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OUR COURTS, OUR RIGHTS

Defending Justice Beyond 2024

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Executive Summary

Alliance for Justice celebrated 45 years of progressive advocacy in August 2024. Throughout those 45 years, AFJ has forcefully made the case for fair-minded judges and justices who represent the diversity of the United States and uphold the rights of all. In particular, AFJ has long prioritized nominees who have dedicated their legal careers to fields that are people-focused, including public defense, civil rights, voting rights, labor law, reproductive rights, immigrants' rights, legal aid, and consumer protection. AFJ's Justice program has focused on recruiting diverse movement lawyers, carefully researching jurists' records, and advocating for ethical courts that uphold democracy and justice for all.

With the perspective of these 45 years, this report examines the Biden administration's record on judicial nominations, both in 2024 and throughout his term. Overall, President Biden is leaving office with a laudable record on judges. Before taking office, he **stated his intention** to choose well-qualified judges who were diverse in terms of their "race, ethnicity, national origin, gender, sexual orientation, gender identity, religion, veteran status, and disability." Vitally, he also sought nominees "whose legal experiences have been historically underrepresented on the federal bench."

He has largely honored that commitment. Overall, 64% of his confirmed judges are women, 63% people of color, and 46% are professionally diverse and have significant experience as public defenders, labor lawyers, civil rights attorneys, and more. He has also named a number of historic "**firsts**," including the first Muslim American to become a federal judge, the first openly lesbian federal appeals court judge, the first Black woman Supreme Court justice, and the first Navajo federal judge. The high priority that Biden, Senate Majority Leader Schumer, and Senate Judiciary Committee Chair Durbin have placed on nominating and confirming judges is responsible for the fact that Biden confirmed more judges per term than any president since President Carter.

Indeed, Biden's legacy on judicial nominations compares favorably to that of the groundbreaking President Jimmy Carter, who passed away on December 29, 2024. Among his many accomplishments, Carter was a **pioneer of diversifying the judiciary**; he named more women and people of color as judges than all previous presidents combined. Additionally, like Biden, Carter **prioritized** nominating highly qualified civil rights advocates and other movement lawyers, which transformed the federal judiciary by bringing diverse perspectives to the federal bench. As we move into a second Trump administration, Biden's judges will be a vital bulwark against the attacks on peoples' rights and democracy that will be coming.

The Biden administration's impressive legacy on diversity in judicial nominations is dimmed by the fact that there will be 47 judicial vacancies left unfilled at the end of his term. These seats will almost undoubtedly be filled with Trump nominees. Thirty-eight of these vacancies are due to Senate Democrats' extremely regrettable decision to maintain the "**blue slip**" custom in the face of Senate Republicans' abuse of it, leaving 38 district court seats with no nominees at all because the Republican senators from those states would not consent to a Biden nominee. Democrats abandoned four crucial circuit court nominations under the **deal that Senator Schumer made with Republicans** in late November, which indefensibly ceded them without a fight.



As we move into a second Trump administration, Biden's judges will be a vital bulwark against the attacks on peoples' rights and democracy that will be coming.

And, while the number of public defenders and civil rights champions Biden named to the bench is impressive, the number of judges with economic justice backgrounds — union-side labor law, employee-side wage and hour law, consumer protection, and civil legal aid — **should be substantially higher**.

The lasting harm done by judges and justices confirmed under President Trump's first term — to reproductive rights, workers' rights, the environment, and our democracy, as well as to the federal judiciary's reputation, through its mountain of ethics scandals — cannot be understated. Looking forward, we can expect the second Trump administration to again nominate judges based on their personal loyalty to Donald Trump and their dedication to furthering the interests of the wealthy and powerful and the Republican party, rather than their qualifications or fair-mindedness.

The impending beginning of a second Trump term only heightens the importance of the work AFJ and its coalition partners have done — and will continue to do — to research and shine a light on the records of all judicial nominees and to strongly oppose those whose records show they will not be fair-minded or that they are otherwise unfit. It also emphasizes the ongoing need for demographic and professional diversity among judges, and the **long-term need for court reform**, including enforceable ethics rules, term limits and regularized appointments, accountability and transparency requirements, Supreme Court and lower court expansion, and jurisdiction stripping laws.



Introduction

The federal judiciary has immense power over peoples' lives and the direction of our country. Judicial rulings on issues including reproductive rights, voting rights, environmental protections, gun safety, and presidential immunity shape the world we live in and can either increase freedom and justice or cause **harm to millions of people**.

Federal judges have long been disproportionately white, male, heterosexual, cisgender; from privileged socioeconomic backgrounds; and with experience in large corporate law firms and prosecutor's offices. This is in large part because of a **successful 50-year campaign** by the Republican party and corporate interests to pack the courts with judges who favor the wealthy and powerful, which reinforced the narrative that judges with those types of backgrounds were more qualified to serve as judges. Because judges' personal and professional backgrounds inevitably impact the way they view the law and the facts of cases before them, the absence of demographically and professionally diverse lawyers has resulted in too many federal judges whose rulings are skewed in favor of corporations and the powerful and against workers, immigrants, racial minorities, and women.

This is exactly why, throughout its 45-year history, AFJ has fought to ensure that federal judges are demographically diverse and have experience representing historically disempowered people and groups.

This struggle between two visions of the federal courts has played out starkly over the last two presidential administrations. In his first term, President Trump chose nominees for their demonstrated loyalty to right-wing causes, including dismantling reproductive rights and the power of federal agencies to protect workplace rights, civil rights, and the environment. His nominees were also overwhelmingly white and male and with corporate or prosecutorial backgrounds.

President Biden steered an opposite course, naming highly qualified and demographically and professionally diverse nominees, including many who had spent their careers as movement lawyers. In doing so, Biden honored the groundbreaking legacy of the late President Carter. A vital aspect of Carter's legacy was his success in diversifying our federal courts, to ensure that they are reflective of the people they serve.

The hundreds of judges Biden named will stand as a vital line of defense, deciding cases in favor of justice and the rule of law as Trump tries again to pack the courts with loyalists and right-wing extremists.

When future advocates and elected officials look back at this moment, the contrast between the Trump and Biden judicial legacies will underscore the crucial importance of continuing to prioritize diversity among nominees, increasing the momentum in favor of movement lawyers as judges, and reforming the courts so they serve everyone, not just the rich and powerful.

Nominations & Confirmation Statistics

In 2024, President Biden continued the impressive momentum from the first three years of his administration in nominating and confirming a **record number of judges with diverse backgrounds**. This includes many movement lawyers who will be powerful voices for justice on the federal bench for years to come.

NOMINATION STATISTICS

In 2024, the Biden administration nominated 51 attorneys to the federal bench. This includes six Circuit Court nominees and 45 District Court nominees.

Total Biden Nominations 2021-2024

	2021	2022	2023	2024	Total
District	54	48	50	45	197
Circuit	16	20	7	6	49
International Trade	0	0	2	0	4
Supreme Court	0	1	0	0	1
	=	=	=	=	=
Total	70	69	59	51	249

Race & Ethnicity

Of the 51 Biden nominations in 2024, 22 are people of color, making up 43% of all nominations this year. Of those, seven are Black, nine are Asian American/Pacific Islander, five are Latinx, and one is Native American.

Racial & Ethnic Diversity 2021-2024

	2021	2022	2023	2024	Total
Black	20	22	12	7	61
AAPI	13	11	7	9	40
Latinx	14	13	5	5	37
Native American	3	0	1	1	5

Gender

Of Biden's 51 nominations in 2024, forty-four or 86%, are women. Of those 44 women, five are black, five are Asian American/Pacific Islander, and five are Latinx. Additionally, two of the women nominated identify as LGBTQ+.

Gender Diversity 2021-2024

	2021	2022	2023	2024	Total
Total Women	53	41	25	44	163
Black Women	15	15	5	5	40
AAPI Women	10	7	5	5	27
Latinx Women	6	10	4	5	25
Native American Women	3	0	1	1	5
LGBTQ+ Women	4	2	3	2	11
Women with Disabilities	0	1	1	0	2

Profession

In 2024, the Biden administration nominated 11 public defenders, six civil rights lawyers, three economic justice lawyers, and two plaintiffs-side lawyers to the federal bench.

Professional Diversity 2021-2024

	2021	2022	2023	2024	Total
Public Defenders	20	11	7	11	49
Civil Rights Lawyers	14	12	6	6	38
Plaintiff's Lawyers	9	4	7	3	23
Economic Justice/Labor Lawyers	1	3	3	2	9
Consumer Protection Lawyers	4	3	0	0	7

Other Demographic Diversity

Of the Biden administration's 51 nominations in 2024, three identify as LGBTQ+. None of the Biden administration's nominations in 2024 were people with disabilities. Biden nominated the first Muslim American to a federal appellate court and nominated two Muslim Americans to district courts in 2024.

CONFIRMATION STATISTICS

In 2024, the United States Senate confirmed 69 judges nominated by the Biden administration, including six circuit court judges, 61 district court judges, and two court of international trade judges

Total Biden Confirmations 2021-2024

2021	2022	2023	2024	Total
40	57	69	69	235

Race & Ethnicity

In 2024, 29 of 69 judges confirmed to the federal bench are people of color, comprising 42% of all confirmed judges. Of those 69, 10 are Black, 12 are Asian American/Pacific Islander, eight are Latinx, and none were Native American.

