

# CRS Report for Congress

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## **U.S. Circuit and District Court Nominations by President George W. Bush During the 107<sup>th</sup>-109<sup>th</sup> Congresses**

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# U.S. Circuit and District Court Nominations by President George W. Bush During the 107<sup>th</sup> - 109<sup>th</sup> Congresses

## Summary

As of April 7, 2006, 43 of President George W. Bush's 58 nominees to the U.S. circuit courts of appeals have received Senate confirmation. Of the 15 nominees not confirmed, the nominations of four were returned at the end of a Congress and not resubmitted in a subsequent Congress; the nominations of three were withdrawn by the President (one during the 108<sup>th</sup>, two during the 109<sup>th</sup> Congress); and the nominations of the eight others were pending. None of his circuit nominees has been rejected in a Senate confirmation vote.

Two of 10 circuit nominees on whom the Senate could not agree to close debate in the 108<sup>th</sup> Congress were given temporary recess appointments by President Bush. After the recess appointment of one of these nominees expired at the end of the Congress, he was not renominated in the 109<sup>th</sup> Congress. The other recess appointee, prior to the expiration of his appointment, was renominated in the 109<sup>th</sup> Congress and subsequently confirmed. Two of President Bush's circuit nominees were defeated in committee votes, when the Senate Judiciary Committee, in the 107<sup>th</sup> Congress, voted not to report their nominations to the Senate. The two nominees, however, were renominated in the 108<sup>th</sup> Congress, where one was confirmed.

President Bush's circuit court nominees have varied considerably in how quickly they have advanced through the appointment process. Thirty-two of his 58 circuit nominees were nominated in two or more Congresses. Of the five who were nominated in three successive Congresses, four were ultimately confirmed, whereas the fifth nominee was pending in the 109<sup>th</sup> Congress, as of April 7, 2006.

Of President Bush's 206 nominees to the U.S. district courts, as of April 7, 2006, 189 have been confirmed (173 in the first Congress in which they were nominated). Of the 17 not confirmed, the nominations of two were withdrawn (one during the 108<sup>th</sup> Congress, the other during the 109<sup>th</sup> Congress), and the nominations of the 15 others were pending. None of President Bush's district court nominees has been defeated in a committee vote or rejected in a Senate confirmation vote.

President Bush's circuit nominees have tended to have more difficulty than his district nominees in receiving Senate confirmation. As of April 7, 2006, 74.1% of his circuit nominees have been confirmed, compared with 91.7% of his district nominees. The average (mean) time elapsed between first nomination and confirmation for his circuit nominees was 394 days, more than twice as much as the corresponding time interval of 162 days for district nominees. The number of persons nominated by President Bush per year to be circuit judges (11.1) was lowest among the five most recent Presidents, and his confirmation rate for circuit nominees (74.1%) was second-lowest (with President Clinton's confirmation rate the lowest). The number of persons that he nominated per year to be district judges (39.5), was second-lowest among the five Presidents, whereas the confirmation rate for his district nominees (91.7%) was the median, or middle, percent for the five Presidents.

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# U.S. Circuit and District Court Nominations by President George W. Bush During the 107<sup>th</sup>-109<sup>th</sup> Congresses

## Introduction

In recent years, the process by which lower federal court judges are nominated by the President and confirmed by the Senate has been of increasing interest to Congress. In order to provide Congress with a continuing overview of this process, this report provides statistics on all of President George W. Bush's nominations to U.S. courts of appeals and U.S. district courts during the 107<sup>th</sup>, 108<sup>th</sup>, and 109<sup>th</sup> Congresses, as of April 7, 2006,<sup>1</sup> and any actions taken on these nominations by the Senate Judiciary Committee and the full Senate.<sup>2</sup>

U.S. courts of appeals review appeals from federal trial court opinions and are empowered to review and enforce the orders of many administrative agencies. Cases presented to these courts are generally considered by judges sitting in three-member panels. Altogether, 179 permanent appellate court judgeships are authorized by law. Courts within the courts of appeals system are often called "circuit courts," because they are divided into 12 geographic circuits and an additional nationwide circuit having specialized subject matter jurisdiction. In this report, nominations to U.S. courts of appeals judgeships are referred to as "circuit court nominations."

