

JUDICIAL APPOINTMENTS MEMO

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#17 - DATA BELOW AS OF AUGUST 25 OF EACH PRESIDENT'S SECOND YEAR



Background: [Article III](#) of the Constitution created the Supreme Court and gave Congress authority to create “inferior” courts¹ with judges who serve “during good Behaviour.”² Nominations to Article III courts are referred to the Senate Judiciary Committee and, if approved, listed on the [Executive Calendar](#). The Majority Leader decides which nominations to bring up for Senate consideration and the Minority Leader's level of cooperation determines whether that consideration will be efficient or time-consuming.

Confirmations Per Congress: The Senate confirmed an average of 7.5% of the judiciary per Congress during the 18th century, 7.6% per Congress during the 20th century, and 8% per Congress so far in the 21st century. The highest was 31.4% during the 24th Congress (1835-36) and the lowest was 2.6% during the 114th Congress (2015-16).

New Judgeships: The Supreme Court has had nine seats since 1869. Congress last created new U.S. Court of Appeals judgeships in 1990 (6.5% increase). Congress last created new U.S. District Court judgeship in 2003 (1.8% increase).

President	Vacant	Emergencies	Hearing	Confirmed	Cloture Vote	Avg NO	% of Judiciary
Trump 2	3%	50%	88.3%	81.7%	100%	44.1	5.6
Biden	8.7%	30.7%	68.5%	59.8%	96.05%	38.9	8.8
Trump 1	16.3%	55%	81%	38.7%	83%	19.2	5.9
Obama	12%	40%	84.3%	50.6%	4.8%	3.5	4.9
Bush 2	9.4%	39.8%	70.6%	61.3%	4.1%	.8	8.6
Clinton	11.45%	52.7%	82.35%	71.4%	1.2%	.5	10
Bush 1	6.5%	N/A	76.8%	82.6%	0%	0	7.6
Reagan	4.65%	N/A	100%	98.75%	0%	0	10.8
Average	9%	44.6%	81.5%	68.1%	36.1%	13.5	7.8

¹ These are the U.S. Ct of Appeals (179 positions), U.S. District Ct (673), and U.S. Ct of Int'l Trade (9). Unless indicated otherwise, data in this *Judicial Appointments Memo* are for Article III courts.

² [Article I](#) gives Congress authority to create “Tribunals inferior to the Supreme Court.” which require nomination and confirmation but serve for 15-year terms. These are the U.S. Ct of Federal Claims (16 positions), U.S. Tax Ct (19), U.S. Ct of Appeals for the Armed Forces (5), and U.S. Ct of Appeals for Veterans Claims (7).



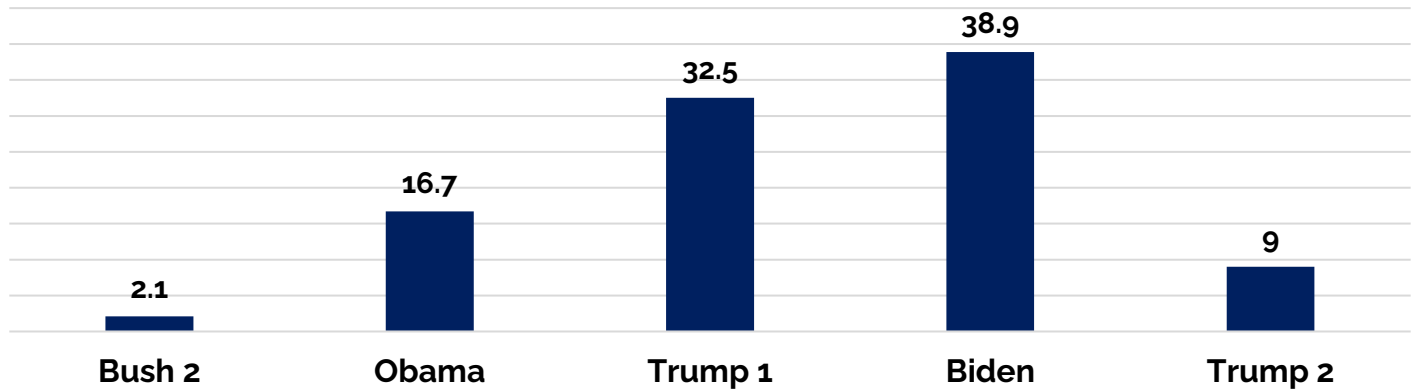
Confirmation Factoid

Since 1789, the Senate has confirmed approximately 4300 judges to Article III courts and defeated just 19

11 of these were to the Supreme Court, the last was Robert Bork in '87

8 of these were to the U.S. District Court, the last one was Ronnie White (E.D.MO) in 1999; he was appointed to the same court in 2014

Percent of All Cloture Votes on Article III Noms



(NOTE: the Senate's cloture rule has applied to nominations since 1949)

Percent of All NO Votes on Article III Noms

