# Trump's Judicial Assault on LGBT Rights

## *BIAS AND BIGOTRY ARE THE NEW NORMS AFTER TWO YEARS OF TRUMP NOMINEES*

Lambda Legal

making the case for equality

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## MAJOR TAKEAWAYS

- THE TRUMP ADMINISTRATION MORE THAN DOUBLED ITS NUMBER OF CONFIRMED CIRCUIT COURT JUDGES IN 2018
- OVER 1 IN 3 CIRCUIT COURT NOMINEES HAVE A DEMONSTRATED HISTORY OF ANTI-LGBT BIAS
- 85 PERCENT OF TRUMP'S CIRCUIT COURT NOMINEES ARE MEMBERS OF THE FEDERALIST SOCIETY
- FIVE OF THE NATION'S 12 CIRCUIT COURTS ARE NOW COMPOSED OF OVER 25% TRUMP JUDGES
- 2018 HAS SEEN 8X MORE CONFIRMED DISTRICT COURT NOMINEES THAN 2017
- IN THE LAST 20 YEARS, 12 NOMINEES THAT WERE RATED "NOT QUALIFIED" HAVE BEEN CONFIRMED. FOUR OF THESE JUDGES—ONE THIRD—WERE TRUMP NOMINEES.

## THE PROMISE OF A FAIR AND INDEPENDENT JUDICIARY IS UNDER SIEGE.

The Trump Administration has worked tirelessly to confirm ideologically driven judges in order to further their ultra-conservative policy objectives in the courts. To achieve this aim, the administration has worked closely in tandem with outgoing Senate Judiciary Committee Chairman Chuck Grassley, Senate Majority Leader Mitch McConnell, and with advisors from a powerful, but shrouded, network of right-wing organizations. Senator McConnell made clear that confirming judges has been, and remains his highest priority, adding that "putting strict constructionists, relatively young, on the courts for lifetime appointments is the best way to have a long-term positive impact on America."[1]

As an organization that has defended the rights of LGBT people and people living with HIV in the courts for over 40 years, Lambda Legal believes that it has an obligation to the communities that we serve to sound the alarm about the impact that these nominees will have on the ability of LGBT people to receive fair and impartial justice.

1. Burgess Everett & John Bresnahan, *McConnell: Conservative Revamp of the Courts Isn't Done Yet*, POLITICO (October 6, 2018) Available at: https://www.politico.com/story/2018/10/06/kavanaugh-confirmation-mcconnell-877474


The most troubling takeaway from this year is that **THE TRUMP ADMINISTRATION MORE THAN DOUBLED ITS NUMBER OF CONFIRMED CIRCUIT COURT JUDGES IN 2018**,[2] and is outpacing the last five administrations in terms of appellate court confirmations. Moreover, a significant percentage of these nominees have records that demonstrate deep hostility to LGBT equality. Lambda Legal has formally opposed 15 of the 43 nominees to the circuit courts for their anti-LGBT records;[3] **IN OTHER WORDS, OVER 1 IN 3 CIRCUIT COURT NOMINEES HAVE A DEMONSTRATED HISTORY OF ANTI-LGBT BIAS**. In the appendix to this report, we include a list of the 10 nominees (from 2018) who pose a serious and lasting threat to LGBT equality, some of whom were confirmed, and others whose nominations hang in the balance. With Senate Republicans holding a 53-member majority in the 116th Congress, we expect this disturbing trend to continue.

The following is a brief analysis of how President Trump has already dramatically reshaped the federal courts in ways that will harm the LGBT community for generations:

1 **THE TRUMP ADMINISTRATION IS RAPIDLY OUTPACING PREVIOUS ADMINISTRATIONS IN THE NUMBER OF CONFIRMED CIRCUIT COURT NOMINEES:** The Trump Administration has confirmed 30 circuit court nominees in the past two years. This is nearly double the number of circuit court nominees that had been confirmed at the same point under the Obama Administration. The Senate had only confirmed 16 of President Obama's circuit court judicial nominees by the end of his second year in office. Similarly, at the same point in their Administrations, President George W. Bush had only confirmed 17 nominees, Presidents Clinton and Reagan each had 19 nominees confirmed, and President George H.W. Bush had confirmed 22 nominees to the U.S. Court of Appeals.[4]