In the Biden administration overall, 147 confirmed judges were people of color, making up 63% of all Biden's confirmed judges. Of those, 147, 63 are black, 41 are Asian American/Pacific Islander, 39 are Latinx, and four are Native American.

Racial & Ethnic Diversity 2021-2024

	2021	2022	2023	2024	Total
Black	12	20	21	10	63
AAPI	10	7	12	12	41
Latinx	7	12	12	8	39
Native American	2	1	1	0	4

Gender

Of the 69 confirmed nominees in 2024, 42 (61%) are women. Of those 42, seven are Black, seven are Asian American/Pacific Islander, six are Latinx, and none were Native American. Additionally, three confirmed women judges identify as LGBTQ+. No women with disabilities were confirmed this year.

In the Biden administration overall, 64% of the 235 confirmed nominees are women. Of those, 40 are black, 27 are Asian American/Pacific Islander, 24 are Latinx, and four are Native American. Additionally, nine confirmed woman judges identify as LGBTQ+, and one woman confirmed to the federal bench has had disabilities.

Gender Diversity 2021-2024

	2021	2022	2023	2024	Total
Total Women	32	41	35	42	150
Black Women	10	14	9	7	40
AAPI Women	9	4	7	7	27
Latinx Women	3	8	7	6	24
Native American Women	2	1	1	0	4
LGBTQ+ Women	1	3	2	3	9
Women with Disabilities	0	0	1	0	1

Profession

2024 was a historic year for professional diversification of the federal judiciary. This year saw the confirmation of 15 public defenders and criminal defense lawyers, seven civil rights lawyers, three plaintiffs-side lawyers, three labor lawyers, and no consumer protection lawyers to the federal bench.

Under the Biden administration, we saw the confirmation of 49 public defenders, 32 civil rights lawyers, 20 plaintiffs-side lawyers, seven labor lawyers, and five consumer protection lawyers to the federal bench.

The Biden administration was transformative in the number of judges with experience in pro-people fields like public defense and civil rights it nominated and saw confirmed. A particularly historic confirmation was that of Ketanji Brown Jackson as the first former public defender to serve on the Supreme Court.

Professional Diversity 2021-2024

	2021	2022	2023	2024	Total
Public Defenders	19	7	8	15	49
Civil Rights Lawyers	7	5	13	7	32
Plaintiff's Lawyers	7	3	7	3	20
Economic Justice/Labor Lawyers	1	1	2	3	7
Consumer Protection Lawyers	2	1	2	0	5

Other Demographic Diversity

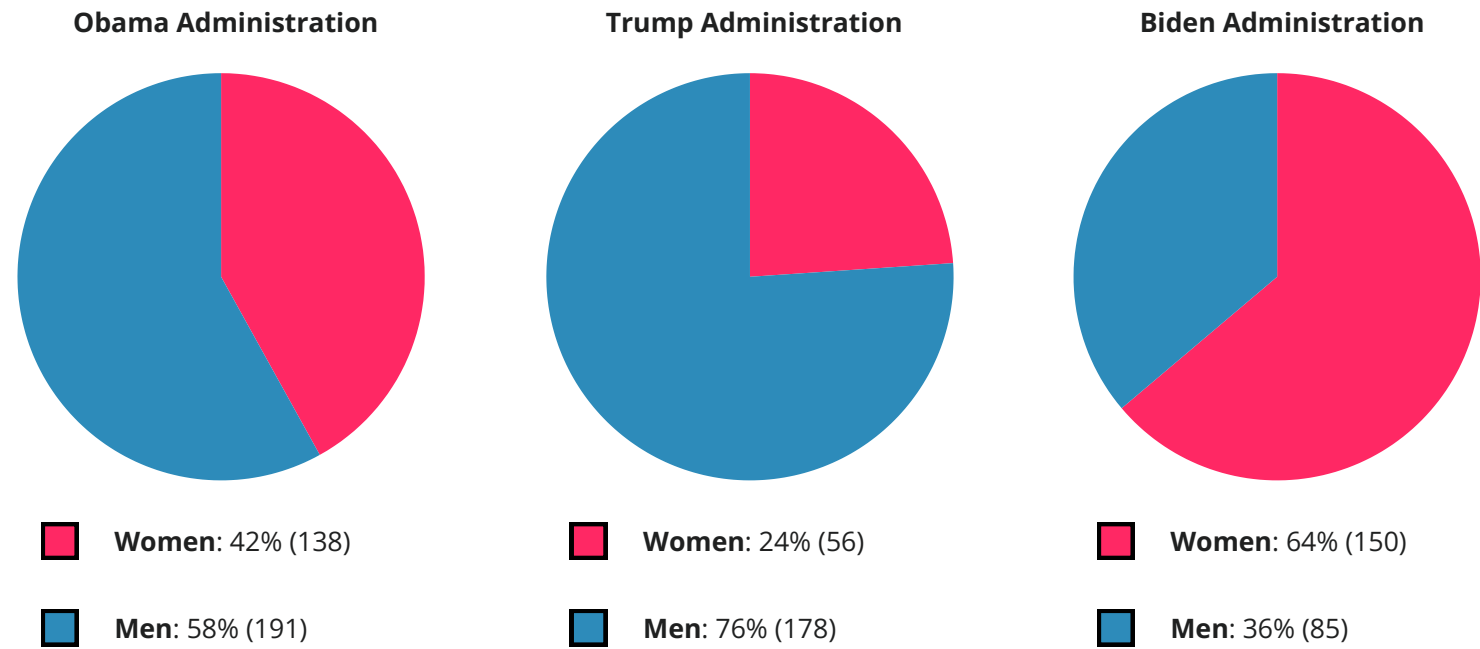
Of the Biden administration's 69 confirmed judges in 2024, three, or 4%, identify as LGBTQ+. Biden saw two Muslim Americans confirmed in 2024.

In the Biden administration overall, 12, or 5% of the 235 confirmed judges, identify as LGBTQ+. Two of the Biden administration's confirmations were people with disabilities. Biden confirmed the first four Muslim American Article III judges to ever serve in or nation's history.

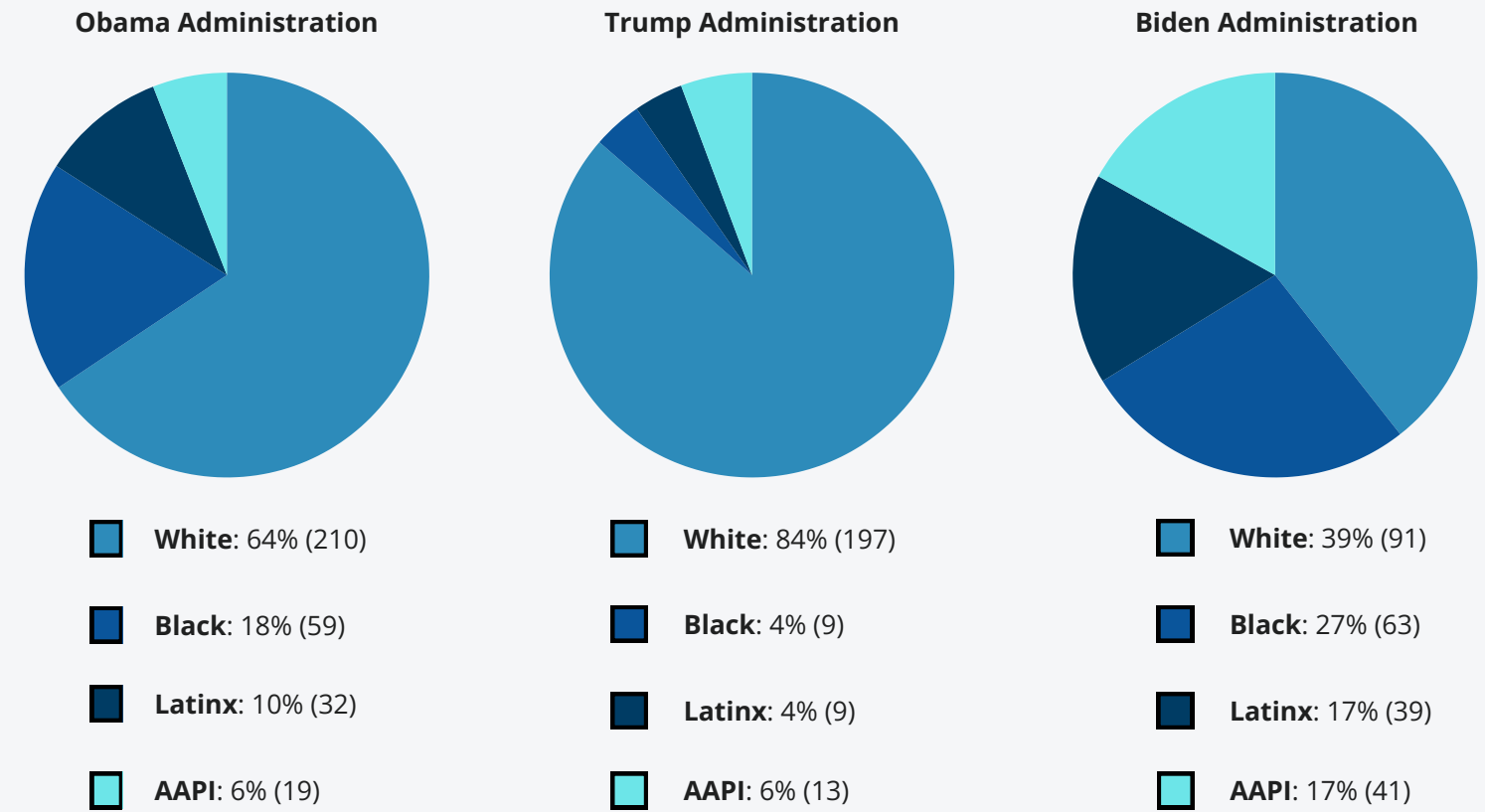
COMPARISON WITH PAST ADMINISTRATIONS

President Biden has surpassed both former Presidents Trump and Obama in the number of judicial appointments that reflect greater diversity, including people of color, women, openly LGBTQ+ individuals, and those with professional backgrounds such as public defenders, civil rights lawyers, and plaintiff-side attorneys.

