# INTRODUCTION

Under Article III, Section I of the U.S. Constitution, "The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." Such courts were established via the Judiciary Act of 1789, creating both the U.S. District Courts and the U.S. Circuit Court of Appeals. Article II, Section II gives the President the power to appoint nominees for confirmation to judgeships with the "advice and consent of the Senate." Once nominated, these candidates enter the Senate Judiciary committee, where the qualifications of the nominee are determined through questioning. The American Bar Association (ABA) "[provides] impartial peer-review evaluations of prospective judicial nominees in order to assist the White House in assessing whether such individuals should be nominated to the federal judiciary," rating nominees as "Well Qualified, Qualified, or Not Qualified" (ABA 2014). Using these ratings in addition to their own questionnaire, and hearing, the committee recommends to the Senate whether they believe the nominee is worthy of consideration for the federal judgeship. The Senate then votes, and, if the nominee is able to obtain a majority in favor of their confirmation, they are able to take the bench. In totality, these steps create what is known as the confirmation process.

While there are "three camps are at odds" with one another over the role of politics, partisanship, and ideology in judicial appointments," I believe that as Cottril and Peretti (2013) have noted, the extreme polarization of politics within the United States over the past 50 years has turned the confirmation process into a zero-sum game, and that politics, partisanship and ideology are more important than ever within this process (Epstein, Segal, 2005). Strengthening my belief is the large amount of research indicating

that ideology and partisanship impact the confirmation process at all levels of the federal judiciary, most notably at the level of the Supreme Court (Bell, 2002; Cotrill, Peretti, 2013; Jost, 1998; Martinek, W. L., Kemper, M., & Van Winkle, S. R., 2002; Massie, T. D., Hansford, T. G., & Songer, D. R., 2004; Ziegrell 2010). Exemplified by Supreme Court Justice Ruth Bader Ginsberg's recent refusal to retire this year due to President Barack Obama's inability to "successfully appoint anyone [Ginsberg] would like to see in the court," party politics in the confirmation process are still as strong as ever (Weisberg 2014). I expand this past research into present day and extend it to the Circuit Courts of Appeals, focusing on the terms of both President George Bush and President Barack Obama and discover how membership in the same political party by the President and appellate court nominees affect such candidate's confirmation prospects during a period of divided government.

I argue that appellate court nominees whom are viewed as more ideologically extreme than moderate are more likely to be confirmed during periods of united government than are more moderate nominees during times of split government, especially in periods where a judicial nominee is perceived to have an ideological lean, no matter how moderate, that is in opposition with the majority party. To test this argument, I examine the judicial nominations and confirmations from 2001 through the end of 2014, as well as the Senatorial make-up (107-113th) of this same time span, with particular attention to the nomination's success or failure, the margin of victory/defeat in the vote, the nominees perceived ideological extremity, the length of the confirmation process; any nominations that are withdrawn by the President shall be identified as rejected. In summary, I found that at the appellate court level, ideological extremity, as

measured by an expansion of Cameron, Cover and Segal's (1990) CSS model, does not play an important role in the confirmation of a judge, but it does play an important role in the timing of such a judge's nomination. In addition, the gender, and time period it takes for a nominee to get to the Senate floor have a statistically significant effect on one's confirmation. This study proceeds by identifying the already extant literature regarding divided government and an explanation of my data and methods, as well as my results and conclusion.

## DIVIDED GOVERNMENT AND JUDICIAL NOMINATIONS

Previous research into the phenomenon that is related to the judiciary and divided government has indicated a few overarching trends. First, a positive relationship between rulings in a case and political ideology has been identified. Second, and building upon this relationship, a link between party identification and nomination of judges has also been found. These two relationships together have also been used to discover a link between confirmation prospects and party identification, the exact relationship I plan to investigate in more depth. Additionally, the importance of the of the U.S. Circuit Courts of Appeals cannot be stressed enough, as the U.S. Supreme Court only grants a writ of certiorari, or agrees to hear about eighty cases a year. This means that the circuit courts, in most cases, will have the final say on what is the law of the land, and thus should be held in higher regard than just as intermediary courts that can eventually be overturned.

Studies of the politics of the judiciary have addressed a number of questions such as what factors play into a judge's decision? Does a judge consider the precedent their decision will make? Are these decisions influenced by ideological leanings? Regardless of what we speculate, judges rarely divulge any information that will indicate the

rationale behind this process. Thus, as judges make decisions on the bench of federal courts, each level of the hierarchy bears greater meaning for policy within the United States than the level below. Parallel to the breadth of a decision's impact, the importance of a judge's personal policy preferences, or ideological alignment, has been found to increase proportionately (Zorn, Bowie, 2010). This being said, political policy preference when related to landmark cases has the highest effect on decision making within the Supreme Court and the lowest within the District Courts.

Literature on the link between ideological decision-making at the level of the Supreme Court is extensive, while the focus on the lower federal courts has only come into the limelight within the past twenty years (Shomade, Hartley, Holmes, 2014). This has resulted in a significant gap in the literature regarding the lower courts. At the Supreme Court level, the Attitudinal Model of decision-making, wherein judges align their vote with their partisan preference (i.e. liberal judges vote liberally, and conservative judges vote conservatively) runs the gauntlet. Research by Collins (2008) expands upon this model, indicating the circumstances under such ideological voting occurs and finding such votes more likely when the case is viewed as having important policy implications. Further research has shown that judges often make choices in line with their political ideology, especially when the court is highly politicized a phenomenon that has been found to be true in the United States, as well as in the High Courts of Canada and Australia (Weiden, 2011).

One of the largest differences between the Supreme Court and the Federal Circuit Court of Appeals is the inability to pick and choose which cases each hears. Instead, the Federal Appeals courts have the ability to review cases through *en banc* proceedings.

Under these conditions all of, the judges of the Circuit, review the decision of the original three-judge panel, creating new precedent that overrules the original. Although rare (80-90 cases per year), research has indicated that judges may use these proceedings to agenda set, especially in "the most legally significant cases" (Giles, Walker, Zorn, 2005). Further research into the usage of *en banc* proceedings has indicated the relationship between ideology and the vote for the usage of such proceedings; finding greater ideological heterogeneity within a circuit related to higher usage of *en bancs* as well as resistance to the use of *en bancs* when the ideological minority uncovers information relating to the preferences of the ideological majority (Giles, Hettinger, Zorn, Peppers, 2007).

Specifically for the Circuit Court of Appeals, research indicates that judicial voting behavior of judges is consistent with the political preferences of the appointing President (Songer, Ginn 2002). More recent literature on the matter has strengthened this finding, indicating that the partisan composition and policy preference of judges on the circuit has an impact on the individual behavior of the judges (Collins, 2010; Zorn, Bowie, 2010). This effect was found to be especially true for Democratic judges, as a larger number of liberal judges on the bench in that circuit increased the chances of each individual judge supporting a liberal outcome (Collins, 2010). In 2013, Kastellec further supported this finding, noting that "African American judges are significantly more likely than *comparable* nonblack judges to support affirmative action programs…The presence of a black judge increases the probability that a nonblack judge will rule in favor of an affirmative action program by about 20 percentage points. In fact, the random assignment of a black *counterjudge* to a three judge panel of the Court of Appeals nearly ensures that

the panel will vote in favor of an affirmative action program." Kastellec also mentions similar effects with gender-based panels, wherein women influence men to support more liberal items than they would normally be perceived to support (Kastellec, 2013). The most extensive study of lower federal courts belongs to Sheldon Goldman (1997), who took an in-depth look into the Presidential Agenda of the time of nomination, as well as the age, gender, education race, religion, work history, party affiliation, and qualifications, of lower court nominees ranging from Roosevelt (1933) to Reagan (1989). Massie, Hansford and Songer (2004) further modernized this research, looking at data ranging from the Carter years (1977) through the Clinton administration (1999). Drawing on the research indicating judge's ideological voting preference, Massie et al., shifted the focus onto the actions of another branch of government, that of the executive branch.

Historically, the judicial nomination process has been thought to be a straightforward process. The expectation has been that the President works with the Senators of the federal district with a vacancy to select and receives approval of possible nominees. The President then presents the nominee to the judiciary committee, which begins the aforementioned confirmation process.