2. The Trump Administration has confirmed 30 Circuit Court nominees in the past 2 years–18 of whom have been confirmed in the last year. *See*: United States Courts, *Conformation Listing*, 115th Congress, Available at: http://www.uscourts.gov/judges-judgeships/judicial-vacancies/confirmation-listing. We have not included the Federal Circuit in our analysis because the Federal Circuit is a court of more limited jurisdiction and there have been no nominations to this Court since President Trump took office.
3. Stephanos Bibas (3rd Circuit), David Porter (3rd Circuit), Allison Rushing Jones (4th Circuit), Kyle Duncan (5th Circuit), Don Willett (5th Circuit), John Bush (6th Circuit), Joan Larsen (6th Circuit), Eric Murphy (6th Circuit), Chad Readler (6th Circuit), Amy Comey Barrett (7th Circuit), Stephen Grasz (8th Circuit), David Straus (8th Circuit), Ryan Bounds (8th Circuit), Allison Eid (10th Circuit), Greg Katsas (D.C. Circuit)
4. Federal Judicial Center, *Biographical Directory of Article III Federal Judges*, 1789-Present https://www.fjc.gov/history/judges/search/advanced-search (last visited December 21, 2018).

**2 1 IN 3 OF TRUMP'S CIRCUIT COURT NOMINEES HAS A DEMONSTRATED HISTORY OF OPPOSING LGBT EQUALITY:** The circuit courts are being dangerously transformed with lifetime appointments for nominees with a demonstrated history of hostility towards LGBT people. While several of these nominees are outspoken, anti-LGBT activists who have openly denigrated LGBT people and families, many others have more quietly undermined LGBT rights and protections. In total, Lambda Legal has publicly opposed 15 of the 43 nominees to the federal Courts of Appeals due to their anti-LGBT record and has expressed concerns about a number of others.

**TRUMP CIRCUIT COURT NOMINEES**


While each nominee's history of anti-LGBT advocacy is distinct, there are a number of commonalities that emerge from their records. For example, a large number of these nominees are being funneled in from ultra-conservative organizations that have espressed hostility toward LGBT protections.[5] **IN FACT, 85 PERCENT OF TRUMP'S CIRCUIT COURT NOMINEES ARE MEMBERS OF THE FEDERALIST SOCIETY.**[6] The Federalist Society has been vocal about their desire to "pack the courts" with conservative judges to undo, what they call, the "Judicial Legacy of Barack Obama."[7] Among those groomed to pack the courts is Stuart Kyle Duncan, who now sits on the Fifth Circuit Court of Appeals. Duncan argued that transgender people are "delusional" and threatened that marriage equality would "imperil civic peace."[8] Then there is L. Steven Grasz, who now sits on the Eighth Circuit, who was rated "Not Qualified" by the American Bar Association (hereinafter "ABA") because the ABA determined that Grasz would be unable to put the law ahead of his personal beliefs, particularly with respect to transgender people.[9] Mr. Grasz also sat on the Board of

5. *See*: *If Marriage Is A Federal Constitutional Right… (And Other Impertinent Questions)*, THE FEDERALIST SOCIETY (September 3, 2015) Available at: https://fedsoc.org/commentary/blog-posts/if-marriage-is-a-federal-constitutional-right
6. Amul Thapar, John Bush, Kevin Newsom, Amy Barrett, Joan Larsen, Allison Eid, Stephanos Bibas, L. Stephen Grasz, Don Willett, James Ho, David Stras, Elizabeth Branch, Gregory Katsas, Kyle Duncan, Kurt Engelhardt, Michael Brennan, John Nalbandian, Mark Bennett, Andrew Oldham, Britt Grant, Julius Richardson, David Porter, Ryan Nelson, Richard Sullivan, Jonathan Kobes, Eric Murphy, Chad Readler, Allison Rushing, Eric Miller, Joseph Bianco, Ryan Bounds, Paul Matey, Micahel Park, Patrick Bumatay, Daniel Collins, Kenneth Kiyul Lee, Neomi Rao
7. Steven G. Calabresi & Shams Hirji, *Proposed Judgeship Bill*, NORTHWESTERN PRITZKER SCHOOL OF LAW (Nov. 7, 2017) Available at: https://thinkprogress.org/wp-content/uploads/2017/11/calabresi-court-packing-memo.pdf
8. *See:* Stuart Kyle Duncan, Marriage, Self-Government, and Civility, PUBLIC DISCOURSE (Apr. 23, 2015), Available at http://www.thepublicdiscourse.com/2015/04/14894/

the Nebraska Family Alliance, which advocated for conversion therapy,[10] and against marriage equality.[11] With LGBT rights the subject of frequent litigation in federal courts, the documented animus of these lifetime nominees (now confirmed) towards the LGBT community should cause grave concern to anyone worried about the integrity of our federal courts as a place where all people are guaranteed a fair and impartial adjudication of their claims. You can read about Lambda Legal's opposition to Kyle Duncan and Steven Grasz as well as the other 13 circuit court nominees that we have opposed here.


