



Written by [Bob Adelman](#) on December 23, 2019

Two More Conservative Judges Appointed to Ninth Circuit Ends Its Liberal Domination

[With the confirmation of two more conservative judges](#) — Lawrence VanDyke and Patrick Bumatay — to the Ninth Circuit Court of Appeals in the last two weeks, President Donald Trump is not only continuing to keep his campaign promise, but also building his legacy of returning American jurisprudence to the originalist understanding of the Constitution of the United States.



As Susannah Luthi lamented on *Politico*, “If the trend continues, it represents a major shift in the liberal wing of the judiciary, meaning lawsuits for progressive causes won’t find a friendly ear as easily as they have.”

The Ninth Circuit has for years sported the highest “overturn” rate of any Circuit court when cases are appealed to the Supreme Court. But that is already beginning to change.

Liberal Senator Richard Blumenthal (D-Conn.) sees the risk: “The 9th Circuit is a very important circuit, and the presence of more conservative judges puts in peril all of American health care reform.”

With the confirmation of VanDyke and Bumatay, there are now 13 conservative judges on the Ninth Circuit bench, and 16 liberals appointed by Democrat administrations. When Trump took office, the ratio was 9:20, an 11-seat advantage for progressives. Now that progressive “advantage” is down to just three.

That’s important because the Supreme Court takes fewer than 150 cases a year on appeal, so decisions reached in the 7,000 other cases ruled upon at the circuit level become the “final say” on the issue.

It’s also important because California, which represents a third of the population covered by the Ninth Circuit, has often used it as a forum (called “forum shopping”) not only to keep in place progressive legislation passed by Sacramento but also to attack policies implemented by the Trump administration. As Luthi noted, “The [Ninth Circuit] has been the go-to venue for activist state attorneys [i.e., Xavier Becerra, California’s Attorney General] eager to freeze Trump policies on health care, immigration and other social issues. It ruled against Trump’s weakening of Obamacare’s contraceptive mandate as well as multiple versions of his travel ban.”

The impact of Trump’s move to appoint “originalist” judges is being felt beyond the Ninth Circuit. At this writing Republican-appointed judges are now in the majority in the First, Second, Third and 11th Circuits.

The average age of a Trump appointee is in the late 40s, meaning that, with lifetime appointments to the bench, these judges’ impacts will likely be felt for years if not decades.

And with Senator Majority Leader Mitch McConnell’s determination to “leave no vacancy behind,” the present administration’s determination to change the judicial culture could include the confirmation of 200 or more such judges before the end of his first term.



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All of this is highly upsetting to Ian Millhiser, who considers Donald Trump as “goonish.” But he admitted in left-leading Vox that Trump “has filled the bench with some of the smartest, and some of the most ideologically reliable, men and women to be found in the conservative movement.” He reported that Trump’s delegation of the selection process of judicial appointees to the Federalist Society “has helped Trump identify many of the most talented conservative stalwarts in the entire legal profession to place on the bench.” He added that “the average Trump appointee has a far more impressive resume than any past president’s nominees.”

As a result, whines Millhiser, “the courts are poised to gut abortion rights, eviscerate gun control, and neuter landmark environmental laws.” And the longer Trump remains in office, with the help of the Senate Majority Leader, “it’ll be a long, long time before Democrats can undo the work Trump and the Republicans have done to turn the judiciary rightward.”

All of which meets the approval of those who love the Constitution and its enshrinement and guarantee of precious rights given by God, such as life and the right to keep and bear arms. If the president is reelected for another four years, which appears increasingly likely, his legacy in restoring an “originalist” interpretation of the Constitution is likely to last for generations.

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An Ivy League graduate and former investment advisor, Bob is a regular contributor to The New American, writing primarily on economics and politics. He can be reached at badelman@thenewamerican.com.

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