Studies related to ideological influence on judicial decision making indicate the importance of the ideological standing of a given judge sitting on the federal bench. As a result, it is favorable to the President to nominate ideologically similar judges to increase the chances of creating precedent in line with their parties' policy preference. In order to do this, the President must publically name who they want to fill a judicial vacancy, a process that has been found to take an increasing amount of time as the political sphere has become more polarized (Masse et al., 2004). The authors hypothesized that a division

of government would decrease the likelihood of a President nominating a federal judge on any given day, and the unification of government would increase this likelihood, both hypotheses that their data supported (Masse et al., 2004). Historically, the expectation has been that the President will defer to the wishes of a home state Senator when making nomination selections, a practice from which recent Presidents have deviated.

For instance, while President George W. Bush listened to requests from home state Senators, he "made it known that, he would leave himself more discretion in selecting nominees to appellate courts," a practice that recent press accounts indicate President Obama also adheres to (Brand, 2010). When Presidents deviate from this practice, it has been thought that their best opportunity to gain support for their nomination is by going public, "a legislative strategy in which the president attempts to manipulate public opinion via public statements in order to gain advantage in Congress" (Cameron, Park, 2009). Studies have shown the use of this strategy for nominees to both the Supreme Court and the U.S. Court of Appeals (Cameron, Park 2009, Holmes, 2007). Such research has found that while Presidents are more likely to go public for their nominees when confirmation prospects are unfavorable due to hostile conditions within the Senate but those strategies actually increase opposition to such nominees' confirmation (Cameron, Park 2009, Holmes, 2007).

In order to best appease home-state senators with regard to judicial nominations, the Judiciary Committee has relied on the use of senatorial courtesy, also referred to as the "blue-slip," a form used to inquire the preferences of a home-state senator as to the approval or disapproval of Presidential nominees since 1917 (Sollenberger 2010). While the importance of the blue slip has varied since this time, ranging from a complete veto to

a mere recommendation, Sollenberger found that chairs of the Judiciary Committee have almost always adopted a blue-slip policy favorable to their political party (Sollenberger 2010). As recently as the 110th Congress, the blue slip has been used as an ideological tool to block certain nominations from ever being voted on within the Judiciary Committee (Black, Madonna, Owens, 2014). When nominees are approved through the Judiciary Committee hearing, they are exposed to the vote of the Senate, which has increasingly taken a longer time since the failed nomination of Robert Bork to the Supreme Court, tripling from an average of 42 days before his nomination to more than 143 afterwards (Martinek, W. L., Kemper, M., & Van Winkle, S. R., 2002).

Martinek, et al. (2002) believe the rationale behind this change is associated with divided government, which is "closely associated with increased delay for district court nominations," as evidenced by their data with the increase in confirmation duration during the 100 – 105th Congress, a period defined by divided government (Martinek, W. L., Kemper, M., & Van Winkle, S. R., 2002). Bell (2002) uncovered the fact that "since 1995, the average number of days between nomination and confirmation has increased dramatically… [Many] nominees wait between 200 and 300 days for a confirmation vote…, while an increasing number wait 18 months or more." Further, Bell's research indicates that the time between a nomination by the President and senatorial confirmation is dependent on the absence or presence of divided government, as well as by the strength of the majority either party holds (Bell, 2002). In order to better understand what is important to Senators when voting to confirm Supreme Court nominees, Cameron, Cover, and Segal developed their CCS model in 1990. This model mainly focused on if the nominee was qualified for office, as well as the nominees' proximity to the senator in

ideological space. Using this model, they discovered that "it is overwhelmingly the interaction of qualifications and ideology that determine the votes of senators" (Cameron, Cover, Segal 1990). This finding was later re-affirmed by Epstein, Lindstadt, Segal and Westerland, when they "modernized" the CCS model in 2006 to look at a wider range of Supreme Court nominees, qualifications in a different manner (a content analysis of newspaper editorials published form the time of a nomination till the vote), if there was a "Strong President," or a period of unified government, if the senator was of the same political party as the president, the ideological distance of the candidate and the senator, and the interaction between this distance and these qualifications (Epstein, Lindstadt, Segal, and Westerland, 2006). In addition, this study further supported the 2002 findings of Martinek, W. L., Kemper, M., & Van Winkle, S. R., in noting that the failed nomination of Robert Bork serves as the date when "the Senate's scrutiny of nominees changed markedly" (Epstein, Lindstadt, Segal, and Westerland, 2006).

Due to the power inherent for those judges who sit on the bench of the U.S. Circuit Court of Appeals, the ideological alignment of who such judges are has become a more important factor than ever before. As both the Senate and President have become aware of this, divisions in government create the most tension for judges' nomination prospects. As the President has moved away from the norms of respecting a home-state senator's judicial nomination advice and has increasingly relied on the use of the going public strategy, the Senate has reacted with its own strategy (Cameron, Park 2009, Holmes, 2007). By increasing the time of the confirmation process, the Senate has made it so some nominees may sit in judicial limbo for years, an example being Ninth Circuit

Judge Richard Paez (Bell, 2002). The intersection of all these factors, leads me to several main hypotheses.

Based on consistent research trends of the influence of ideology at the Supreme Court level and the findings related to the influence of party identification on decision-making, I believe the trend will be found at the lower levels of the court; thus I hypothesize:

> *H1: Nominees, who are viewed as holding extreme views, in either direction, will only be nominated in a period of united government*

Following the belief that the ultimate goal of nominating a judicial nominee is to install a judge who is capable of promoting precedent favorable to the nominating President's own political party, I hypothesize that:

> *H2: Nominees falling on either side of the extremity rating of moderate will only be confirmed when there is united government in their favor*

Previous research has indicated that the average length of time for confirmation of judges has increased, which begs the question of if this has had an effect on the ultimate confirmation prospects of a judge. As there is no information available on the outcome of this increase, I hypothesize:

> *H3: The longer it takes for a judicial nominee to get to Senate floor, the less likely it is that said nominee will receive confirmation.*

Due to the fact that one's legal work history is the primary base upon which Senators can justifiably base a nominee's competency to sit on the federal bench, I hypothesize:

*H4: The more years of experience a nominee has as a lawyer and judge, the more likely it is they will be confirmed.*

## DATA AND METHODS

In order to test these hypotheses, I examined Appellate Court Nominations from the years 2001 to 2014, or the 107-113th Congress; thus, I analyze 142 nominations to the federal appellate courts. To analyze the impact of party identification on confirmation, I rely on a large-N study, of which I conduct numerous regression analyses on in SPSS.

For the large-N statistical analysis, I ran both a bivariate analysis, as well as a logit regression. In order to hone in on what to analyze, I expanded upon the modernized CCS model, utilizing it to focus on a different level of judges as well as widening the net to investigate the importance of more variables within the confirmation process. My bivariate analysis focused on whether the government was split or united, and whether the judicial nominee received confirmation or not, with confirmation being success, coded as 0, and non-confirmation being rejection, coded as 1. My logit regression focuses on the nominations and confirmations of Circuit Court nominees during the terms of Presidents George W. Bush, and Barack Obama, which saw eighty-three and fifty-nine judges nominated to the Federal Circuit Courts respectively. George W. Bush's presidency provides me with examples of split control of the Senate during his first two years, followed by four years of Republican support, and concluding with two years of Democratic control. President Obama was able to enjoy Democratic control of the Senate during the first six years of his presidency, two of which were overwhelming control. During this period, fifty-one of President Bush's nominations received confirmation and

forty-nine of President Obama's nominees received confirmation by the end of their sixth year in office.