**3 FIVE OF THE NATION'S 12 CIRCUIT COURTS ARE NOW COMPOSED OF OVER 25% TRUMP JUDGES:** Circuit court judges exert tremendous influence in shaping our nation's laws and have a profound impact on the everyday lives of Americans. During the term ending in 2018, the Supreme Court received approximately 7,000 filings,[12] whereas the U.S. Courts of Appeals had 49,363 filings.[13] Moreover, the Supreme Court has significant discretion over which cases it decides to review, and hears only a fraction of the cases presented to it (79 in the 2018 term). For these reasons, as a practical matter, the Courts of Appeals arguably play as important a role as the Supreme Court in shaping the law. With nearly one-third of Trump's judicial nominees to the Circuit Court having records of working to undermine LGBT rights and protections, their decisions will have a profound impact on our community. While some circuits, such as the Second and Ninth, have remained relatively unscathed (with only a nine percent change), other circuits have experienced a dramatic upheaval in their court's makeup. The Eighth Circuit (covering Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota), has seen the most significant transformation with a 33 percent change

9. During the Senate Judiciary Committee hearing of Pamela A. Bresnahan, Chair of the ABA Standing Committee on the Federal Judiciary, on why the ABA rated Steven Grasz as "Not Qualified," Ranking Member Senator Dianne Feinstein asked Ms. Bresnahan, "What kind of issues were they that he could not separate himself from?" to which Ms. Bresnahan responded with "transgender rights" (at 4:28:55). Testimony Available at https://www.judiciary.senate.gov/meetings/11/15/2017/nominations
10. Nate Grasz, *Legislation Criminalizing Conversion Therapy Sweeping the Nation*, NEBRASKA FAMILY ALLIANCE (July 21, 2017) Available at: https://nebraskafamilyalliance.org/legislation-criminalizing-conversion-therapy-sweeping-nation/
11. NFA *Response to Judge Bataillon's Ruling: No Court Can Redefine Marriage*, NEBRASKA FAMILY ALLIANCE (March 2, 2015) Available at: https://nebraskafamilyalliance.org/nfa-response-to-judge-bataillons-ruling/
12. Supreme Court of the United States, *The Justice's Caseload*, Available at: https://www.supremecourt.gov/about/justicecaseload.aspx
13. United States Courts, *Federal Judicial Caseload Statistics* 2018, available at http://www.uscourts.gov/statistics-reports/federal-judicial-caseload-statistics-2018

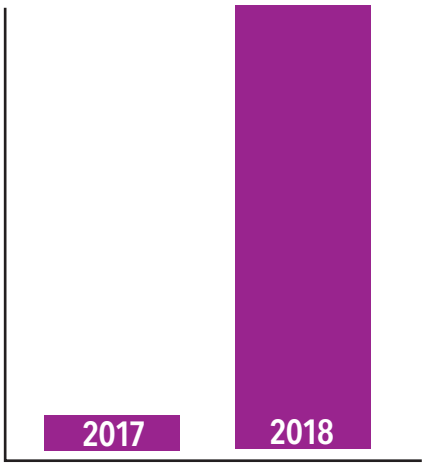
in their circuit's composition. Closely following is the Seventh Circuit (covering Illinois, Wisconsin and Indiana) and the Fifth Circuit (covering Texas, Mississippi, and Louisiana), both of which have changed by 29 percent.[14] And finally, with 25 percent Trump nominees are the Eleventh Circuit (covering Florida, Georgia, and Alabama, states also notoriously hostile to LGBT rights) and the Sixth Circuit (covering Kentucky, Michigan, Ohio and Tennessee). This massive shift in the U.S. Courts of Appeals, which is often the courts of last resort,[15] threatens to do lasting damage to the civil rights of LGBT people.