Gender Diversity of Judges Confirmed by Administration



Demographic Diversity of Judges Confirmed by Administration



Source: American Constitution Society (ACS)/Federal Judicial Center

COMPARISON WITH PAST ADMINISTRATIONS

President Biden saw just slightly more judges confirmed under his administration than President Trump did in his first term, with 235 for Biden and 234 for Trump. He named more judges on a per-term basis than Presidents Obama, George W. Bush, Clinton, George H.W. Bush, and Reagan. The last President to confirm more judges in one term was President Carter, who signed into law a bipartisan bill **increasing the number** of lower court judges by 152 — a nearly one-third expansion in the size of the federal judiciary.

Number of Confirmed Judges

President	Supreme Court	Court of Appeals	District Courts	Court of Int'l Trade	Total	Total per term
Carter	0	56	203	0	259	259
Reagan	3	78	290	6	377	168.5
G. H.W. Bush	2	37	148	1	188	188
Clinton	2	62	305	5	374	187
G. W. Bush	2	61	261	2	326	163
Obama	2	49	268	4	323	161.5
Trump	3	54	174	3	234	234
Biden	1	45	187	2	235	235



DESEGREGATING BENCHES

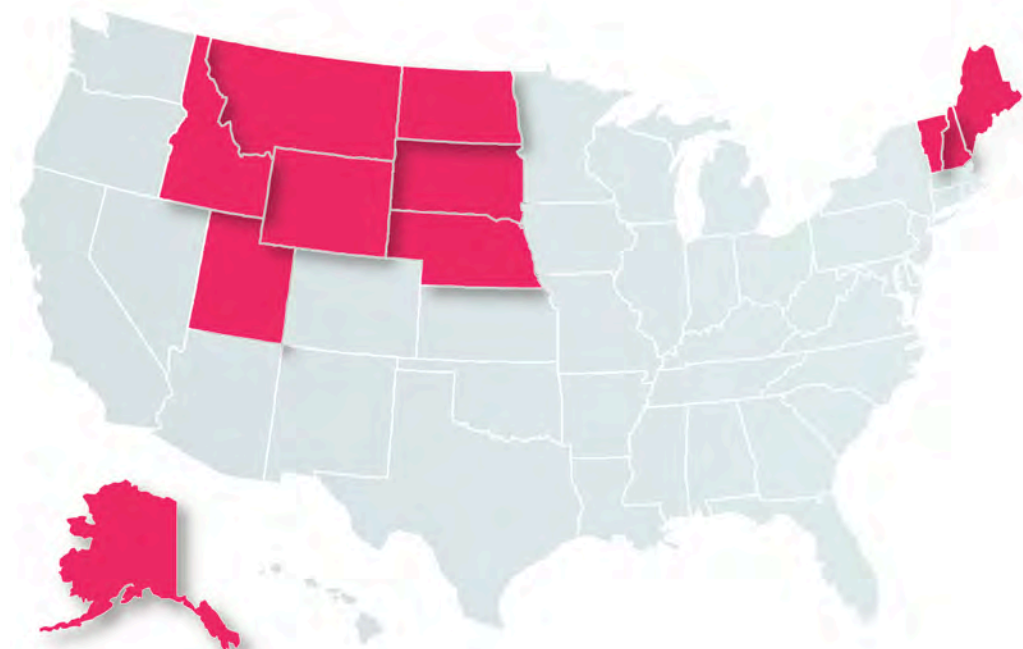
Prior to the Biden administration, of the 94 district courts in the U.S., 25 had **never had a non-white judge**. However, this number has decreased to 21 with the confirmations of Judges Meredith Vacca (W.D.N.Y.), Melissa DuBose (D.R.I.), Jasmine Yoon (W.D.Va.), and Jerry Edwards Jr. (W.D. La.).



It is widely recognized that judges from diverse demographic and professional backgrounds bring unique perspectives to the bench and that justice is enriched by a diversity of lived experiences. The fact that so many district courts have never had a non-white judge limits the scope of what justice can look like.

This issue is especially pronounced in states where all-white federal benches are the sole district court for the entire state: Alaska, Idaho, Montana, Wyoming, South Dakota, North Dakota, Maine, Vermont, Utah, New Hampshire, and Nebraska. Additionally, the Southern District of Georgia, which includes cities like Savannah and Augusta and has a population that is one-third Black, **has never had a non-white judge despite being one of the most diverse judicial districts in the country**.

States Where All-White Federal Benches Represent the Entire State



Movement Lawyers & Historic Firsts

Several judges confirmed this year have spent their careers as movement lawyers — judges who have devoted their professional lives to working in pro-people fields like union-side labor law, civil rights, criminal justice reform, and public defense.

MOVEMENT LAWYER CONFIRMATIONS

Movement lawyers are vital to protecting the rights of ordinary people and remain under-represented on the federal bench compared to judges who have spent their careers as prosecutors or representing corporations. The following movement lawyers will bring professional diversity and a strong sense of justice to their work as judges.



Nicole Berner

Nicole Berner was nominated on November 15, 2023, and confirmed on March 19, 2024, becoming the first openly LGBTQ+ judge and first labor lawyer on the Fourth Circuit.

Judge Berner's career reflects her deep commitment to advancing the rights and liberties of all Americans. She began her legal career by clerking for Judge Betty B. Fletcher of the Ninth Circuit, and then for Judge Thelton E. Henderson of the Northern District of California. After working as an associate at Jenner & Block, in 2002 she joined the Planned Parenthood Federation of America as a staff attorney, where she focused on expanding access to medication abortion and advocating for reproductive healthcare.

Berner moved to the Service Employees International Union (SEIU), which represents millions of American workers, in 2006. First as an attorney, and then as the general counsel of SEIU beginning in 2017, she negotiated on behalf of workers, represented unions before labor regulatory bodies, and litigated cases on behalf of working people.

United States Circuit Court of Appeals for the Fourth Circuit



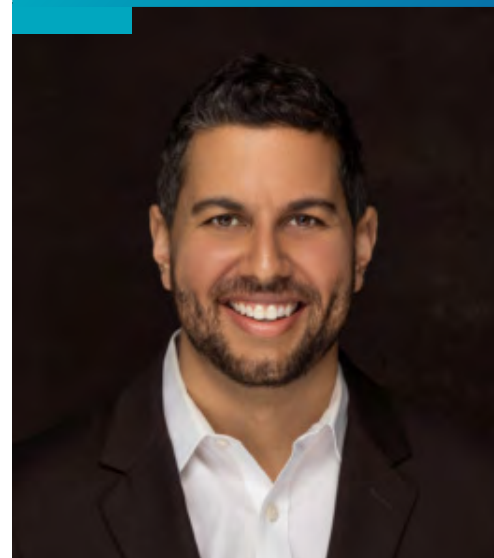
Nancy Maldonado

Nancy Maldonado was nominated on April 13, 2024. Her confirmation on July 13, 2024 marked a milestone for judicial diversity, making her the first Latinx judge to serve on the Seventh Circuit. Her previous confirmation to the U.S. District Court for the Northern District of Illinois in 2022 made her the first Latina federal judge in the state of Illinois.

An accomplished labor and employment lawyer, Maldonado's legal career is defined by a commitment to advancing economic and social justice. Following her clerkship with Judge Rubén Castillo of the Northern District of Illinois, Maldonado joined the Illinois civil rights law firm Miner, Barnhill & Galland P.C. There she litigated a diverse range of labor and pro-plaintiff employment law matters, from representing farmworkers in wage and hour cases to advocating for employees facing harassment and discrimination.

Alongside her busy career, Maldonado has also served her fellow Illinoisians through several roles in state government. In 2019, Governor J.B. Pritzker appointed Maldonado to the Illinois State Police Merit Board, and in 2021, Attorney General Kwame Raoul appointed her to serve as the special assistant attorney general investigating consumer fraud.

United States Court of Appeals for the Seventh Circuit



Amir Ali

Amir Ali was nominated to the District of the District of Columbia on January 10, 2024 and confirmed on November 20, 2024. Throughout his legal career, Ali has been deeply committed to advocating for underserved individuals and marginalized communities. He is also the first Arab American to serve as a judge on the U.S. District Court for the District of Columbia.