In order to investigate the why of these confirmations, I have decided upon the following as my independent variables: the age, gender, race, years of court experience, years of prosecutorial experience, prior public office, type of legal practice, party of president, party controlling the Senate, length of time between nomination and confirmation vote or withdrawal, ranking of law school, percentage of Senate vote won, perceived extremity of the nominee and home state senatorial support of the judicial candidates. I obtained the necessary information from the Judiciary Committee website, Judicature magazine, the Federation of American Scientists, as well as govtrack.us. Govtracker.us was also used to determine senatorial make-up for each of these congressional periods, as well as the split in vote between political parties. In order to determine the extremity score of these nominees, I viewed and recorded the questions asked by senators, and responses of nominees during the Judiciary Confirmation Hearings as they related to hot button issues including abortion, judicial activism, gun control, capital punishment, same-sex marriage, and affirmative action. These records were available through the Government Printing office via GPO.gov. When this information was not available, or the issue was not discussed during the hearing, I dove into the responses of the nominee to the Judiciary Committee Questionnaire,[1] opinions, concurring and dissenting opinions authored, the stance with which they aligned their decision as well as the opinions expressed in the form of letters from interest groups such

[1] Since nominees skirt around directly answering questions to indicate their personal opinion, any instance in which the language indicated a bias was used to determine their position on an issue.

as The Leadership Conference on Civil and Human Rights, and People for the American Way. Within each issue, nominees were given either a -1, indicating a conservative stance on the issue, a 0 for an inability to discern their stance, and a 1 for holding a liberal view, and this rating scheme was held consistent across all six issues. Law school rankings were determined from the 2014 U.S. News Law-School rankings available online. Information such as years of court experience, years of prosecutorial experience, prior public office, and type of legal practice are available in the confirmation hearings, as well as biographical information on each circuit court's website, as well as the Federal Judicial Center. Information related to the length of time between nomination and confirmation or rejection is available from several documents made available through the Congressional Research Service.

My dependent variable is the confirmation or rejection/withdrawal of the nominated judge to the circuit bench by the Senate. I ended up measuring this in two ways: first, by noting a simple yes or no to the nominee's confirmation, second, I recorded the total number of votes each nominee received in favor of their confirmation, regardless of which party the voting senators belonged too. In this manner, I was able to capture both the end result, as well as record bipartisan support for nominees. In order to further validate my findings, I ran multiple regression analyses holding different independent variables constant in order to determine if they ultimately affect a nominees confirmation or not.

## RESULTS AND ANALYSIS

Within SPSS, I ran correlation tables, cross tabulations, and binary logistical regressions on my data to discover any and all statistically significant relationships. The

order in which I ran these tests on my data was consistent with the numerical order of my hypotheses. I did this in order to best determine the effect of each independent variable on confirmation prospects in individual steps. This ultimately allowed me to comprehend which variables are important in the confirmation of a judge, and which aren't. To best explain my findings, these results will also be reported in this order. An overall glimpse into the results of my experiment indicates that of my four hypotheses, only two surpassed the threshold for statistical significance (.05) and can thus be considered correct.

The number of nominees who fell into the "extreme" label on either side of the party line totaled 19 judicial nominees, 6 of them being conservative, and 13 liberal. During the 107th congress, where-in control was split, 2 of these conservative nominees were nominated, and eventually confirmed, while this would seemingly disprove my hypothesis, Dick Cheney, the Vice-President of the United States would technically gave the Republican's another vote within the Senate, which would hypothetically be used in favor of a conservative agenda, thus giving them majority control. This trend was consistent until the Democratic controlled 110th congress, in which I saw the only exception to my hypothesis, that being Robert J. Conrad Jr.,[2] who was identified as an extreme conservative by the means of my research, nominated by President Bush.

Interestingly enough, many of Conrad's past comments led the Judiciary Committee to label Conrad in a similar fashion, which resulted in the committee refusing to grant Conrad a confirmation hearing. Besides this, extreme candidates were once again only nominated when the Democrats held the majority from the 111th to 113th congresses.

---

[2] See Table 1.1

I believe of all my hypotheses, this is the easiest to understand, as it is consistent with the findings of research done on nominees to the Supreme Court. Since these nominees are exceptionally robust in their views, the Senate is easily able to recognize instances in which their ideological leaning has been clear, and from this create reasoning to block their confirmation, regardless of political affiliation. Proof of this idea lies in the fact that in the 111th session, Senate Democrats decided to blocked the confirmation votes of Goodwin Liu, and Caitlin J. Halligan, who were identified as extremely liberal, and had notable controversy surrounding their confirmations yet decided to allow the uncontroversial Thomas I. Vanaskie and Andre M. Davis, who were also identified as extremely liberal, to have their confirmation hearings.

The results of my second hypothesis indicate that I was incorrect in assuming that candidates who are viewed as having only a moderate leaning need united government in order to receive confirmation. Since my results didn't surpass the necessary threshold for statistical significance (See table 1.2), I must reject the null hypothesis, which precludes any support for determining a causal relationship between extremity and one's confirmation prospects. This statistical insignificance may be the result of only having 142 judges within my data set, which, to me, indicates that extremity cannot be completely ruled out at the appellate court level, and should continue to be monitored in future studies of nominees.

However, drawing on this result, it may seem that our Federal Appellate Courts are in the hands of more un-biased justices those of the Supreme Court, who research has indicated factors ideology into their decisions (Collins, 2008;Weiden, 2011). This could stem from a belief on behalf of the Senators that due to the large number of judges at this

level (in comparison to the Supreme Court) spread throughout the 12 circuits that rule on cases covering controversial issues, the ideological meshing will result in neutrality when the decision is ultimately reached, however this has already been proven incorrect. What is more likely, I believe, is that Senators are content with the hodgepodge of ideology that occurs within each circuit, because of the disharmony that arises between the circuits. Since this eventually leads to the issue making its way to the Supreme Court (as highlighted by the issue of gay marriage in today's society), wherein ideology has been found to have the largest role in the decision making process (Collins 2008; Cameron, Cover, Segal 1990; Epstein, Lindstadt, Segal, J, Westerland, 2006).

My third hypothesis proved to have a very strong statistical significance, as shown by table 1.3 and 1.4. Due to this, I was able to reject the null hypothesis and determine a causal relationship between the length of time between one's nomination and their confirmation hearing, and their ultimate confirmation or rejection. Noting this statistical significance, I looked further into the descriptive statistics behind this duration, some of which are available in Appendix A. The time period before a nominee's confirmation hearing had a range of 2,666 days, with the shortest time being 63 day and 2,729 as the longest. Interestingly enough, the mean of 388, or a little bit more than a year, really seemed to serve as the cut off for whether a nominee would be confirmed or not. Of the 142 nominees, 90 (63%) received confirmation before this time period, as compared to 24 (17%) after 388 days eclipsed. On the other hand, only 9, (6%) of the judges were rejected or withdrawn before, as compared to 19 (13%) afterwards. In addition, this mean indicates that the trend that Bell (2002) noticed is continuing, as most of the nominees who had the longest confirmation waiting periods were nominated

during the split 107th, or weakly controlled 108th congresses. I believe that this duration will begin to decrease, however, since senators are no longer able to filibuster nominees to the Federal District or Circuit Courts since Senate Democrats invoked the nuclear option in November of 2013.

My fourth hypothesis, like my second hypothesis, was also found to be statistically insignificant. While years of lawyer experience was far from being statistically significant, one's years of judicial experience were much closer to the necessary threshold.[3] Although not necessarily a part of this hypothesis, the type of law that a nominee practiced, is essential to understanding the number of years they work. While none of these were proven to be statistically significant, working as a government lawyer was considerably closer than the other types.[4] This suggests, at the least, that working within the government is a good route to follow if one hopes to become a federal judge. Given a larger data set, I believe that the years of judicial experience a nominee has practiced would be statistically significant, as it seems almost intuitive that this is one of the largest variables senators weigh when conducting the Judiciary Committee Hearing, as well as to base their confirmation decision on.

In addition to my four hypotheses, my research uncovered three other findings of interest. First of all, the relationship between confirmation and gender was statistically significant, suggesting that women have an easier time receiving confirmation then men. Secondly, it seems as if age, a characteristic that is believed to be very important in regard to the nomination of judges to positions with life tenure, and was highly debated when John Roberts was nominated to the Supreme court, is actually unimportant at the

---

[3] See Table 1.6
[4] See Table 1.7 and 1.8

Appellate level, as it was not found to be statistically significant. Third, it seems as if race has no impact on one's confirmation chances. While it is great that Under Represented Minorities (URMs) are receiving nominations at a higher rate than ever within the Obama administration, it is also relieving to know that this URM status is not the sole factor in the confirmation prospects of such nominees. Lastly, school rank was also found not to be statistically significant. Although no previous research has been done using the same school ranking system as mine, historically, judges have been thought to attend the most prestigious of law schools, most often being graduates of Harvard or Yale.[5] This is an encouraging finding for anyone who one day aspires to be a federal judge, since it is possible to be confirmed to such a position regardless of where you obtain your law degree.