U.S. district courts are the trial courts of general federal jurisdiction. Each state has at least one district court, while some states have as many as four. There are 678 district court judgeships authorized by law, including those for the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the territories of Guam and the U.S. Virgin Islands.<sup>3</sup>

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<sup>1</sup> On Apr. 7, 2006, the cutoff point in this report for tracking President Bush's nominations, the Senate adjourned for two weeks, reconvening on Apr. 24, 2006.

<sup>2</sup> This report is in keeping with earlier CRS reports which tracked actions taken on judicial nominations by other recent Presidents. See CRS Report 98-510, *Judicial Nominations by President Clinton During the 103<sup>rd</sup>-106<sup>th</sup> Congresses*, by Denis Steven Rutkus; archived CRS Report 93-395, *President [George ] Bush's Judicial Nominations During the 101<sup>st</sup>-102<sup>nd</sup> Congresses*, by Denis Steven Rutkus (available from author). See also CRS Report RL32134, *U.S. Circuit and District Court Nominations: Resubmissions, 1977-2004*, by Mitchel A. Sollenberger.

<sup>3</sup> The 678 total consists of 667 permanently authorized judgeships and 11 "temporary" judgeships (which, pursuant to statute, temporarily increase the number of judgeships for specified judicial districts, with these districts reverting back to the permanently authorized number of judgeships at a future time fixed by the statute — typically, when, after a  
(continued...)

President Bush's nominations to these two court systems are listed in eight appendix tables at the end of this report — **Appendices 1-4** for circuit court nominations, and **Appendices 5-8** for district court nominations. **Appendices 1 and 5** list all the persons nominated by President Bush during his presidency, as of April 7, 2006, to the circuit and district courts, respectively, showing in one place how many times each person was nominated. The other six tables list all of the circuit and district court nominations made by President Bush during each Congress, as of April 7, 2006 — **Appendices 2, 3, and 4** for circuit court nominations in the 107<sup>th</sup>, 108<sup>th</sup>, and 109<sup>th</sup> Congresses, respectively; and **Appendices 6, 7, and 8** for district court nominations in the same respective Congresses.

**Appendices 1-8**, it should be emphasized, account for every instance in which a district or circuit court nomination was made, including renominations of individuals to the same judgeship. As discussed below, some of President Bush's nominees were nominated to a circuit or district judgeship more than once within a Congress, or nominated to the judgeship in more than one Congress. Accordingly, discussion in this report regarding the number of *nominations* made by President Bush to the circuit or district courts counts not only the initial nomination of a person to a judgeship but any renominations as well. By contrast, discussion regarding the actual number of *persons nominated* counts individual nominees only once, even if they were nominated to the same judgeship more than once.

Within the text of this report are various statistical tables and bar graphs, using data derived from **Appendices 1-8**. **Table 1** presents, for President Bush's circuit and district nominees, the average and median number of days that elapsed from their first nomination to disposition of their last nomination. **Table 2** breaks down the total number of persons nominated by President Bush to circuit and district court judgeships by the number of Congresses in which they were nominated. **Table 3** provides statistics comparing President Bush's judicial nominations with those of his four immediate predecessors in the White House. **Table 3** shows, among other things, the total number of persons nominated by President Bush — as well as by each of the four previous Presidents — to district and circuit court judgeships and the number and percentage of them who were confirmed. **Figures 1 and 2** show, for circuit and district nominations respectively, the average number of days that elapsed from nomination date to confirmation, during each Congress from the 95<sup>th</sup> to the 109<sup>th</sup> (as of April 7, 2006), indicating which presidency coincided in time with each Congress.

