories, including the Insular Cases (series of cases after the Spanish American War in which the Supreme Court held that inhabitants of territories like Puerto Rico lack some constitutional rights). For example, in a 2011 [article](#), he argued that United States citizens living on the island should have the same Constitutional rights and protections as those living on the continent. And, in [Consejo de Salud Playa de Ponce v. Rullan](#), after an in depth discussion on the history of Puerto Rico, he concluded that Puerto Rico is an incorporated territory of the United States even without any affirmative language from Congress to that effect. He held that “actions speak louder than words. Although Congress has never enacted any affirmative language such as ‘Puerto Rico’ is hereby an incorporated territory,’ its sequence of legislative actions from 1900 to present has in fact incorporated the territory.” In that case, he ruled that Puerto Rico is entitled to the same “wraparound” Medicaid funding that the federal government provides to the states. And in [Club Gallístico de Puerto Rico Inc. v. United States](#), Judge Gelpí re-emphasized that Congress “has the undeniable authority to treat the Commonwealth of Puerto Rico *uniformly* to the states” when he enforced a nationwide ban against cockfighting on the island. In [United States v. Vaello-Madero](#), affirmed by the First Circuit and recently granted certiorari by the Supreme Court, he held that residents of Puerto Rico are eligible for Supplemental Security Income (SSI), a federal benefit program, and exclusion of Puerto Rico from SSI violates the Constitution.

His rulings have enforced the constitutional rights of vulnerable groups, as in [Conde-Vidal et. al. v. Padilla](#) when he blocked Puerto Rico’s prohibition on same-sex marriage as violative of the Supreme Court holding in *Obergefell v. Hodges*. And his [order](#) in *United States v. Commonwealth of Puerto Rico* required the Puerto Rico government to pay nearly \$20 million towards rehabilitation and services for mentally ill residents to remedy years of underfunding. In another [order](#), Judge Gelpí issued a stay against all evictions and foreclosure proceedings in his court due to the ongoing Covid-19 pandemic. Judge Gelpí ordered that the stay be automatically renewed whenever the federal government extends its own eviction and foreclosure moratorium. Judge Gelpí [approved](#) an agreement between the U.S. Department of Labor and Puerto Rico Police Department (PRPD) requiring the police department to pay overtime wages it had improperly withheld from employees. In [Watchtower Bible Tract Society of New York v. Municipality of Santa Isabel, et al.](#), Judge Gelpí ordered several Puerto Rico municipalities to grant Jehovah’s Witnesses access to gated communities to speak freely about their religious beliefs as required by the First Amendment. And in [Del Valle](#)

[Group v. Puerto Rico Ports Authority](#), he held that a policy which prevented a building contractor from winning a PRPA contract (despite offering the lowest bid) when it had a pending lawsuit against the Authority, violated the First Amendment by retaliating against the contractor for exercising its right to petition the courts.

With regard to criminal justice issues, in 2012, Judge Gelpí presided over the [largest consent decree](#) in the country, between the United States Department of Justice (DOJ) and the PRPD. After DOJ found that police officers were in the practice of using excessive force against residents, Judge Gelpí approved a [settlement agreement](#) requiring PRPD to increase public transparency and improve officers' training in use of force, search and seizure procedures, and other practices. He has also [championed](#) federal defender services and increased funding for legal aid.

Judge Gelpí has served as president of the Federal Bar Association, and used his platform as president to speak on criminal justice reform at an FBA panel commemorating the 50th anniversary of the passage of the 1964 Civil Rights and Criminal Justice Acts, where he [discussed](#) the DOJ consent decree requiring Puerto Rico's police officers to undergo Fourth Amendment search and seizure training. And in 2016, he gave a [lecture](#) at Delta State University titled, "Police Reform through the Eyes of a United States District Judge," in which he commended the PRPD's implementation of the consent decree.

Professional and Academic Activities

Judge Gelpí has been a member of the Federal Bar Association (FBA) since 1992 and was the first Article III judge and second member of the Puerto Rican chapter to serve as the organization's national president. Judge Gelpí has taught at all three of Puerto Rico's law schools: the Interamerican University School of Law, Pontifical Catholic University Schools of Law, and the University of Puerto Rico School of Law.