## CONCLUSION

While almost every aspect of the United States government has become increasingly politicized, it seems as if the distribution of justice amongst our intermediary courts has stayed consistently moderate over the last 14 years. This is ideal as the number of opinions the Supreme Court issues still continues to be low, and a simple 5-4 majority decides the major landmark decisions of the Court, wherein the distribution of those votes matches the ideological divide of the court. When an ideologically extreme candidate has been nominated, it has been during a time of united government, and, in most cases, these judges have been nominated to circuits that are almost even in the distribution of the party of the nominating president, they have an overwhelming minority, or to strengthen an overwhelming majority. Although this has been atypical as only a few "extreme"

[5] This is especially true at the Supreme Court level, which is one of the knocks against the court.

nominees have been confirmed, it is an interesting trend to watch moving forward, especially with the Republicans capturing the Senate majority in the 2014 mid-term elections, and the upcoming 2016 Presidential election.

If the trend stays true however, it seems that regardless of partisan control of the Presidency and the Senate, judges who are more moderate in their ideology will be nominated and moved through the confirmation process at a quicker rate than we have seen within the last 20 years. While they will be moved through faster due to the inability of senators to filibuster nominations, this will result in a higher rejection rate of nominees who do not fit the moderate body of work that the President and Senate seem to be looking for in the Circuit Courts of Appeals. As the importance of these courts hopefully becomes more evident, future research should focus on a larger period of time, expanding to at least three presidents, and ensuring that they have all experienced at least one period of united, split, and divided government to note the true effects of ideology, as well as other qualifications on the confirmation prospects of judges. In addition, I believe attention should be paid, if possible, to the success nominees had in their respective fields of law, whether that be their record as a prosecutor, the prestige of their private practice, or the level of government in which they worked, besides just the time that they were involved in general practice of the law.

Appendix A – Variable Descriptions & Extremity Component Matrix

| Variables | Description | Mean | Std. Deviation |
|---|---|---|---|
| President Party | Party the President identifies with. Coded -1 for Republican, 1 for Democrat | .042 | 1.0026 |
| Duration | The number of days from the nominees first nomination till their confirmation hearing or withdrawal | 388.120 | 401.1416 |
| Senate Majority | Party that held control of the Senate for that congressional session. Coded -1 for Republican, 0 for Split, 1 for Democratic control | .268 | .8414 |
| Confirmed | If the nominee was confirmed or not by the Senate. Coded 0 for rejected, 1 for confirmed | .803 | .3993 |
| Age | Age of the nominee upon first nomination | 50.789 | 6.3345 |
| School Rank | 2014 U.S. News Rankings for Law Schools – Those not ranked were coded 999. | 99.46 | 263.130 |
| Gender | Gender of the nominee. Coded 0 for male, 1 for female | .310 | .4641 |
| Race | Race of the judicial nominee. Coded 1 for Caucasian, 2 for African American, 3 for Hispanic, 4 for Asian, 5 for Other. | 1.37 | .872 |

| | | | |
|---|---|---|---|
| Lawyer Experience | Years of experience a judicial nominee had as a lawyer prior to their nomination. | 15.887 | 7.3128 |
| Judge Experience | Years of experience a judicial nominee had as a judge prior to their nomination. | 6.549 | 7.7337 |
| Level of Public Office | Level of Public Office a nominee held. Coded 0 for none, 1 for Local, 2 for State, 3 for Federal | .085 | .4038 |
| Prosecutor | Did the nominee work as a prosecutor prior to their nomination? Coded 0 for No, 1 for Yes | .423 | .4957 |
| Private Practice | Did the nominee worked in a private practice prior to their nomination? Coded 0 for No, 1 for Yes | .859 | .3491 |
| Government Lawyer | Did the nominee work as a government lawyer prior to their nomination? Coded 0 for No, 1 for Yes | .648 | .4793 |
| Breakdown of Vote | Breakdown of Senators who voted "Yes" for the nominee. | 82.87 | 58.216 |
| Home State Support | Did the judge's nomination have the support of both their home state senators? Coded -1 for No, 0 for a Split, 1 for Yes | 1.51 | 8.256 |

| | | | |
|---|---|---|---|
| Extremity* | Perceived extremity of each nominee – variables measured located in component matrix. (-5 is extremely conservative, 5 is extremely liberal) | .0845 | .96384 |

*Component Matrix[a]

| Variable | Component 1 | Component 2 |
|---|---|---|
| Abortion Stance | .774 | -.047 |
| Judicial Activism Stance | -.096 | .917 |
| Gun Control Stance | .443 | .076 |
| Capital Punishment Stance | .702 | .155 |
| Same Sex Marriage Stance | .618 | .343 |
| Affirmative Action Stance | .689 | -.335 |

Extraction Method: Principal Component Analysis.
a. 2 components extracted.