## CHANGE IN THE MAKEUP OF THE COURT OF APPEALS SINCE TRUMP

| | |
|---|---|
| DC | 10% |
| 1st | 0% |
| 2nd | 9% |
| 3rd | 17% |
| 4th | 13% |
| 5th | 29% |
| 6th | 25% |
| 7th | 29% |
| 8th | 33% |
| 9th | 9% |
| 10th | 15% |
| 11th | 25% |
| Federal Circuit | 0% |

**4 2018 HAS SEEN 8X MORE CONFIRMED DISTRICT COURT NOMINEES THAN 2017:** There has also been a dramatic increase in the number of district court confirmations. At the end of 2017, six district court nominees had been confirmed; by the end of 2018, that number had risen to 47 for a total of 53 confirmed judges. That's an increase by a factor of eight! And there are still 56 more district court nominees currently awaiting consideration by the Senate Judiciary Committee. While much attention is given to the Supreme Court and the Courts of Appeals, the importance of the district courts cannot be overstated. District courts are often the courts that issue preliminary injunctions that can immediately affect people, like halting implementation of the President's Transgender Military Ban, or forestalling implementation of the President's Muslim Travel Ban in 2017. District court judges


## CONFIRMED DISTRICT COURT NOMINEES




14. The impact of the change on these circuits is significant with respect to LGBT civil rights, albeit for somewhat different reasons. In recent years, the Seventh Circuit has issued a number of significant decisions advancing LGBT equality. *See*: *Hively v. Ivy Tech Community College of Indiana*, 853 F.3d 339 (7th Cir. 2017) (en banc); *Wetzel v. Glen St. Andrew Living Community, LCC et al*, 17-1322 (7th Cir. 2018); *Whitaker v. Kenosha Unified School District No. 1 Board of Education*, 858 F.3d 1034 (7th. Cir. 2017). By contrast, the Fifth Circuit covers three states where the 750,000 LGBT people who live there have been subject to repeated attack by hostile state legislatures. *See Barber v. Bryant*, 860 F.3d 345 (5th Cir. 2017) (5th Circuit Court of Appeals reversed ruling striking down discriminatory MS law on grounds that plaintiffs lacked standing to challenge legislation)
15. *See e.g., Adar v. Smith*, 597 F.3d 697 (5th Cir. 2010), *cert. denied*, 565 S. Ct. 942 (2011) (Denial of a birth certificate for adopted son of same-sex parents by the Louisiana State Registrar)

can also issue rulings that can throw the entire nation into uncertainty, as was the case when a federal district court judge in Texas issued a ruling declaring the Affordable Care Act (ACA) unconstitutional.[16] As more district court judgeships are filled with ultra-conservative nominees from the Trump Administration, we can expect to see more decisions like the ACA ruling. The likelihood that these broad and overreaching district court opinions will be reined in will surely decrease in light of the significant shift that is taking place with respect to the federal courts of appeals.

5 **THE CONFIRMATION OF BRETT KAVANAUGH TO THE SUPREME COURT:** The confirmation of Brett Kavanaugh to the Supreme Court of the United States was the most hotly contested judicial appointment of the Trump Administration to date. The failure of the Senate Judiciary Committee to meet its constitutional duty to properly vet the Kavanaugh nomination, and in particular its refusal to thoroughly investigate serious allegations of sexual misconduct, will likely dominate the public's recollection of the confirmation fight for years to come. The flaws in the confirmation process were indeed egregious: 90 percent of Brett Kavanaugh's record was never released to the Senate Judiciary Committee.[17] In fact, Lambda Legal, in partnership with American Oversight, filed multiple Freedom of Information Act lawsuits to try and bring some of these records into the national dialogue about this nomination.[18] Furthermore, following accusations of sexual assault by Dr. Christine Blasey Ford and others, the Senate allocated only one week for an FBI investigation into these claims, with significant constraints placed on the scope of the investigation by the Senate Majority and the White House. We note, however, that even prior to these allegations, Lambda Legal opposed the nomination of Brett Kavanaugh on substantive grounds: his support for using claims of "religious liberty" to justify discrimination; his disparagement of marriage equality; his hostility towards the Affordable Care Act; and his abject deference to presidential authority.[19] His views on these subjects were well-documented, but yet failed to raise enough concern among Senate Republicans. As a result, we anticipate that Justice Kavanaugh's views will have a significant influence on the jurisprudence of the Supreme Court, particularly in light of the fact that Justice Kavanaugh replaced Justice Anthony Kennedy, the author and often the deciding vote in all of the major LGBT civil rights decisions over the last thirty years.