After clerking for Judge Fisher of the Ninth Circuit and Puisne Justice Marshall Rothstein of the Supreme Court of Canada and working as an associate at Jenner & Block LLP, Ali joined the Roderick & Solange MacArthur Justice Center as its first attorney in Washington D.C. He eventually became the MacArthur Justice Center's president and executive director. There, Amir brought litigation to advance civil rights and expand access to justice, including for individuals serving unconstitutional mandatory minimum sentences and those who are the subject of false criminal charges.

Beyond his litigation work, Ali has served as the director of Harvard Law School's Criminal Justice Appellate Clinic and taught at several law schools.

United States District Court for the District of Columbia



United States District Court for the District of Connecticut

Sarah Russell

Sarah Russell was nominated to the District of Connecticut on October 4, 2023, and confirmed on November 19, 2024. She has built a career dedicated to expanding access to justice for underrepresented and marginalized communities.

Russell began her legal career with clerkships for Judge Michael B. Mukasey of the Southern District of New York and Judge Chester J. Straub on the Second Circuit. After completing her clerkships, Russell devoted herself to representing indigent clients as a federal public defender. In 2007, she became the director of the Arthur Liman Public Interest Program at Yale Law School. She also oversaw the Prison Legal Services and Complex Federal Litigation Clinics.

In 2011, Russell joined Quinnipiac University School of Law, where she is now the director of both the Juvenile Sentencing Project and the Legal Clinic.



United States District Court for the Central District of Illinois

Jonathan Hawley

Jonathan Hawley was nominated on July 3, 2024, and confirmed on November 13, 2024. A lifelong resident of Illinois, Hawley has built a distinguished legal career rooted in public service and a commitment to justice. He clerked for Judge Michael P. McCuskey of the Illinois Third District Appellate Court, the United States District Court for the Central District of Illinois when Judge McCuskey was elevated, and for the Illinois Supreme Court.

Hawley spent an impressive 15 years at the Federal Public Defender's Office for the Central District of Illinois. Starting as a research and writing specialist, he rose through the ranks, eventually becoming chief federal public defender. Hawley was appointed as a United States magistrate judge for the Central District of Illinois in 2014.

HISTORIC FIRSTS

Several other judges confirmed this year were historic "firsts" in terms of demographic diversity in their districts.



United States District for the Northern District of Indiana

Cristal Brisco

Cristal Brisco was nominated on November 15, 2023, and confirmed on January 24, 2024. Judge Brisco served as a magistrate judge from 2018 to 2021, and then on the St. Joseph County Superior Court until 2024. She is the first Black woman and the first woman of color to serve on the U.S. District Court for the Northern District of Indiana.



United States District Court for the Western District of New York

Meredith Vacca

Meredith Vacca was nominated on May 8, 2024, and confirmed on July 31, 2024. She served as a prosecutor for most of her career prior to being elected to county court. Judge Vacca became the first woman of color and the first Asian American to become a federal judge in western New York.



United States District Court for the Eastern District of California

Dena Michaela Coggins

Dena Coggins was nominated on February 7, 2024, and confirmed on May 22, 2024. Judge Coggins served as an administrative law judge from 2015 to 2021 before becoming a Superior Court judge in Sacramento County. In 2021, she was assigned to Juvenile Court, where she advocated for children, supported parents in overcoming challenges leading to child removal, and participated in diversion and restorative justice programs. She is the first Black woman to serve as a federal judge in the Eastern District of California.

How Weaponized Misinformation Blocked Other Milestone Nominees

Throughout 2024, Senate Republicans resorted to **misinformation** and **distortion** in their attempts to discredit judicial nominees.

These attacks not only undermine the integrity of the judicial confirmation process but also reveal a troubling pattern of hypocrisy and political maneuvering aimed at stoking fear and division.



Adeel Mangi

Adeel Mangi, a highly qualified civil litigator and law firm partner, would have been the first Muslim American to serve on a federal appeals court if he were confirmed to the Third Circuit. But Republican senators launched a **repellent smear campaign** against him, suggesting he is a terrorist sympathizer or anti-Semitic. These accusations were entirely false and based on anti-Muslim bigotry, as demonstrated by the broad support Mangi received from respected civil rights organizations, including the Anti-Defamation League and the National Council of Jewish Women. Republican senators also baselessly accused Mangi of defending “cop killers” because of his admirable work with the Alliance of Families for Justice, a criminal justice reform organization.

After these baseless attacks, three Democratic senators **said they would oppose Mangi’s confirmation**, and in November 2024, his was one of four circuit court nominations that Democrats abandoned in a deal with Republicans. In a **frank letter** to Biden in mid-December, Mangi criticized the attacks against him and the politicized process that prevented his confirmation.

Nominated to the Third Circuit Court of Appeals



Sarah Netburn

Judge Sarah Netburn, nominated to the Southern District of New York, has 12 years of distinguished service as a magistrate judge. Republicans seized upon a recommendation she once made regarding the housing of a transgender inmate, which had the support of the sentencing judge, prison wardens, medical professionals, and prison staff and was rooted in compassionate legal reasoning. Netburn’s attackers misrepresented her decision to suggest she was out of touch with law enforcement priorities. Unfortunately, after these attacks, Senator Jon Ossoff joined Republicans on the Senate Judiciary Committee in voting against Netburn’s nomination, **blocking it from proceeding**.

Nominated to the Southern District of New York



Todd Edelman

In 2022, President Biden nominated Todd Edelman, a former public defender and labor lawyer who has served as a judge in D.C. for 14 years, to the United States District Court for the District of Columbia. Republicans quickly launched a malicious smear campaign, with Senator Marsha Blackburn (R. Tenn.) falsely claiming that Edelman was responsible for the death of an 11-year-old child. Blackburn’s accusation misrepresented a case involving a pretrial release and falsely linked Edelman’s decision to the tragic death, despite the man in question never having committed murder. Shockingly, even with the facts at hand, **Senate Democrats largely remained silent**. After his nomination lapsed, President Biden did not re-nominate him in 2024.

Nominated to the District of the District of Columbia

Significant Decisions for Justice in 2024

Judges nominated by President Biden issued vital decisions in 2024 protecting the rights of workers, LGBTQ+ people, people with disabilities, pregnant people, and others.

The presence of fair-minded judges, especially those with backgrounds as movement lawyers, will be an important protection against the attacks on vulnerable communities and the rule of law that we will see under the next presidential administration.



WORKERS' RIGHTS

Consol Pennsylvania Coal Company v. Director, Office of Workers' Compensation Programs, United States Department of Labor

No. 23-1892, Third Circuit, 2024

Judge Arianna Freeman became the first Black woman — and first woman of color — to serve on the Third Circuit when she was confirmed on September 29, 2022. Freeman had dedicated her entire legal career to public service and social justice, spending more than 10 years as a public defender in Pennsylvania.

Stephen Hela was diagnosed with chronic bronchitis, chronic obstructive pulmonary disease, and obstructive lung disease following his employment as a coal miner. Hela applied to the Department of Labor for disability benefits under the federal Black Lung Benefits Act and was awarded benefits. The employer appealed to the Third Circuit. In the intervening period, Hela passed away, and the Department of Labor's Benefit Review Board ruled the benefits should go to Hela's family.

Writing unanimously for a Third Circuit panel, Judge Freeman upheld the Labor Department's decision to award Hela's benefits to his family. Freeman's ruling represents a victory for workers seeking to recover compensation from their employers.

Troutbrook Company LLC v. NLRB

No. 23-1025, District of Columbia Circuit, 2024

Judge Bradley N. Garcia became the first Latinx person to serve on the D.C. Circuit when he was confirmed on May 15, 2023. Garcia spent the majority of his legal career working at O'Melveny & Myers LLP, where he became a partner in 2021. In 2022, he joined the Office of Legal Counsel at the U.S. Department of Justice as a deputy assistant attorney general.

The employees of a New York City hotel owned by an investment company, Troutbook Company LLC, voted to unionize in 2018. When negotiating for an initial collective bargaining agreement, Troutbook refused to discuss subjects that the National Labor Relations Act mandates be negotiated in good faith, including "wages, health benefits, and retirement benefits." The National Labor Relations Board determined that Troutbook's refusal to bargain amounted to an unfair labor practice, and Troutbook petitioned the D.C. Circuit for review.

Writing for a 2-1 majority, Judge Garcia upheld the NLRB and ordered Troutbook to comply with its legal obligation to bargain moving forward.

ANTITRUST/ECONOMIC JUSTICE

Sidibe v. Sutter Health

No. 22-15634, Ninth Circuit, 2024

Judge Lucy Haeran Koh became the first Korean American to serve as a federal appellate judge when she was confirmed on December 13, 2021. Before her elevation to the Ninth Circuit, Koh served as a judge on the U.S. District Court for the Northern District of California for over a decade. Prior to joining the bench, Koh was a leading litigator in the technology and intellectual property field, both in public service and private practice.

Djeneba Sidibe brought an antitrust class action against Sutter Health, a large healthcare network, asserting that it had abused its market power to charge “supra competitive rates.” The plaintiffs sought damages and injunctive relief under federal and state law.