Appendix B – Tables

**Table 1.1** – Name of Judge, Issue Score and Perceived Extremity

| Judge | Abortion | Affirmative Action | Capital Punishment | Gun Control | Same Sex Marriage | Total* | Perceived Extremity |
|---|---|---|---|---|---|---|---|
| Terrance W. Boyle | -1.0 | -1.0 | .0 | 1.0 | -1.0 | -2.00 | Moderate Conservative |
| Jay S. Bybee | -1.0 | -1.0 | .0 | .0 | -1.0 | -3.00 | Moderate Conservative |
| Edith B. Clement | 1.0 | -1.0 | .0 | .0 | .0 | .00 | Moderate |
| Richard R. Clifton | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Deborah L. Cook | -1.0 | -1.0 | -1.0 | .0 | -1.0 | -4.00 | Extreme Conservative |
| Miguel A. Estrada | -1.0 | -1.0 | -1.0 | 1.0 | -1.0 | -3.00 | Moderate Conservative |
| Julia S. Gibbons | 1.0 | -1.0 | .0 | -1.0 | .0 | -1.00 | Moderate |
| Roger L. Gregory | .0 | .0 | 1.0 | .0 | 1.0 | 2.00 | Moderate Liberal |
| Richard A. Griffin | -1.0 | -1.0 | .0 | -1.0 | .0 | -3.00 | Moderate Conservative |
| Harris L. Hartz | -1.0 | -1.0 | .0 | .0 | .0 | -2.00 | Moderate Conservative |
| Jeffrey R. Howard | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Carolyn B. Kuhl | -1.0 | -1.0 | .0 | .0 | .0 | -2.00 | Moderate Conservative |
| Michael W. McConnell | -1.0 | -1.0 | .0 | .0 | -1.0 | -3.00 | Moderate Conservative |
| David W. McKeague | -1.0 | 1.0 | .0 | .0 | .0 | .00 | Moderate |
| Michael J. Melloy | 1.0 | .0 | 1.0 | 1.0 | .0 | 3.00 | Moderate Liberal |
| Susan B. Neilson | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Terrance L. O'Brien | -1.0 | .0 | -1.0 | .0 | -1.0 | -3.00 | Moderate Conservative |
| Priscilla R. Owen | -1.0 | 1.0 | .0 | 1.0 | .0 | 1.00 | Moderate |
| Barrington D. Parker Jr. | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Charles W. Pickering Sr. | -1.0 | -1.0 | -1.0 | .0 | 1.0 | -2.00 | Moderate Conservative |
| Sharon Prost | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Reena Raggi | .0 | .0 | -1.0 | 1.0 | -1.0 | -1.00 | Moderate |
| William J. Riley | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| John G. Roberts, Jr. | -1.0 | -1.0 | -1.0 | .0 | 1.0 | -2.00 | Moderate Conservative |
| John M. Rogers | .0 | -1.0 | .0 | .0 | .0 | -1.00 | Moderate |
| Henry W. Saad | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Dennis W. Shedd | -1.0 | -1.0 | -1.0 | .0 | .0 | -3.00 | Moderate Conservative |
| D. Brooks Smith | -1.0 | -1.0 | -1.0 | -1.0 | 1.0 | -3.00 | Moderate Conservative |
| Lavenski R. Smith | -1.0 | .0 | -1.0 | .0 | -1.0 | -3.00 | Moderate Conservative |
| William H. Steele | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Jeffrey S. Sutton | -1.0 | -1.0 | -1.0 | 1.0 | 1.0 | -1.00 | Moderate |
| Timothy M. Tymkovich | -1.0 | -1.0 | -1.0 | -1.0 | -1.0 | -5.00 | Extreme Conservative |
| Claude A. Allen | -1.0 | -1.0 | .0 | .0 | -1.0 | -3.00 | Moderate Conservative |
| Carlos T. Bea | -1.0 | -1.0 | -1.0 | .0 | -1.0 | -4.00 | Extreme Conservative |
| William D. Benton | 1.0 | .0 | .0 | .0 | 1.0 | 2.00 | Moderate Liberal |
| Janice R. Brown | -1.0 | -1.0 | 1.0 | 1.0 | 1.0 | 1.00 | Moderate |
| Consuelo M. Callahan | .0 | -1.0 | -1.0 | -1.0 | 1.0 | -2.00 | Moderate Conservative |
| Michael Chertoff | 1.0 | .0 | -1.0 | 1.0 | .0 | 1.00 | Moderate |
| Steven M. Colloton | -1.0 | .0 | -1.0 | 1.0 | .0 | -1.00 | Moderate |
| Allyson K. Duncan | 1.0 | 1.0 | -1.0 | .0 | .0 | 1.00 | Moderate |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Dennis Michael Fisher | -1.0 | .0 | -1.0 | -1.0 | -1.0 | -4.00 | Extreme Conservative |
| Thomas B. Griffith | .0 | -1.0 | .0 | -1.0 | .0 | -2.00 | Moderate Conservative |
| Raymond W. Gruender | -1.0 | -1.0 | -1.0 | 1.0 | .0 | -2.00 | Moderate Conservative |
| Peter. W. Hall | .0 | .0 | -1.0 | 1.0 | .0 | .00 | Moderate |
| William J. Haynes II | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Brett M. Kavanaugh | -1.0 | -1.0 | .0 | -1.0 | .0 | -3.00 | Moderate Conservative |
| William G. Myers III | 1.0 | .0 | .0 | .0 | .0 | 1.00 | Moderate |
| Edward C. Prado | 1.0 | 1.0 | .0 | 1.0 | .0 | 3.00 | Moderate Liberal |
| William H. Pryor Jr. | -1.0 | -1.0 | -1.0 | -1.0 | -1.0 | -5.00 | Extreme Conservative |
| Diane S. Sykes | -1.0 | .0 | .0 | -1.0 | -1.0 | -3.00 | Moderate Conservative |
| Franklin S. Van Antwerpen | -1.0 | .0 | -1.0 | .0 | .0 | -2.00 | Moderate Conservative |
| Richard C. Wesley | .0 | .0 | -1.0 | 1.0 | .0 | .00 | Moderate |
| Michael A. Chagares | .0 | 1.0 | .0 | 1.0 | -1.0 | 1.00 | Moderate |
| Neil M. Gorsuch | 1.0 | .0 | -1.0 | .0 | 1.0 | 1.00 | Moderate |
| Thomas M. Hardiman | .0 | .0 | .0 | -1.0 | .0 | -1.00 | Moderate |
| Jerome A. Holmes | -1.0 | -1.0 | -1.0 | .0 | 1.0 | -2.00 | Moderate Conservative |
| Sandra S. Ikuta | .0 | .0 | -1.0 | 1.0 | 1.0 | 1.00 | Moderate |
| Kent A. Jordan | -1.0 | .0 | .0 | .0 | -1.0 | -2.00 | Moderate Conservative |
| Peter D. Keisler | 1.0 | .0 | .0 | .0 | .0 | 1.00 | Moderate |
| Raymond M. Kethledge | .0 | .0 | -1.0 | 1.0 | .0 | .00 | Moderate |
| Debra A. Livingston | 1.0 | -1.0 | -1.0 | .0 | 1.0 | .00 | Moderate |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Kimberly A, Moore | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Stephen J. Murphy III | -1.0 | .0 | .0 | .0 | .0 | -1.00 | Moderate |
| James H. Payne | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Bobby E. Shepherd | -1.0 | .0 | -1.0 | .0 | .0 | -2.00 | Moderate Conservative |
| Milan D. Smith Jr. | .0 | .0 | -1.0 | 1.0 | 1.0 | 1.00 | Moderate |
| Norman Randy Smith | .0 | .0 | .0 | .0 | 1.0 | 1.00 | Moderate |
| Michael B. Wallace | -1.0 | -1.0 | -1.0 | .0 | .0 | -3.00 | Moderate Conservative |
| George Steven Agee | -1.0 | 1.0 | .0 | .0 | .0 | .00 | Moderate |
| Jennifer Elrod | -1.0 | -1.0 | .0 | -1.0 | .0 | -3.00 | Moderate Conservative |
| Catharina Haynes | -1.0 | 1.0 | .0 | 1.0 | .0 | 1.00 | Moderate |
| Leslie H. Southwick | -1.0 | 1.0 | -1.0 | .0 | -1.0 | -2.00 | Moderate Conservative |
| John Daniel Tinder | -1.0 | .0 | -1.0 | .0 | .0 | -2.00 | Moderate Conservative |
| Helene White | .0 | 1.0 | 1.0 | 1.0 | 1.0 | 4.00 | Extreme Liberal |
| Robert J. Conrad Jr. | -1.0 | -1.0 | -1.0 | -1.0 | .0 | -4.00 | Extreme Conservative |
| Shalom D. Stone | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| E. Duncan Getchell | -1.0 | .0 | .0 | -1.0 | -1.0 | -3.00 | Moderate Conservative |
| Steve A. Matthews | .0 | -1.0 | .0 | .0 | .0 | -1.00 | Moderate |
| Gene E.K. Pratter | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Rod J. Rosenstein | .0 | .0 | -1.0 | 1.0 | .0 | .00 | Moderate |
| William E. Smith | .0 | .0 | .0 | .0 | 1.0 | 1.00 | Moderate |
| Glen E. Conrad | .0 | .0 | -1.0 | .0 | .0 | -1.00 | Moderate |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Michael O'Neill | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Denny Chin | .0 | 1.0 | 1.0 | .0 | 1.0 | 3.00 | Moderate Liberal |
| Andre M. Davis | 1.0 | 1.0 | 1.0 | 1.0 | .0 | 4.00 | Extreme Liberal |
| Albert Diaz | .0 | .0 | .0 | 1.0 | .0 | 1.00 | Moderate |
| Joseph A. Greenaway Jr. | .0 | 1.0 | .0 | .0 | .0 | 1.00 | Moderate |
| David F. Hamilton | 1.0 | .0 | -1.0 | 1.0 | .0 | 1.00 | Moderate |
| Barbara Milano Keenan | .0 | 1.0 | 1.0 | .0 | 1.0 | 3.00 | Moderate Liberal |
| Raymond Lohier, Jr. | .0 | 1.0 | .0 | 1.0 | .0 | 2.00 | Moderate Liberal |
| Gerard E. Lynch | .0 | 1.0 | 1.0 | 1.0 | .0 | 3.00 | Moderate Liberal |
| Beverly B. Martin | .0 | .0 | 1.0 | .0 | .0 | 1.00 | Moderate |
| Scott Matheson Jr. | 1.0 | -1.0 | .0 | 1.0 | .0 | 1.00 | Moderate |
| Mary H. Murguia | 1.0 | 1.0 | -1.0 | .0 | .0 | 1.00 | Moderate |
| Kathleen M. O'Malley | .0 | .0 | 1.0 | .0 | .0 | 1.00 | Moderate |
| Jane Branstetter Stranch | 1.0 | 1.0 | .0 | 1.0 | .0 | 3.00 | Moderate Liberal |
| Ojetta Rogeriee Thompson | .0 | .0 | .0 | -1.0 | 1.0 | .00 | Moderate |
| Thomas I. Vanaskie | 1.0 | .0 | 1.0 | 1.0 | 1.0 | 4.00 | Extreme Liberal |
| James A. Wynn, Jr. | 1.0 | 1.0 | .0 | -1.0 | 1.0 | 2.00 | Moderate Liberal |
| Robert N. Chatigny | .0 | .0 | 1.0 | .0 | .0 | 1.00 | Moderate |
| Goodwin Liu | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 5.00 | Extreme Liberal |
| Edward C. DuMont | -1.0 | .0 | .0 | .0 | 1.0 | .00 | Moderate |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Susan L. Carney | 1.0 | .0 | .0 | 1.0 | 1.0 | 3.00 | Moderate Liberal |
| Victoria F. Nourse | 1.0 | .0 | .0 | 1.0 | .0 | 2.00 | Moderate Liberal |
| Caitlin J. Halligan | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 | 5.00 | Extreme Liberal |
| Jimmie V. Reyna | .0 | 1.0 | .0 | .0 | .0 | 1.00 | Moderate |
| Bernice B. Donald | .0 | 1.0 | .0 | .0 | .0 | 1.00 | Moderate |
| Robert E. Bacharach | .0 | 1.0 | .0 | .0 | 1.0 | 2.00 | Moderate Liberal |
| Morgan Christen | 1.0 | .0 | 1.0 | .0 | 1.0 | 3.00 | Moderate Liberal |
| Christopher Droney | 1.0 | .0 | 1.0 | 1.0 | 1.0 | 4.00 | Extreme Liberal |
| Henry Franklin Floyd | .0 | .0 | 1.0 | .0 | 1.0 | 2.00 | Moderate Liberal |
| James E. Graves, Jr. | 1.0 | 1.0 | 1.0 | .0 | 1.0 | 4.00 | Extreme Liberal |
| Stephen A. Higginson | 1.0 | 1.0 | 1.0 | 1.0 | .0 | 4.00 | Extreme Liberal |
| Andrew D. Hurwitz | 1.0 | 1.0 | 1.0 | .0 | 1.0 | 4.00 | Extreme Liberal |
| Adalberto Jordan | .0 | -1.0 | 1.0 | .0 | 1.0 | 1.00 | Moderate |
| William J. Kayatta, Jr. | 1.0 | -1.0 | .0 | 1.0 | 1.0 | 2.00 | Moderate Liberal |
| Jane Louise Kelly | .0 | 1.0 | 1.0 | .0 | .0 | 2.00 | Moderate Liberal |
| Jacqueline Nguyen | .0 | 1.0 | .0 | -1.0 | .0 | .00 | Moderate |
| Patty Shwartz | .0 | .0 | .0 | .0 | -1.0 | -1.00 | Moderate |
| Sri Srinivasan | .0 | 1.0 | 1.0 | .0 | 1.0 | 3.00 | Moderate Liberal |
| Richard G. Taranto | 1.0 | .0 | 1.0 | .0 | 1.0 | 3.00 | Moderate Liberal |
| Stephanie Thacker | 1.0 | .0 | 1.0 | -1.0 | 1.0 | 2.00 | Moderate Liberal |
| Evan Wallach | .0 | .0 | .0 | .0 | .0 | .00 | Moderate |
| Paul J. Watford | .0 | .0 | 1.0 | 1.0 | .0 | 2.00 | Moderate Liberal |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Steve Six | 1.0 | .0 | 1.0 | 1.0 | .0 | 3.00 | Moderate Liberal |
| David Jeremiah Barron | .0 | 1.0 | 1.0 | 1.0 | 1.0 | 4.00 | Extreme Liberal |
| Julie E. Carnes | .0 | .0 | 1.0 | .0 | .0 | 1.00 | Moderate |
| Raymond T. Chen | .0 | 1.0 | .0 | .0 | .0 | 1.00 | Moderate |
| Gregg J. Costa | 1.0 | 1.0 | 1.0 | .0 | 1.0 | 4.00 | Extreme Liberal |
| Michelle T. Friedland | 1.0 | 1.0 | .0 | .0 | 1.0 | 3.00 | Moderate Liberal |
| Pamela Harris | 1.0 | 1.0 | 1.0 | .0 | 1.0 | 4.00 | Extreme Liberal |
| Todd M. Hughes | .0 | -1.0 | .0 | .0 | 1.0 | .00 | Moderate |
| Cheryl Ann Krause | .0 | .0 | 1.0 | 1.0 | 1.0 | 3.00 | Moderate Liberal |
| Carolyn B. McHugh | .0 | .0 | 1.0 | -1.0 | .0 | .00 | Moderate |
| Patricia Millett | -1.0 | 1.0 | .0 | .0 | 1.0 | 1.00 | Moderate |
| Nancy Moritz | 1.0 | -1.0 | -1.0 | -1.0 | .0 | -2.00 | Moderate Conservative |
| John B. Owens | .0 | .0 | -1.0 | .0 | .0 | -1.00 | Moderate |
| Gregory A. Phillips | .0 | 1.0 | 1.0 | 1.0 | .0 | 3.00 | Moderate Liberal |
| Nina Pillard | 1.0 | .0 | .0 | .0 | 1.0 | 2.00 | Moderate Liberal |
| Jill A. Pryor | .0 | .0 | .0 | .0 | 1.0 | 1.00 | Moderate |
| Robin S Rosenbaum | 1.0 | 1.0 | .0 | 1.0 | .0 | 3.00 | Moderate Liberal |
| Robert L. Wilkins | 1.0 | 1.0 | .0 | 1.0 | 1.0 | 4.00 | Extreme Liberal |

