



JUDICIAL APPOINTMENTS MEMO

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DATA AS OF MARCH 9 OF EACH PRESIDENT'S SECOND YEAR

ADVANCING AMERICAN
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Background: [Article III](#) of the Constitution created the Supreme Court and gives Congress authority to create "inferior" courts with judges who serve "during good Behaviour."¹ This means they serve until they choose to leave or are removed following House [impeachment](#) and Senate conviction. Nominations to Article III courts are referred to the Senate Judiciary Committee and, if approved, listed on the [Senate Calendar](#). The Majority Leader decides which nominations to bring up for action.

Recorded Votes: Confirming by voice vote or unanimous consent does not require the presence of all Senators and takes *less than a minute*. Confirming by recorded vote requires Senators' presence and takes *45 minutes or more*. Forcing recorded votes, especially for unopposed nominations, slows the confirmation process.

Traditional Confirmation Process Norms:

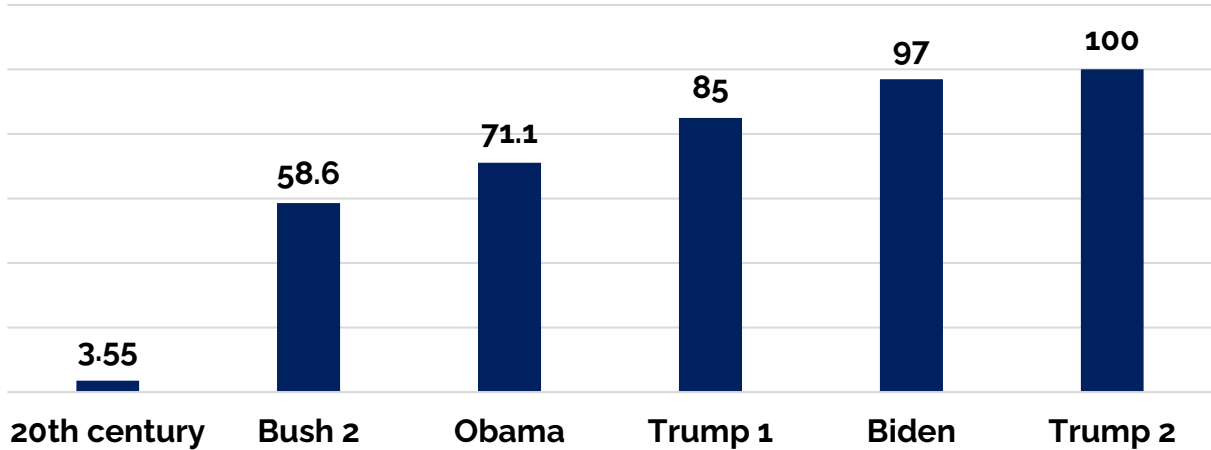
- The Senate confirmed most judicial nominations without opposition.
- Senators opposed very few judicial nominations by presidents of the other party.
- A very small percentage of judicial nominations had a separate vote under [Senate Rule 22](#) to invoke cloture, or end debate, before being confirmed.

President	% Vacant	% Hearing	% Confirmed	% Cloture Vote	Avg NO
Trump 2	4.25	82.2	73.3	100	43.9
Biden	9.1	58.5	56.1	100	37.2
Trump 1	16.5	71.8	34.1	96.55	22.55
Obama	12.1	93.2	40.9	11.1	4.9
Bush 2	11.3	48.9	42.4	0	.03
Clinton	14.2	66.7	49.3	0	0
Bush 1	9.2	52.4	54.8	0	0
Reagan	5.1	92.6	90.7	0	0

¹ [Article I](#) gives Congress authority to create "Tribunals inferior to the Supreme Court" which also require presidential nomination and Senate confirmation. The current Article I tribunals are the U.S. Court of Federal Claims (16 positions), U.S. Tax Court (19 positions), U.S. Court of Appeals for the Armed Forces (five positions), and U.S. Court of Appeals for Veterans Claims (seven positions). Judges on these tribunals serve for 15-year terms. Data in this *Judicial Appointments Memo* are for judges on Article III courts.

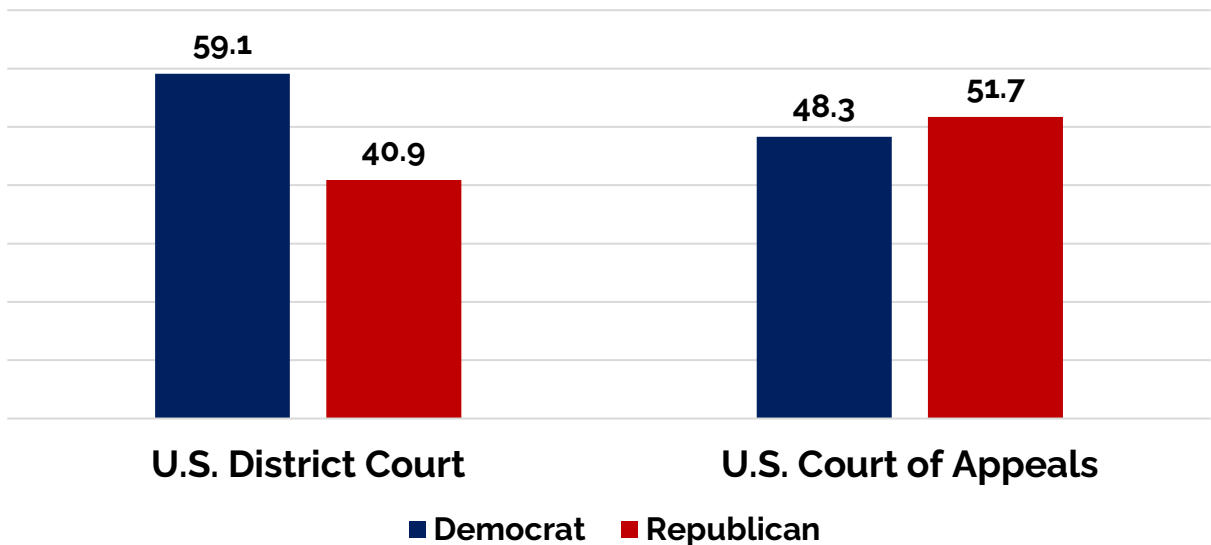


Percent Confirmed by Recorded Vote



86% of the recorded votes on President GW Bush's judicial nominations were unanimous – no opposition. Democrats forced SIX TIMES as many recorded votes on his unopposed nominations as in all of American history combined.

Percent of Current Active Judges



Longest-Serving Article III Judges

U.S. District Court: President Thomas Jefferson appointed Judge Henry Potter to the U.S. District Court in North Carolina in April 1802 and he served until his death in Dec. 1857. Among those in active service, Judge Terrence Boyle has served on the U.S. District Court (also in North Carolina) since President Ronald Reagan appointed him in April 1984.

U.S. Court of Appeals: President Richard Nixon appointed Judge Gerald Tjoflat to the U.S. Court of Appeals for the 5th Circuit in Oct. 1975 and he served until taking senior status in Nov. 2019, after his position had been moved to the 11th Circuit, which was created in 1981. Among those in active service, Judge Pauline Newman has served on the Federal Circuit since President Reagan appointed her in Feb. 1984.

U.S. Supreme Court: President Franklin Roosevelt appointed Justice William Douglas in April 1939 and he served until his death in January 1980. Among those in active service, Justice Clarence Thomas has served since President George H.W. Bush appointed him in Oct. 1991. He will surpass Douglas' record in May 2028.