Judge Lucy Koh issued a 2–1 ruling reversing a jury decision in favor of Sutter, and sending the case back to the district court for a new trial. Judge Koh’s decision rested on the idea that it was important to allow the jury to

consider whether Sutter acted with an anticompetitive purpose and to allow the plaintiffs to introduce more historical evidence. Judge Koh was joined by fellow Biden appointee Judge Roopali Desai over the dissent of a Trump appointee, Judge Patrick Bumatay.

The decision may have far-reaching implications for antitrust law, increasing its power as a tool to challenge anticompetitive behavior.

ENVIRONMENTAL JUSTICE

Healthy Gulf v. FERC

No. 23-1069, District of Columbia Circuit, 2024

This decision was also authored by Judge Bradley N. Garcia.

Commonwealth, an energy corporation, planned to build liquified natural gas facilities (“LNG”) along the Gulf Coast in Louisiana. Environmental groups fiercely opposed the plan because of the devastation it would cause to the vitality of the Gulf Coast. The Federal Energy Regulation Commission (FERC) approved the plan anyway. Healthy Gulf and other environmental justice organizations sought review of FERC’s approval.

Writing for a unanimous panel, Judge Garcia held that FERC failed to adequately assess the impact that the LNG facilities would have on Louisiana’s gulf coast.

This case will be important for advocates’ ability to ensure environmental concerns are given due consideration in energy projects.



CIVIL RIGHTS

Segrain v. Duffy

No. 23-1854, First Circuit, 2024

Judge Lara Montecalvo was confirmed to the First Circuit on September 14, 2022. Before becoming a judge, she served for two decades as a public defender, including as the public defender of Rhode Island.

Joseph Segrain sued the Rhode Island Department of Corrections and several individual correctional officers, alleging that, when he was incarcerated, the officers “used excessive force against him.. when they executed a leg-sweep maneuver that knocked him to the ground, sprayed him in the face with pepper spray, and unnecessarily prolonged his pain.” A lower court granted summary judgment against him, and Segrain appealed to the First Circuit.

Judge Montecalvo wrote an opinion for a unanimous

three-judge panel reversing the lower court’s decision, finding that video of the incident “leaves no doubt” that Segrain was no longer a threat and that a reasonable “jury could find that there was no need for the application of force in the form of pepper spray.” The opinion was joined by Judge Julie Rikelman, another Biden appointee.

Judge Montecalvo’s decision set an important precedent in other cases of excessive force, particularly those involving correctional officers.

Emilee Carpenter LLC v. James

No. 22-75, Second Circuit, 2024

Judge Alison Nathan was confirmed to the Second Circuit on March 23, 2022. When she became a federal district court judge in 2011, she became only the third openly LGBTQ+ federal judge, and upon her confirmation to the Second Circuit, she became the second openly LGBTQ+ woman to serve on a federal circuit court. Before becoming a judge, she had a distinguished career in private practice, where she had an extensive pro bono practice; in academia; and in government service.

Emilee Carpenter is a wedding photographer who wanted to refuse to serve same-sex couples. She sought a preliminary injunction to prevent the application of public accommodation laws protecting LGBTQ+ people to her business.

Judge Nathan wrote a unanimous opinion rejecting most of Carpenter’s claims. She distinguished Carpenter’s case from **303 Creative v. Elenis**, the Supreme Court’s 2023 decision siding with a graphic designer who refused to create wedding websites for same-sex couples. She emphasized that the Supreme Court’s ruling in *303 Creative* “is far from an invitation for public accommodations to

discriminate against same-sex couples, or interfaith couples, or biracial couples, or any members of protected groups for that matter,” and that “gay persons and gay couples cannot be treated as social outcasts or as inferior in dignity and worth.”

Judge Nathan’s opinion was important both as to the meaning of New York’s public accommodations laws and as a precedent for other courts considering claims that business owners’ religious beliefs entitle them to discriminate.



DISABILITY RIGHTS

Root v. Decorative Paint Inc.
No. 23-3404, Sixth Circuit, 2024

Judge Stephanie Dawkins Davis became the first Black woman from Michigan to serve on the Sixth Circuit and only the second Black woman to serve on that court when she was confirmed on May 24, 2022. She spent her career predominantly as a prosecutor before becoming a federal magistrate judge in 2016, and a judge on the Eastern District of Michigan in 2019.

Tina Root worked as a production associate for Decorative Paint Inc. (DPI) for more than three years. In 2020, she was reassigned to a section of the plant that exposed her to paint fumes. She had chronic obstructive pulmonary disease (COPD) and asthma, and the fumes caused worsening symptoms. She requested to be moved back to her previous position, and later brought a suit claiming that she was terminated because of her disability in violation of the Americans with Disabilities Act and state law.

Judge Davis authored an opinion reversing a lower court decision in DPI's favor,

finding that there were genuine issues of fact that should be determined by a jury. These included whether Root could perform her job with reasonable accommodations and whether DPI engaged in the required good faith interactive process.

Judge Davis' ruling was important both for Tina Root's vindication of her own personal rights and also as a precedent for courts addressing other ADA claims.

PREGNANCY DISCRIMINATION

Peifer v. Pennsylvania Board of Probation and Parole
No. 23-1081, Third Circuit, 2024

Judge Cindy Chung became the first Asian-American judge on the Third Circuit when she was confirmed on February 13, 2023. The child of immigrants, Chung spent most of her career as a prosecutor in the U.S. Attorney's Office for the Western District of Pennsylvania, including as civil rights coordinator, domestic violence coordinator, and U.S. attorney.

Samantha Peifer sued her employer, the Pennsylvania Board of Probation and Parole, claiming pregnancy discrimination after the Board denied her request for light-duty accommodations. The district court, under Judge Chad Kenney, a Trump appointee, granted summary judgment for the board.

Judge Chung reversed that ruling, finding that a reasonable jury could conclude Peifer was discriminated against because the Board denied her request for light-duty accommodations for several months before granting it, initially saying that it was

willing to give light-duty assignments for work-related injuries, but not pregnancy. Judge Chung pointed out that "[p]regnancy is temporary, so if employers could deny pregnant workers accommodation for a period of months but escape liability by eventually relenting, the statute would offer very little protection."



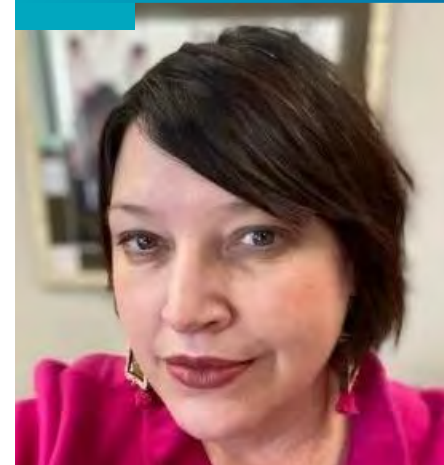
The Blue Slip

The “blue slip” is not part of the Senate Judiciary Committee’s rules, but **began as an informal courtesy** to encourage collaboration between the president and home-state senators during the judicial nomination process by allowing home-state senators to signal their approval or disapproval of a judicial nominee for a seat in their state. However, Republican Senators have used it as tool of obstruction.

The political parties’ use of the blue slip has been starkly asymmetrical. During the first Trump administration, Senate Democrats returned 130 blue slips for district court nominees, leading to the confirmation of 84 judges. In contrast, **by January 2023, Senate Republicans had returned only 12 blue slips for President Biden’s nominees.**

Senate Democrats’ decision to continue the custom even though Republican senators were abusing it is the reason for 38 district court vacancies left at the end of President Biden’s term. The Biden administration effectively acquiesced to this, opting not to nominate candidates for many district court vacancies where home-state senators would likely oppose the nomination. Because the blue slip threat can be deployed before a nomination is publicly named, it is unknown how many potential nominees were blocked in this way.

BLOCKED NOMINATIONS AND VACANCIES DUE TO THE BLUE SLIP



Nominated to the District Court of Montana

Danna Jackson

Danna Jackson, a former tribal attorney for the Confederated Salish and Kootenai Tribes, has expertise in environmental and federal Indian law, and she would have been the first Native American to serve on the District Court of Montana. Montana Senator Steve Daines blocked her nomination, claiming the White House failed to consult him. However, Daines’ team had interviewed Jackson, despite Daines himself **refusing to meet with her.**



Nominated to the Southern District of Florida

Detra Shaw-Wilder

Detra Shaw-Wilder is a partner at a Miami-area law firm and a Black woman. Despite being chosen by a nominating committee handpicked by Florida’s senior Republican Senator, Marco Rubio, Shaw-Wilder’s nomination stalled when junior Republican Senator Rick Scott withheld his blue slip. This move caused **consternation in the Florida legal community.**



38 Other District Court Vacancies

There are 38 vacancies in district courts due to blue slips, many of which have no nominee. Many of these are “**judicial emergencies,**” which occur when most seats on a court remain vacant for 18 months or more or when existing judges are overwhelmed by excessive caseloads.

November 2024 Deal

Unfortunately, in November 2024, Senate Majority Leader Schumer entered into a “deal” with Senate Republicans under which Democrats agreed to give up on four circuit court nominations in exchange for Republicans allowing 14 district court nominees to be confirmed quickly.

This decision was misguided and tragic, in that it accepted defeat without a fight, and leaves up to three crucial circuit court seats for Trump to fill. (Two of the district court judges and one circuit court judge who had announced their intention to take senior status, creating vacancies, **reversed their decisions**, and another could do the same.)