**Total***
**Moderate = -1, 0, 1**
**Moderate Conservative/Liberal = -3, -2, 2, 3**
**Extreme Conservative/Liberal = -5, -4, 4, 5**

**Table 1.2 –** Binary Logit Regression Significance Table – Senate Majority x Extremity x President Party x Confirmation/Rejection

| Variable | B | S.E | df | Sig. | Exp (B) |
|---|---|---|---|---|---|
| SenateMajority | .065 | .622 | 1 | .917 | 1.067 |
| Extremity | .385 | .261 | 1 | .140 | 1.470 |
| PresidentParty | -.274 | .540 | 1 | .612 | .760 |

**Table 1.3** Binary Logit Regression Significance Table – Duration x Confirmation/Rejection

| Variable | B | S.E | df | Sig. | Exp (B) |
|---|---|---|---|---|---|
| Duration | -.002 | .001 | 1 | .002* | .998 |

*Indicates a statistically significant relationship

**Table 1.4** Comparison of Means of Days for Confirmation and Rejection of Nominee

| Confirmed or Rejected/Withdrawn | Mean | N | Standard Deviation |
|---|---|---|---|
| Confirmed | 326.202 | 114 | 353.2778 |
| Rejected | 640.214 | 28 | 485.7018 |

**Table 1.5** Name of Judge, Duration to Confirmation hearing, Years of experience as a lawyer, years of experience as a judge, and Confirmed or Rejected.

| Judge | Duration | Lawyer Experience | Judge Experience | Confirmed or Rejected |
|---|---|---|---|---|
| Terrance W. Boyle | 2040.0 | 10.0 | 17.0 | Rejected |
| Jay S. Bybee | 295.0 | 11.0 | .0 | Confirmed |
| Edith B. Clement | 188.0 | 16.0 | 10.0 | Confirmed |
| Richard R. Clifton | 391.0 | 25.0 | .0 | Confirmed |
| Deborah L. Cook | 726.0 | 13.0 | 10.0 | Confirmed |
| Miguel A. Estrada | 848.0 | 13.0 | .0 | Rejected |
| Julia S. Gibbons | 293.0 | 3.0 | 20.0 | Confirmed |
| Roger L. Gregory | 72.0 | 22.0 | .0 | Confirmed |