16. *Texas v. United States*, F.Supp.3d, 2018 WL 6589412 (Dec. 14, 2018)
17. Sheryl Gay Stolberg, *White House Withholds 100,000 Pages of Judge Brett Kavanaugh's Records*, THE NEW YORK TIMES (Sept. 1, 2018) Available at: https://www.nytimes.com/2018/09/01/us/politics/kavanaugh-records.html
18. *The American People Deserve the Truth about Kavanaugh's LGBTQ Record Before His Hearings Begin on September 4th*, LAMBDA LEGAL (Aug. 13, 2018) Available at: https://www.lambdalegal.org/blog/20180813_kavanaugh-the-american-people-deserve-truth-about-kavanaugh
19. *63 National, State and Local LGBT Groups Oppose Confirmation of Judge Brett Kavanaugh to the Supreme Court*, LAMBDA LEGAL (July 31, 2018) Available at: https://www.lambdalegal.org/sites/default/files/legal-docs/downloads/dc_20180731_letter-of-opposition-lgbt-kavanaugh.pdf

**6 THE PROCEDURAL SAFEGUARDS THAT ENSURE THE SENATE CAN FULFILL ITS DUTY TO PROVIDE MEANINGFUL "ADVICE AND CONSENT" HAVE BEEN RECKLESSLY ABANDONED:** The use of safeguards like the "blue slip" process and American Bar Association ratings have been replaced by new traditions such as holding hearings during Congressional recess and questioning multiple circuit court nominees in the same hearing.

**BLUE SLIPS.** The "blue slip" process is a century-old procedure that provides home state senators the ability to express approval or opposition before the Committee considers the nomination. Prior to the Trump administration, the Senate Judiciary Committee had only held three hearings over the objection of a home state Senator.[20] But in the last two years alone, five judges have had hearings over the objection of their home state Senators.[21]

**ABA RATINGS.** The American Bar Association (ABA) has been issuing ratings on all nominated Article III judges since 1956. The ABA's nonpartisan committee on the federal judiciary issues a nominee one of three possible ratings: "Well Qualified", "Qualified", or "Not Qualified." In the last 20 years, 12 nominees that were rated "Not Qualified" have been confirmed. Four of these judges—one third—were Trump nominees. Also notable, the only circuit court judges to ever be confirmed with a "Not Qualified" rating were Steven Grasz and Jonathan Kobes, both Trump nominees to the Eighth Circuit.[22] The ABA Ratings have been a long respected part of the judiciary process, but have fallen to the wayside in this effort to rush nominees through the confirmation.


**RECESS HEARINGS.** Chairman Grassley and Senate Republicans have held nomination hearings while Congress was in recess, ensuring that many Senators would not be able to attend the hearings. In the past, recess hearings had

20. Barry J. McMillion, *The Blue Slip Process for U.S. Circuit and District Court Nominations*: *Frequently Asked Questions*, CONGRESSIONAL RESEARCH SERVICE (Oct. 2, 2017) Available at: https://fas.org/sgp/crs/misc/R44975.pdf
21. Chairman Grassley has now held hearings for nominees without support from both home state senators for David Stras, Michael Brennan, David Porter, Eric Murphy and Chad Readler
22. *ABA ratings During the Trump Administration*, BALLOTPEDIA Available at: https://ballotpedia.org/ABA_ratings_during_the_Trump_administration#Footnotes

never occurred without the consent of the minority party.[23] This removal of another procedural safeguard has had the effect of turning the Senate Judiciary Committee into a complete rubber stamp for President Trump without even the pretense of providing meaningful "advice and consent."

**NOMINEE PACKING.** Another egregious departure from committee procedure is the large number of nominees that have been bunched into a single hearing. On several occasions, more than four district court nominees have appeared in one hearing,[24] and multiple circuit court nominees have been slated on the same panel.[25] This leaves little opportunity for Senators to properly question each nominee—again hampering their ability to properly provide meaningful advice and consent and effectively turning the Senate Judiciary Committee into a rubber stamp for President Trump.

**7 SENATE REPUBLICANS' INCREASED MARGIN IS LIKELY TO RESULT IN MORE RUBBER STAMPING OF DANGEROUS AND UNQUALIFIED NOMINEES:** In the 115th Congress, only two Republicans needed to cross party lines in order to stop a controversial nomination. However, going into the 116th Congress, Republicans will hold 53 seats, increasing the margin needed to stop unqualified judges.