While district court seats are important, circuit courts of appeals are where the vast bulk of federal cases are decided. They serve as the final arbiter on critical legal questions for the huge majority of cases that the Supreme Court does not review.

The four circuit court nominees abandoned in the deal were **Ryan Park** (Fourth Circuit), **Adeel Mangi** (Third Circuit), **Karla Campbell** (Sixth Circuit), and **Julia Lipez** (First Circuit). These nominees would bring invaluable experience to those seats. Summaries of Park and Campbell’s records are to the right, and Mangi’s is in the “**How Weaponized Misinformation Blocked Other Milestone Nominees**” section (p. 17).



The fact that Trump will likely fill those seats is **indefensible**. Senator Schumer **justified the deal** by saying that the appeals court nominees lacked the votes to be confirmed. This disregards the possibility that senators might be convinced to change their minds, or that enough senators could be absent at the time of a vote that a nominee could be confirmed with less than 50 votes, as happened **for other nomination votes** the same week the deal was reached.

NOMINATIONS ABANDONED DUE TO NOVEMBER DEAL



Karla Campbell

Karla Campbell was nominated to the Sixth Circuit on May 23, 2024. Campbell would have filled the Sixth Circuit seat vacated by Judge Jane B. Stranch, for whom she clerked from 2009 to 2010. A well-respected union-side labor lawyer who has extensive experience litigating in federal and state courts, Campbell would have brought vital professional diversity to the Sixth Circuit. During her 13-year career at the pro-plaintiff firm Stranch Jennings & Garvey, Campbell worked diligently to vindicate employee rights and acquired a broad array of litigation experience.

In addition to her litigation career, Campbell regularly offers her legal expertise to advocate for local organizations in Tennessee. Campbell has negotiated high-profile community benefits agreements on behalf of local organizations, including a successful agreement with the developers of Geodis Park, Nashville’s new Major League Soccer stadium.

Nominated to the United States Court of Appeals for the Sixth Circuit



Ryan Park

Ryan Park was nominated to the Fourth Circuit on July 3, 2024. If Park had been confirmed, he would have become the first Asian-American judge to serve on the Fourth Circuit.

Following his graduation from law school, Park clerked for Judge Jed S. Rakoff on the Southern District of New York, Robert A. Katzmann on the Second Circuit, and Justices Ruth Bader Ginsburg and David H. Souter on the Supreme Court. Park joined the North Carolina Department of Justice and served as deputy solicitor general and solicitor general of North Carolina. In that role, he handled complex appeals and constitutional matters, including those that reached the U.S. Supreme Court. In 2023, Park represented the University of North Carolina at Chapel Hill in *Students for Fair Admissions*, a high-stakes affirmative action case before the Supreme Court.

Nominated to the United States Court of Appeals for the Fourth Circuit

The Lasting Effects of Trump Judges

While in office, Trump cemented a right-wing supermajority on the Supreme Court by packing the Court with three far-right justices: Justices Brett Kavanaugh, Neil Gorsuch, and Amy Coney Barrett.

His ability to do so stemmed, of course, from Mitch McConnell and Senate Republicans' refusal to bring forth Merrick Garland's appointment to the floor, violating historical practices and precedent. Trump also nominated hundreds of lower court judges who were, at best, dedicated to protecting the interests of the powerful, and, at worst, devoted to advancing unpopular policies, striking down any Biden administration policy, and championing President Trump's personal legal interests. The harm these judges have caused and will continue to cause is immense.

TRUMP'S SUPREME COURT

The Court continued its project of destroying peoples' rights and weakening our democracy with the decisions it issued in its 2023-2024 term. The Court is expected to continue this assault on rights and constitutional principles in the coming term, as illustrated by the cases it has announced it will hear in 2024-2025.

The 2023-2024 Term

Trump v. U.S.

Granting the president sweeping immunity

Chief Justice Roberts, writing for a 6-3 majority, ruled that President Trump has extremely broad immunity from criminal prosecution for actions taken while he was president, including his efforts to pressure then-Vice President Pence to block congressional certification of the 2020 election results. The impact and harm of this decision, which violates constitutional principles, cannot be overstated.

In her powerful dissent, Justice Sotomayor wrote that,

The relationship between the president and the people he serves has shifted irrevocably. In every use of official power, the president is now a king above the law.

Alexander v. NAACP

Weakening protections against racial gerrymandering

The Court further weakened the Voting Rights Act, making it extremely difficult for plaintiffs to successfully challenge racial gerrymandering and efforts to dilute the voting power of marginalized communities. Justice Alito, writing for the 6-3 majority, reversed a district court's finding that South Carolina legislators engaged in racial gerrymandering. Alito wrote that the plaintiffs cannot "disentangle race and politics," and given that the Court held in 2019 that courts could not consider claims of illegal partisan gerrymandering, he dismissed their racial gerrymandering claim. He also invented new burdens and evidentiary requirements for plaintiffs challenging racial gerrymandering, which will further allow anti-democratic practices targeted at communities of color.

To quote Justice Kagan's dissent, the decision "throw[s] up novel roadblocks enabling South Carolina to continue dividing citizens along racial lines."

Loper Bright v. Raimondo

Shifting power from federal agencies to judges

In a 6-3 opinion authored by Chief Justice Roberts, the Court jettisoned *Chevron* deference, the 40-year-old administrative law doctrine which required Courts to defer to agencies when interpreting ambiguous statutes. The decision takes power from politically accountable administrative agency experts and gives it to courts, allowing judges to strike down any agency action they don't like. *Loper Bright* is a brazen power grab by the Supreme Court.

Garland v Cargill

Shifting power from federal agencies to judges

A 6-3 majority of the Supreme Court **struck down the ban on "bump stocks,"** which the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") imposed after they were used in the 2017 Las Vegas atrocity, the deadliest mass shooting in U.S. history. Justice Thomas wrote the majority opinion, holding that ATF's regulation, which categorized bump stocks as machine guns, exceeded its statutory authority. He wrote that bump stocks do not meet the definition of a "machine gun" because even though they allow a shooter to fire as fast as a machine gun, they require the trigger to be pulled repeatedly.

Justice Sotomayor, joined by Justices Kagan and Jackson, issued a powerful dissent, warning that the decision "will have deadly consequences."

City of Grants Pass v. Johnson

Approving the criminalization of homelessness

Justice Gorsuch, writing for a 6-3 majority, held that enforcement of city ordinances prohibiting camping and sleeping in public spaces against people experiencing homelessness did not constitute unconstitutional "cruel and unusual punishment."

Justice Sotomayor dissented, joined by Jackson and Kagan, pointing out that "sleep is a biological necessity, not a crime" and that the ordinances punish people for being homeless, which is "unconscionable and unconstitutional."

Case Review for Current Term

The Supreme Court's 2024-2025 term's docket includes several critical cases with the potential to endanger civil rights, environmental justice, and public safety.

United States v. Skrmetti

Bans on gender affirming care for trans youth

The Court will decide on the constitutionality of a Tennessee law that bans gender-affirming care for minors, which will also determine the fate of similar bans that have been passed in two dozen other states. Under Tennessee's transphobic law, trans minors would be barred from accessing medically necessary care such as **hormone replacement therapy and puberty blockers** for purposes of gender transition, although non-trans minors could be prescribed those same treatments for similar reasons.

During the oral argument on December 4, 2024, the Court **seemed likely to uphold** the ban, and possibly even use the case to do broader damage to longstanding protections against sex discrimination.

Seven County Infrastructure v. Eagle County, Colo.

Scope of environmental review

This case could narrow the scope of environmental review under the National Environmental Policy Act (NEPA), allowing environmentally damaging projects to move forward more easily.

Eagle County sued under NEPA, which requires federal agencies to consider the environmental impacts of proposed major construction projects, to halt the construction of a railroad. The County argued that the agency that approved the project did not sufficiently scrutinize the potential environmental impacts, including those caused by increased oil drilling in Utah and other states. The agency argued that its NEPA analysis did not need to consider environmental impacts it could not control, such as increased drilling in other regions and the threat of oil spills.

Days before oral argument, Justice Gorsuch **recused himself** after advocates and Democratic lawmakers pointed out his personal connection to an individual involved in the case who stood to benefit financially from the outcome.

During the oral argument on December 10, a majority of the court **seemed skeptical** of the respondents who were arguing in favor of the project and appeared to side with Justice Department lawyers.

Garland v. VanDerStok

Regulation of ghost guns

This case is about the validity of the federal government's regulation of "ghost guns," firearms without serial numbers that can be easily assembled from kits or 3D printing. In 2022, after a rise in crimes related to ghost guns, the Bureau of Alcohol, Tobacco, Firearms and Explosives issued a rule that categorized weapon parts kits and partially completed frames or receivers as "firearms" subject to regulation like other guns. Gun manufacturers challenged the new rule, claiming that weapons parts kits or partially assembled guns were not "firearms."

In the oral argument on October 8, 2024, the Court **appeared likely to let the regulation stand**.





Stanley v. City of Sanford, Fla.

Disability discrimination against former employees

Stanley asks whether an individual who is no longer employed by a company can sue under the Americans with Disabilities Act (ADA) for disability discrimination in the allocation of post-employment benefits.