| | | | | |
|---|---|---|---|---|
| Richard A. Griffin | 1079.0 | 11.0 | 13.0 | Confirmed |
| Harris L. Hartz | 168.0 | 17.0 | 11.0 | Confirmed |
| Jeffrey R. Howard | 264.0 | 21.0 | .0 | Confirmed |
| Carolyn B. Kuhl | 1265.0 | 17.0 | 6.0 | Rejected |
| Michael W. McConnell | 555.0 | 4.0 | .0 | Confirmed |
| David W. McKeague | 1309.0 | 21.0 | 9.0 | Confirmed |
| Michael J. Melloy | 216.0 | 12.0 | 16.0 | Confirmed |
| Susan B. Neilson | 1449.0 | 11.0 | 10.0 | Confirmed |
| Terrance L. O'Brien | 223.0 | 9.0 | 20.0 | Confirmed |
| Priscilla R. Owen | 1477.0 | 16.0 | 6.0 | Confirmed |
| Barrington D. Parker Jr. | 155.0 | 24.0 | 7.0 | Confirmed |
| Charles W. Pickering Sr. | 1293.0 | 35.0 | 11.0 | Rejected |
| Sharon Prost | 123.0 | 21.0 | .0 | Confirmed |
| Reena Raggi | 142.0 | 15.0 | 15.0 | Confirmed |
| William J. Riley | 71.0 | 28.0 | .0 | Confirmed |
| John G. Roberts, Jr. | 729.0 | 22.0 | .0 | Confirmed |
| John M. Rogers | 330.0 | 4.0 | .0 | Confirmed |
| Henry W. Saad | 1600.0 | 20.0 | .0 | Rejected |
| Dennis W. Shedd | 559.0 | 4.0 | 11.0 | Confirmed |
| D. Brooks Smith | 324.0 | 13.0 | 19.0 | Confirmed |
| Lavenski R. Smith | 419.0 | 7.0 | 1.0 | Confirmed |
| William H. Steele | 407.0 | 8.0 | 11.0 | Rejected |
| Jeffrey S. Sutton | 720.0 | 9.0 | .0 | Confirmed |
| Timothy M. Tymkovich | 676.0 | 18.0 | .0 | Confirmed |
| Claude A. Allen | 590.0 | 7.0 | .0 | Rejected |

| | | | | |
|---|---|---|---|---|
| Carlos T. Bea | 171.0 | 31.0 | 13.0 | Confirmed |
| William D. Benton | 133.0 | 6.0 | 13.0 | Confirmed |
| Janice R. Brown | 684.0 | 17.0 | 10.0 | Confirmed |
| Consuelo M. Callahan | 99.0 | 21.0 | 11.0 | Confirmed |
| Michael Chertoff | 96.0 | 25.0 | .0 | Confirmed |
| Steven M. Colloton | 204.0 | 14.0 | .0 | Confirmed |
| Allyson K. Duncan | 80.0 | 13.0 | 1.0 | Confirmed |
| Dennis Michael Fisher | 222.0 | 33.0 | .0 | Confirmed |
| Thomas B. Griffith | 400.0 | 19.0 | .0 | Confirmed |
| Raymond W. Gruender | 234.0 | 16.0 | .0 | Confirmed |
| Peter. W. Hall | 198.0 | 20.0 | .0 | Confirmed |
| William J. Haynes II | 1167.0 | 19.0 | .0 | Rejected |
| Brett M. Kavanaugh | 1036.0 | 12.0 | .0 | Confirmed |
| William G. Myers III | 1304.0 | 22.0 | .0 | Rejected |
| Edward C. Prado | 84.0 | 11.0 | 20.0 | Confirmed |
| William H. Pryor Jr. | 792.0 | 15.0 | .0 | Confirmed |
| Diane S. Sykes | 223.0 | 7.0 | 11.0 | Confirmed |
| Franklin S. Van Antwerpen | 181.0 | 12.0 | 25.0 | Confirmed |
| Richard C. Wesley | 98.0 | 16.0 | 15.0 | Confirmed |
| Michael A. Chagares | 69.0 | 23.0 | .0 | Confirmed |
| Neil M. Gorsuch | 71.0 | 11.0 | .0 | Confirmed |
| Thomas M. Hardiman | 87.0 | 13.0 | 4.0 | Confirmed |
| Jerome A. Holmes | 82.0 | 15.0 | .0 | Confirmed |
| Sandra S. Ikuta | 131.0 | 16.0 | .0 | Confirmed |
| Kent A. Jordan | 163.0 | 16.0 | 4.0 | Confirmed |

| | | | | |
|---|---|---|---|---|
| Peter D. Keisler | 538.0 | 17.0 | .0 | Rejected |
| Raymond M. Kethledge | 164.0 | 11.0 | .0 | Confirmed |
| Debra A. Livingston | 164.0 | 7.0 | .0 | Confirmed |
| Kimberly A, Moore | 110.0 | 4.0 | .0 | Confirmed |
| Stephen J. Murphy III | 164.0 | 19.0 | .0 | Rejected |
| James H. Payne | 159.0 | 18.0 | 17.0 | Rejected |
| Bobby E. Shepherd | 63.0 | 14.0 | 15.0 | Confirmed |
| Milan D. Smith Jr. | 91.0 | 17.0 | .0 | Confirmed |
| Norman Randy Smith | 358.0 | 17.0 | 10.0 | Confirmed |
| Michael B. Wallace | 304.0 | 26.0 | .0 | Rejected |
| George Steven Agee | 68.0 | 23.0 | 7.0 | Confirmed |
| Jennifer Elrod | 189.0 | 8.0 | 5.0 | Confirmed |
| Catharina Haynes | 268.0 | 13.0 | 7.0 | Confirmed |
| Leslie H. Southwick | 654.0 | 17.0 | 11.0 | Confirmed |
| John Daniel Tinder | 155.0 | 17.0 | 20.0 | Confirmed |
| Helene White | 2729.0 | .0 | 27.0 | Confirmed |
| Robert J. Conrad Jr. | 536.0 | 21.0 | 2.0 | Rejected |
| Shalom D. Stone | 536.0 | 29.0 | .0 | Rejected |
| E. Duncan Getchell | 139.0 | 33.0 | .0 | Rejected |
| Steve A. Matthews | 485.0 | 26.0 | .0 | Rejected |
| Gene E.K. Pratter | 252.0 | 28.0 | 3.0 | Rejected |
| Rod J. Rosenstein | 415.0 | 13.0 | .0 | Rejected |
| William E. Smith | 394.0 | 14.0 | 10.0 | Rejected |
| Glen E. Conrad | 240.0 | .0 | 29.0 | Rejected |
| Michael O'Neill | 198.0 | 12.0 | .0 | Rejected |
| Denny Chin | 198.0 | 14.0 | 15.0 | Confirmed |

| | | | | |
|---|---|---|---|---|
| Andre M. Davis | 221.0 | 4.0 | 22.0 | Confirmed |
| Albert Diaz | 409.0 | 13.0 | 9.0 | Confirmed |
| Joseph A. Greenaway Jr. | 235.0 | 14.0 | 14.0 | Confirmed |
| David F. Hamilton | 247.0 | 10.0 | 15.0 | Confirmed |
| Barbara Milano Keenan | 169.0 | 7.0 | 20.0 | Confirmed |
| Raymond Lohier, Jr. | 284.0 | 18.0 | .0 | Confirmed |
| Gerard E. Lynch | 168.0 | 15.0 | 9.0 | Confirmed |
| Beverly B. Martin | 215.0 | 19.0 | 9.0 | Confirmed |
| Scott Matheson Jr. | 294.0 | 9.0 | .0 | Confirmed |
| Mary H. Murguia | 272.0 | 17.0 | 10.0 | Confirmed |
| Kathleen M. O'Malley | 287.0 | 11.0 | 16.0 | Confirmed |
| Jane Branstetter Stranch | 403.0 | 32.0 | .0 | Confirmed |
| Ojetta Rogeriee Thompson | 162.0 | 12.0 | 22.0 | Confirmed |
| Thomas I. Vanaskie | 258.0 | 15.0 | 17.0 | Confirmed |
| James A. Wynn, Jr. | 274.0 | 7.0 | 20.0 | Confirmed |
| Robert N. Chatigny | 313.0 | 12.0 | 16.0 | Rejected |
| Goodwin Liu | 455.0 | 3.0 | .0 | Rejected |
| Edward C. DuMont | 575.0 | 23.0 | .0 | Rejected |
| Susan L. Carney | 362.0 | 32.0 | .0 | Confirmed |
| Victoria F. Nourse | 521.0 | 11.0 | .0 | Rejected |
| Caitlin J. Halligan | 905.0 | 12.0 | .0 | Rejected |
| Jimmie V. Reyna | 187.0 | 31.0 | .0 | Confirmed |
| Bernice B. Donald | 279.0 | 4.0 | 21.0 | Confirmed |
| Robert E. Bacharach | 399.0 | 12.0 | 13.0 | Confirmed |