## *CONCLUSION*

The federal judiciary must remain an impartial institution that administers "equal justice for all." The United States Senate—Democrats and Republicans alike—owe it to the American people to be more than just a rubber stamp for every nominee that the Trump Administration puts forward for consideration. Advice and consent is not just a suggestion, but rather a constitutional obligation, particularly during this tenuous time in our nation's history. Otherwise, the damage done to our constitutional democracy will be felt for many decades to come, and may be devastating especially among the LGBT community. ■

23. *See*: Letter from Ranking Member Feinstein to Senator Grassley (Oct. 15, 2018) *Available at* https://www.feinstein.senate.gov/public/_cache/files/0/4/0403a9bc-a914-484f-a82d-c4cc2e3fe86e/051C1FA0FF33D91CF3412B4DE0752785.2018.10.15-sjc-dems-to-grassley-re-nominations-hearings-during-recess.pdf.
24. *E.g.*, there was a Senate Judiciary Hearing on October 17, 2018 with five district court nominees. This is the fifth occurrence of a hearing with five or more district court nominees.
25. *E.g.*, There was a Senate Judiciary Hearing on October 24, 2018 with two circuit court nominees. This is the fifth occurrence of a hearing with more than one circuit court nominee.

# 10 MOST NOTORIOUS NOMINEES OF 2018

## 1 Kyle Duncan

**Nominated October 2, 2017**

➤ *Confirmed April 24, 2018 (174 Days)*

**U.S. Court of Appeals for the Fifth Circuit**

- Questioned the legitimacy of the Supreme Court after ruling for marriage equality in *Obergefell v. Hodges*.
- Retained by the Gloucester County School Board to defend its policy singling out transgender students from their peers by requiring them to use separate "alternative, private" facilities

## 2 Mark Norris

**Nominated: July 13, 2017**

➤ *Confirmed October 11, 2018 (456 Days)*

**United States District Court for the Western District of Tennessee**

- Supported legislation that would prohibit teachers from providing any information to public school students regarding homosexuality, limiting efforts to protect LGBT students.

## 3 Gordon Giampietro

**Nominated December 20, 2017**

➤ *Still Pending (366+ Days)*

**U.S. District Court for the Eastern District of Wisconsin**

- Opined that marriage equality would undermine the "very idea of marriage" by reducing it to a "sex act" and claimed that legalizing same-sex marriage would lead to brother-sister marriage.

## 4 Matthew Kacsmaryk

**Nominated: September 7, 2017**

➤ *Still Pending (470+ Days)*

**U.S. District Court for the Northern District of Texas**

- Argued that the State's interest in defending against sexual orientation-based discrimination was not enough of a reason to justify burdens on a wedding cake baker's "constitutionally protected religious freedom"
- Authored an article that denigrates as "problematic" the very idea of gender identity.

## 5 Howard Nielson

**Nominated September 28, 2017**

➤ *Still Pending (449+ Days)*

**U.S. District Court for Utah**

- Maligned district court judge in Proposition 8 case claiming that he could not be impartial due to his sexual orientation and, specifically, his same-sex relationship.

## *10 MOST NOTORIOUS NOMINEES OF 2018,* CONTINUED

### 6 Chad Readler

**Nominated June 18, 2018**

➤ *Still Pending (186+ Days)*

**U.S. Court of Appeals for the Sixth Circuit**

- Led DOJ team in defending Trump's transgender military service ban
- Authorized brief arguing that Title VII's ban on sex discrimination did not cover sexual orientation discrimination.

### 7 Eric Murphy

**Nominated: June 18, 2018**

➤ *Still Pending (186+ Days)*

**U.S. Court of Appeals for the Sixth Circuit**

- Served as counsel in Obergefell v. Hodges, personally arguing against marriage equality at the 6th Circuit Court of Appeals as lead counsel, and as counsel of record for the State of Ohio in the Supreme Court. He argued that same-sex marriage was "disrupting to our democracy".

### 8 Allison Jones Rushing

**Nominated: August 27, 2018**

➤ *Still Pending (116+ Days)*

**U.S. Court of Appeals for the Fourth Circuit**

- Criticized the majority in *U.S. v. Windsor* for holding that the Defense of Marriage Act's moral disapproval of same-sex marriage was constitutionally impermissible.

### 9 Stephen Clark

**Nominated: April 12, 2018**

➤ *Still Pending (253+ Days)*

**United States Eastern District Court for the District of Missouri**

- Argued that the holding in *Obergefell v. Hodges* would be a slippery slope and that one of the "next evolutions of same-sex marriage is polygamy".

### 10 David Porter

**Nominated: April 12, 2018**

➤ *Confirmed: October 11, 2018 (182 Days)*

**U.S. Court of Appeals for the Third Circuit**

- Sat on the board of an anti-LGBT think thank that advocated for conversion therapy, and argued against marriage equality and protections for transgender people.

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