Karyn Stanley worked as a firefighter in Sanford, Florida, until she retired due to Parkinson's Disease. At the time of her retirement, the city provided free health care to firefighters who left the force due to a disability. Four years later, the policy was changed, leaving Stanley without free health care access. She sued under the ADA.

This case is enormously significant for the more than 70 million Americans with disabilities because, if an employer can discriminate on the basis of disability as long as the person no longer works for them, that would create an enormous gap in the law's protection. In the oral argument on January 13, 2025, the **Justices seemed inclined** to resolve the case in Stanley's favor on narrow grounds.

Bouarfa v. Mayorkas

Judicial review of revoked immigration visas

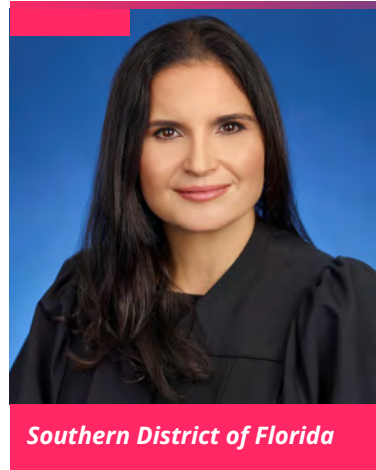
This case concerned whether a person whose immigration visa application is granted but then revoked on specific grounds can petition a court for review of that decision. Mrs. Bouarfa, a U.S. citizen, married her Palestinian husband Ala'a Hamayel in 2011, and they have three children, who are U.S. citizens. She filed an immigration petition requesting that her husband be reclassified as her immediate relative so he could remain in the U.S. permanently. The reclassification request was approved, but it was later rescinded.

Mrs. Bouarfa sued, arguing that the decision to rescind the approval was arbitrary and capricious. The government argued that, while the initial approval or rejection of immediate relative petitions is nondiscretionary and thus reviewable, the revocation of a petition is discretionary and thus nonreviewable.

In December 2024, the Supreme Court unanimously found in favor of the government. **The decision** has troubling repercussions — it allows agencies to grant immigration petitions and then overturn them for any reason, leaving U.S. citizen spouses with no opportunity to have their case heard in federal court.

Trump's Lower Court Judges

While the Supreme Court gets the most attention, Trump's devastating, long-ranging effects on the federal judiciary extends far beyond the nation's high court and very much includes the lower courts. The 234 judges Trump appointed in his first term are responsible for steering through a relentless agenda of ruling for corporations, the wealthy, and the Republican party — at the expense of individuals' rights, liberties, and well-being. In doing so, they have endangered the core tenets of our democracy and curtailed civil and reproductive rights for millions of Americans. The harm perpetuated by Trump's lower court judges is immeasurable and will continue for decades to come. Here are a few specific examples of said judges:



Judge Aileen Cannon

On May 21, 2020, President Trump nominated Aileen Cannon to the Southern District of Florida. Cannon was confirmed during a lame duck session of Congress on November 12, 2020.

ETHICAL BREACHES

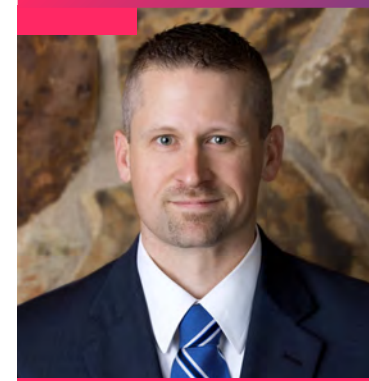
A May 2024 [NPR report](#) revealed that Cannon had violated federal judiciary ethics rules in 2021 and 2022 when she failed to timely disclose her funded attendance at two conservative legal seminars at a retreat held at a luxury resort in Montana.

TRUMP CLASSIFIED DOCUMENTS CRIMINAL CASE

In July 2024, Judge Cannon, a Trump loyalist, dismissed the classified documents case brought against Donald Trump, which arose after Trump brought 15 boxes of presidential records to his Mar-a-Lago estate after he lost the 2020 election. In her decision, which [cut against 50 years of precedent](#), Cannon held that the appointment of special counsel Jack Smith was improper. Smith appealed to the Eleventh Circuit, but after the 2024 election, he [dismissed the prosecution](#) based on a DOJ policy against the prosecution of a sitting president.

A TROUBLING MODEL FOR FUTURE TRUMP NOMINEES

Mike Davis, former chief counsel for nominations to Senate Judiciary Chairman Chuck Grassley, named Cannon as an example of [the type of "fearless" judges](#) Trump should appoint during his next administration. Davis suggested that Supreme Court Justice Sotomayor, a champion of civil rights and a dissenting justice in *Trump v. United States*, should retire and be [replaced by Cannon](#).



Northern District of Texas

Judge Matthew Kacsmaryk

On September 7, 2017, President Trump nominated Matthew Kacsmaryk to the United States District Court for the Northern District of Texas. On June 19, 2019, after a contentious two-year confirmation process, Kacsmaryk was confirmed by the Senate.

ETHICAL BREACHES

[AFJ opposed Kacsmaryk's nomination](#) because of his career-long experience attacking and his reprehensible views on reproductive freedoms and LGBTQ+ rights. In one particularly [problematic article](#),

Kacsmaryk spoke out against gender fluidity and same-sex marriage. When Kacsmaryk was deputy counsel for the First Liberty Institute, a right-wing "religious liberty" law firm, First Liberty launched a legal battle to block the "contraceptive mandate," a protective reproductive measure which [required health insurers to pay for birth control](#).

JUDGE-SHOPPING AND BLOCKING BIDEN ADMINISTRATION POLICIES

Since his confirmation, right-wing groups have strategically chosen to file lawsuits challenging Biden administration policies in Kacsmaryk's division of the Northern District of Texas because, under the [questionable rules of that district](#), 95% of those lawsuits are assigned to Kacsmaryk. His courtroom has become a rubber stamp for right-wing challenges to Biden administration policies and reproductive rights. He has:

- [Suspended the Food and Drug Administration's](#) 24-year-old approval of mifepristone, a commonly prescribed abortion drug that is proven to be safe and effective, partially on the basis of the 1873 Comstock Act, an anti-obscenity law passed before women could vote. The Supreme Court later threw out this suit because the plaintiffs [did not have standing](#).
- [Ordered the reinstatement of the Trump administration's "Remain in Mexico" policy](#), which required asylum seekers to wait outside of U.S. territory through the duration of their cases. The Supreme Court [overturned this decision](#).
- Ruled that the [Biden administration could not interpret the Affordable Care Act to ban discrimination](#) based on sexual orientation and gender identity. The Biden administration appealed, and the Fifth Circuit Court of Appeals [overruled Kacsmaryk](#), finding that the plaintiffs did not have standing.
- [Vacated an EEOC rule](#) clarifying that Title VII protects transgender workers from discrimination.



James Ho

James Ho was confirmed to the Fifth Circuit on December 14, 2017. On January 4, 2018, Justice Thomas, for whom Ho clerked, swore him in at the private library of Republican megadonor Harlan Crow in Texas.

TORTURE MEMO

AFJ **opposed** James Ho's nomination to the Fifth Circuit in 2017, in part because his article **was cited** in the Bybee-Yoo "Torture Memo," a legal memoranda which "paved the way for waterboarding of terrorism suspects and other harsh interrogation tactics" by the U.S. military during the

George W. Bush administration. Ho failed to list the memo in his Senate Judiciary Committee questionnaire.

REPRODUCTIVE RIGHTS

Since taking the bench, Ho has written several troubling decisions which curtail fundamental freedoms and contradict longstanding precedent. This includes *FDA v. Alliance for Hippocratic Medicine*, in which the Fifth Circuit upheld District Court Judge Kacsmaryk's repeal of the FDA's approval of the abortion drug mifepristone. To justify why medical professionals had standing to challenge the approval, Ho wrote that "doctors delight in working with their unborn patients — and experience an aesthetic injury when they are aborted." He went on to further attack long-standing precedent protecting reproductive freedoms, imposing medically unnecessary restrictions on health care access. The Supreme Court then dismissed this case, ruling that the plaintiffs did not have standing.

Days after the judgement was handed down, **a Guardian article revealed** that Ho's wife, Allyson, a right-wing appellate lawyer, received at least six payments from 2018 to 2022 from the Alliance Defending Freedom, the entity that bought the challenge. Ho did not recuse himself from the case despite this conflict of interest.

Fifth Circuit Court of Appeals



Ethics & Accountability

Troubling reports about ethical breaches by Supreme Court justices have surged in recent years. This included a bombshell [ProPublica piece](#) that exposed a host of undisclosed, lavish gifts bestowed on Justice Clarence Thomas by billionaire Republican megadonor Harlan Crow. Multiple other reports later illuminated additional ethics scandals and instances of corruption in the Supreme Court.

Following intense public pressure, the Court unveiled its first-ever [Code of Conduct for Justices of the Supreme Court](#) in November 2023. However, [AFJ](#) and many others condemned its weak and non-binding nature.

This year, even more revelations of serious ethical violations committed by justices, along with a complete lack of accountability, validated those concerns.