| | | | | |
|---|---|---|---|---|
| Morgan Christen | 211.0 | 15.0 | 9.0 | Confirmed |
| Christopher Droney | 208.0 | 18.0 | 14.0 | Confirmed |
| Henry Franklin Floyd | 250.0 | 25.0 | 19.0 | Confirmed |
| James E. Graves, Jr. | 249.0 | 10.0 | 20.0 | Confirmed |
| Stephen A. Higginson | 175.0 | 22.0 | .0 | Confirmed |
| Andrew D. Hurwitz | 223.0 | 26.0 | 9.0 | Confirmed |
| Adalberto Jordan | 197.0 | 10.0 | 13.0 | Confirmed |
| William J. Kayatta, Jr. | 387.0 | 32.0 | .0 | Confirmed |
| Jane Louise Kelly | 83.0 | 19.0 | .0 | Confirmed |
| Jacqueline Nguyen | 228.0 | 11.0 | 9.0 | Confirmed |
| Patty Shwartz | 552.0 | 15.0 | 8.0 | Confirmed |
| Sri Srinivasan | 346.0 | 13.0 | .0 | Confirmed |
| Richard G. Taranto | 487.0 | 27.0 | .0 | Confirmed |
| Stephanie Thacker | 221.0 | 21.0 | .0 | Confirmed |
| Evan Wallach | 103.0 | 19.0 | 16.0 | Confirmed |
| Paul J. Watford | 217.0 | 15.0 | .0 | Confirmed |
| Steve Six | 283.0 | 14.0 | 3.0 | Rejected |
| David Jeremiah Barron | 240.0 | 5.0 | .0 | Confirmed |
| Julie E. Carnes | 214.0 | 13.0 | 22.0 | Confirmed |
| Raymond T. Chen | 175.0 | 19.0 | .0 | Confirmed |
| Gregg J. Costa | 162.0 | 11.0 | 2.0 | Confirmed |
| Michelle T. Friedland | 270.0 | 9.0 | .0 | Confirmed |
| Pamela Harris | 81.0 | 16.0 | .0 | Confirmed |
| Todd M. Hughes | 229.0 | 19.0 | .0 | Confirmed |
| Cheryl Ann Krause | 151.0 | 17.0 | .0 | Confirmed |
| Carolyn B. McHugh | 300.0 | 22.0 | 8.0 | Confirmed |
| Patricia Millett | 189.0 | 23.0 | .0 | Confirmed |

| | | | | |
|---|---|---|---|---|
| Nancy Moritz | 277.0 | 14.0 | 9.0 | Confirmed |
| John B. Owens | 242.0 | 14.0 | .0 | Confirmed |
| Gregory A. Phillips | 158.0 | 22.0 | .0 | Confirmed |
| Nina Pillard | 191.0 | 10.0 | .0 | Confirmed |
| Jill A. Pryor | 935.0 | 23.0 | .0 | Confirmed |
| Robin S Rosenbaum | 186.0 | 15.0 | 5.0 | Confirmed |
| Robert L. Wilkins | 223.0 | 21.0 | 3.0 | Confirmed |

**Table 1.6** Binary Logit Regression Significance Table - Lawyer Experience x Judge Experience x Confirmation/Rejection

| Variable | B | S.E | df | Sig. | Exp (B) |
|---|---|---|---|---|---|
| LawyerExperience | -.017 | .030 | 1 | .580 | .983 |
| JudgeExperience | .044 | .033 | 1 | .181 | 1.045 |

**Table 1.7** Binary Logit Regression Significance Table – Type of Law practiced (Prosecutor, Government Lawyer, Private Practice) x Confirmation/Rejection

| Variable | B | S.E | df | Sig. | Exp (B) |
|---|---|---|---|---|---|
| Prosecutor | .100 | .511 | 1 | .844 | 1.105 |
| PrivatePractice | .203 | .577 | 1 | .725 | 1.225 |
| GovernmentLawyer | -.874 | .600 | 1 | .145 | .417 |

**Table 1.8** Binary Logit Regression Significance Table – Race x Age x Gender x School Ranking x Confirmation/Rejection

| Variable | B | S.E | df | Sig. | Exp (B) |
|---|---|---|---|---|---|
| Age | .012 | .033 | 1 | .713 | 1.012 |
| School Rank | .001 | .001 | 1 | .465 | 1.001 |
| Gender | 1.170 | .579 | 1 | .043* | 3.224 |
| Race | .097 | .579 | 1 | .697 | 1.102 |

**Table 1.9** Crosstab of Gender x Confirmation/Rejection

| | **Confirmed** | **Rejected** | **Total (N):** |
|---|---|---|---|
| Female | 40 (90.9%) | 4 (9.1%) | 44 |
| Male | 74 (75.5%) | 24 (24.5%) | 78 |
| Total (N): | 114 | 28 | 142 |

**P-Value – 2-sided: .40; 1-sided: .024**

# BIBLIOGRAPHY

American Bar Association. 2014. "Standing Committee on the Federal Judiciary: What It Is and How It Works." http://www.americanbar.org/content/dam/aba/uncategorized/GAO/Backgrounder.authcheckdam.pdf (April 28, 2015).

Black, R. C., Madonna, A. J., & Owens, R. J. 2014. Qualifications or philosophy? The use of blue slips in a polarized era. *Presidential Studies Quarterly* 44(2): 290-308.

Brand, R. 2010. Judicial appointments: checks and balances in practice. *Harvard Journal Of Law & Public Policy* 33(1): 47-52.

Cameron, C., Cover, A., & Segal, J. 1990. Senate Voting on Supreme Court Nominees: A Neoinstitutional Model. *The American Political Science Review,* 84(2): 525-523.

Collins, J. M. 2008. The Consistency of Judicial Choice. *Journal Of Politics* 70(3): 861-873.

Collins, T., 2010. Is the Sum Greater Than Its Parts? Circuit Court Composition and Judicial Behavior in the Courts of Appeals. *Law & Policy* 32(4): 434-453.

Epstein, L., Lindstadt, R., Segal, J., Westerland, C. 2006. The changing Dynamics of Senate Voting on Supreme Court Nominees. *The Journal of Politics* 68(2): 296-307.

Epstein, L., and Jeffery Allen Segal. 2005. *Advice and Consent: The Politics of Judicial Appointments*. Oxford: Oxford University Press.

Giles, M. W., Hettinger, V. A., Zorn, C., & Peppers, T. C. 2007. The etiology of the occurrence of en banc review in the U.S. court of Appeals. *American Journal Of Political Science* 51(3): 449-463.

Giles, M. W., Walker, T. G., & Zorn, C. 2006. Setting a judicial agenda: the decision to grant en banc review in the U.S. Courts of Appeals. *Journal of Politics* 68(4): 852-866.

Goldman, S. 1997. *Picking Federal Judges: Lower Court Selection from Roosevelt through Reagan*. New Haven: Yale University Press.

Holmes, L. M. 2007. Presidential Strategy in the Judicial Appointment Process. *American Politics Research*, *35*(5): 567-594.

Kastellec, J., 2013. Racial Diversity and Judicial Influence on Appellate Courts. *American Journal of Political Science* 57(1): 167-183.

Martinek, W. L., Kemper, M., & Van Winlke, S. R. 2002. To advise and consent: the Senate and Lower Federal Court nominations, 1977-1998. *Journal Of Politics* 64(2): 337.

Massie, T. D., Hansford T. G., & Songer D. R. 2004. The Timing of Presidential Nominations to the Lower Federal Courts *Political Research Quarterly* 57(1): 145-154.

Shomade, S. A., Hartley, R. E., & Holmes, L. M. 2014. Lower Federal Court judicial confirmation fights: a critical review of the empirical literature and future research directions. *PS: Political Science & Politics* 47(1): 149-164.

Sollenberger, M. A. 2010. The Blue Slip: A Theory of Unified and Divided Government, 1979-2009. *Congress & The Presidency 37*(2): 125-156.

Songer D. R., Ginn M. H. 2002. Assessing the impact of presidential and home state influences on judicial decision making in the United States Courts of appeals *Political Research Quarterly* 55(2): 299-328.

Weiden, D. L. 2011. Judicial Politicization, Ideology, and Activism at the High Courts of the United States, Canada, and Australia. *Political Research Quarterly 64*(2): 335-347.

Weisberg, J. 2014. "Supreme Court Justice Ruth Bader Ginsburg: I'm Not Going Anywhere." *Elle,* October

Zorn, C., & Bowie, J. B. 2010. Ideological influences on decision making in the federal judicial hierarchy: an empirical assessment. *Journal of Politics* 72(4): 1212-1221.