A SUMMER OF SUPREME COURT SCANDALS

Justice Alito's Insurrectionist Flags

In May, a [New York Times report](#) revealed that an-upside down American flag, a symbol adopted by January 6 insurrectionists, flew outside Justice Alito's Virginia residence in the days following January 6, 2021. Days later, a second [New York Times article](#) released a picture of an "Appeal to Heaven" flag flying outside of Alito's New Jersey beach house last summer. The Appeal to Heaven flag is a Christian nationalist symbol that was also carried by insurrectionists on January 6 as they stormed the Capitol.

Following these disturbing reports, Alliance for Justice, along with allied progressive organizations and Democratic lawmakers, [called upon Alito to recuse](#) himself from the two live cases involving January 6. On May 29, Alito published an open letter to Senators Durbin and Whitehouse, [blaming his wife for flying the flags](#) and refusing to recuse himself.

In June, [Rolling Stone](#) released a recording of an [undercover journalist's conversation with Alito](#) at the Supreme Court Historical Society's annual dinner. Alito made politically inflammatory remarks and audibly agreed with the reporter's calls to "return our country to a place of godliness."

Disregarding calls to recuse himself due to clear conflicts of interest, Alito joined the conservative majority in the two January 6 cases, [Fischer v. United States](#) and [United States v. Trump](#), making it harder to punish insurrectionists and conferring sweeping immunity onto Trump, shielding him from prosecution for his efforts to derail the 2020 election.

Justice Thomas' Undisclosed Expenses

In June, Senator Durbin, Chair of the Senate Judiciary Committee, received information about [additional trips and flights](#) gifted to Justice Thomas by Republican megadonor Harlan Crow that Thomas did not disclose. Later in June, Justice Thomas [disclosed several further expenses paid for](#) by Crow, and other billionaires connected to Crow, which he had failed to report, including private jet travel between 2017 and 2021, a luxury trip to Indonesia in 2019, and lodging at a private club in California.

The FBI's Non-Investigation of Justice Kavanaugh

In October, Senator Sheldon Whitehouse released a long-anticipated [report](#) that showed that the FBI's 2018 Investigation into the allegations of sexual misconduct made against Justice Kavanaugh was a performative sham that was fixed by the Trump White House.

While Trump told the American people that the FBI would have "free rein" to independently investigate the allegations, correspondence disclosed by the report shows that in fact the White House controlled the investigation from the outset, dictating who the FBI could interview and which leads they could follow. The outpouring of public information to the FBI tip-line was also improperly sent directly to the White House, not the FBI — and 4,500 tips submitted were never investigated.

These revelations were a reminder of the unscrupulous tactics used by the first Trump administration to shepherd through deeply flawed judicial nominees and install a right-wing majority on the Supreme Court.



Looking Forward

THE NEED FOR RESEARCH & RESISTANCE

As President-elect Trump returns to the White House, it's clear what his second term will mean for the federal judiciary. As he did during his first term, he will prioritize personal loyalty over fair-mindedness or even basic qualifications. He will nominate an overwhelmingly white and male group of judges who will have spent their careers as prosecutors, corporate attorneys, and/or lawyers for far-right causes.

Trump-appointed judges have played a leading role in advancing legal theories designed to erode reproductive rights, undermine protections for minority voters, roll back anti-discrimination measures, and more. There is no reason to doubt that they will continue to do so going forward.

RESEARCH

AFJ and its coalition partners will continue our work to thoroughly research nominees' records for both qualifications and fair-mindedness. This process involves examining each nominee's background, professional history, and community contributions to determine whether they are fit for the bench. Through this process, we can identify potential conflicts of interest, undue influence from partisan donors, or biases that could undermine the integrity of the courts.

TRANSPARENCY AND COALITION WORK

Research is just the beginning of effective advocacy. AFJ will continue to work in coalition with other progressive organizations from a wide variety of fields to amplify our efforts in promoting fair judicial nominations and pushing back against extremist candidates. Working in coalition not only strengthens our collective voice but also ensures that diverse perspectives from affected communities are represented. Together, we will educate the public and elected officials about nominees. At a time when the public has a deservedly low level of regard for the judiciary, it is especially crucial that nominees not only receive the approval of the Senate but also earn the trust of the American people.

SENATE JUDICIARY COMMITTEE SCRUTINY

The Senate Judiciary Committee plays a critical role in vetting nominees. AFJ will continue to engage in tireless advocacy to ensure that Democratic senators are vigilant and do not rubber-stamp Trump's nominees in the name of expediency. It is essential that they scrutinize each nominee's record with care and use all the tools at their disposal to prevent the confirmation of nominees who would do harm to our justice system and our lives.

BLUE SLIP

The blue slip policy, which gives home-state senators a voice in judicial nominations, remains a key tool in the judicial confirmation process. Chairman Durbin's decision to continue the blue slip custom despite Republican senators' [refusal to engage in good-faith consultation](#) about nominations led to a disturbing number of district court vacancies remaining unfilled. Senator Chuck Grassley, soon-to-be chairman of the Senate Judiciary Committee, has pledged to uphold the blue slip policy for district court seats. Democratic



Senators should not hesitate to use the blue slip to delay or block nominations or confirmations, not based on bad-faith partisan posturing, but when the nominees' records make them unfit for a lifetime seat on the federal courts.

It's equally important that the return of a blue slip — regardless of party — should not guarantee an easy confirmation. Senators on the Judiciary Committee must still conduct rigorous scrutiny, asking tough questions to ensure nominees are committed to upholding civil rights and protecting the integrity of the federal courts.

OTHER PROCEDURAL TOOLS

Senators should also use [other procedural tools](#) at their disposal to prevent the confirmation of unfit judges. They should certainly not agree to “deals” like the agreement that resulted in the confirmation of [unqualified Trump judges](#) during the lame-duck session of Congress after the 2020 election.

As we approach the second Trump term with a Senate majority backing his extreme agenda, we face a clear challenge. However, we also know from experience that persistence and resilience can lead to meaningful victories. The integrity of the federal judiciary and the protection of our rights depend on our ability to hold all branches of government to high standards, and to loudly resist when they fall short. It is essential that we continue to promote a judiciary that reflects the demographic diversity of our country and the professional diversity of the law. Our vigilance in resisting harmful judicial nominations will determine the future of our courts and our democracy.

As the ultimate arbiter of our Constitution and laws, the Supreme Court must be accountable to the people. Recent scandals show that the essentially nonexistent ethics and accountability frameworks at the Supreme Court are woefully inadequate. Additionally, as precedent-shattering decisions authored by the conservative majority have stacked up, the need for more wide-ranging reforms has become clear.

AFJ supports **Supreme Court reforms** including enforceable ethics rules, term limits and regularized appointments, accountability and transparency requirements, Court expansion, and jurisdiction stripping laws. These changes would rein in an out-of-control court and ensure checks and balances are present in our government, and in turn, would improve public opinion of and trust in the judiciary. The Biden administration **acknowledged the need for court reform** this summer, and legislators introduced numerous bills. AFJ will continue to sound the alarm about the need for court reform and to fight to make it a reality.

Lower Court Expansion

Alliance for Justice recognizes the need to create additional judgeships to alleviate backlogs and bolster access to justice for Americans. However, it is essential that these judgeships are filled with fair-minded, diverse judges who reflect the vibrant diversity of the United States and who will guard our civil and human rights — not right-wing, homogenous Trump loyalists.

In June this year, Senators Coons and Young’s bipartisan **JUDGES Act** advanced out of the Senate Judiciary Committee by a unanimous vote of 20-0. The bill, which would add 66 lower-court judgeships nationwide, passed in the Senate in August, but was unable to pass in the House because of Republican obstruction. Republicans had ample opportunity to work with Democrats before the 2024 election but held off until they knew the election results.

In a **press statement** on the matter, Alliance for Justice emphasized that it would be a “disservice to the public servants committed to equal justice to so blatantly weaponize this process” and applauded **President Biden’s official statement** that he would veto the bill.

On December 12, 2024, The House of Representatives passed the JUDGES Act despite President Biden’s veto caution. On December 23, 2024, **President Biden vetoed** the JUDGES Act. Alliance for Justice looks forward to a time when Congress will work together in a truly bipartisan manner to expand the lower courts commensurate with their need.



Conclusion

Alliance for Justice commends the Biden administration for placing a high priority on judicial nominations, and for its laudable progress on bolstering the professional and demographic diversity of our federal courts. Future administrations should build and improve upon Biden's record by nominating more movement lawyers to the bench, especially those with economic justice backgrounds; by desegregating more courts; and by naming judges who reflect the full diversity of the United States.

There is no question that the incoming president will, instead, choose judges for their loyalty to him personally and to right-wing causes like tearing down reproductive rights, voting rights, civil rights, and environmental protections. In the face of this reality, the vital work of AFJ and its coalition partners in the near term will be to discover and highlight these nominees' records, and to use all the tools at our disposal to prevent the confirmation of nominees who are unfit or will not be fair-minded. At the same time, AFJ will continue to shine a light on the need for ethics reform and other court reforms, so that we can build the support that will be necessary to enact those reforms in the future. AFJ's 45 years of experience and knowledge will be essential to the task of resisting and fighting back against efforts to pack our courts with judges who will do the bidding of the wealthy and powerful.



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OUR COURTS, OUR RIGHTS

Defending Justice Beyond 2024