The following text provides (1) a brief overview of the principal steps in the judicial appointment process; (2) a more detailed description of the structure and contents of **Appendices 1-8** and the methodology used in gathering the tabular data; and (3) a discussion of selected appointment statistics for circuit and district court

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<sup>3</sup> (...continued)

specified number of years, a judgeship in the district is vacated). All but four of the 678 judgeships entail lifetime appointments. The four exceptions are the one judgeship each in Guam and the Northern Marianas, and the two in the Virgin Islands, to which judges are appointed for 10-year terms.

nominees and nominations in the 107<sup>th</sup>, 108<sup>th</sup>, and 109<sup>th</sup> Congresses, which are derived from, or presented in, the appendices.<sup>4</sup>

This report focuses on judicial nominations made by the President and on Senate actions taken on the nominations by the Senate Judiciary Committee and the Senate. On rare occasions, appointments to federal courts also have been made without submitting a nomination to the Senate, when a President exercises his constitutional power to make “recess appointments.” Specifically, Article II, Section 2, clause 3 of the Constitution of the United States empowers the President to “fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.”<sup>5</sup> President Bush thus far during his presidency has made two recess appointments to circuit courts and none to district courts.<sup>6</sup>

## The Judicial Appointment Process

Under the Constitution of the United States, the President and the Senate share the responsibility for filling vacancies within the federal judiciary.<sup>7</sup> While it is the President who nominates persons to fill federal judgeships, the appointment of each nominee also requires Senate confirmation. Although not mentioned in the Constitution, the Senate Committee on the Judiciary also plays an important role midway in the process — after the President selects, but before the Senate as a whole considers, the nominee.

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<sup>4</sup> The statistics include total number of nominees to district and circuit judgeships; number of nominees confirmed; number of nominations (including re-nominations of nominees); number receiving committee hearings, committee votes, and Senate or other final action; and average time taken to conduct hearings, committee votes, and Senate votes on the nominations. Careful distinction is made in the text between number of nominations (including renominations) and number of persons actually nominated.

<sup>5</sup> See CRS Report RS21308, *Recess Appointments: Frequently Asked Questions*, by Henry B. Hogue.

<sup>6</sup> On Jan. 26, 2004, President Bush recess-appointed Charles W. Pickering Sr. of Mississippi to the U.S. Court of Appeals for the Fifth Circuit. Judge Pickering’s appointment expired on Dec. 8, 2004, at the end of the second session of the 108<sup>th</sup> Congress, and he retired. On Feb. 20, 2004, President Bush recess-appointed William H. Pryor Jr. of Alabama to the Eleventh Circuit Court of Appeals. Judge Pryor’s recess appointment was to last until the end of the first session of the 109<sup>th</sup> Congress; however, before that appointment expired, Judge Pryor was renominated by President Bush and confirmed by the Senate on June 9, 2005.

For more information on judicial recess appointments, see CRS Report RS22039, *Federal Recess Judges*, by Louis Fisher; CRS Report RL33009, *Recess Appointments: A Legal Overview*, by T.J. Halstead; and Henry B. Hogue, “The Law: Recess Appointments to Article III Courts,” *Presidential Studies Quarterly*, vol. 34, Sept. 2004, pp. 656-673.

<sup>7</sup> Article II, Section 2, clause 2 of the Constitution provides that the President “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint ... Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law....”

The process for making lifetime appointments to U.S. district court and circuit courts of appeals judgeships entails the same formal steps as those involved in the appointment of justices to the Supreme Court.<sup>8</sup> The process officially begins when the President selects someone to fill a judicial vacancy, submitting a nomination in writing to the Senate. Usually on the same day it is received by the Senate, the nomination is referred to the Committee on the Judiciary (the Senate committee having jurisdiction over district and circuit, as well as most other federal, court nominations). The Judiciary Committee then holds a hearing on the nomination. The committee subsequently meets to vote on whether to report the nomination to the full Senate. A committee vote to report (even a vote to report with an unfavorable recommendation) sends the nomination forward to be considered by the Senate as a whole, while a vote against reporting (historically, a very rare occurrence) prevents the nomination from going forward, and in effect defeats the nomination in committee. The final step in the appointment process occurs when the Senate votes to confirm or disapprove the nomination. A vote to confirm requires a simple majority of Senators present and voting. If the Senate votes in the negative on whether to confirm, the nomination is defeated, and a resolution of disapproval is forwarded to the President.

As with nominations in general, judicial nominations sometimes fail to advance through each procedural step in the appointment process. After referral to committee, a nomination might not receive a hearing or, after receiving a hearing, might not receive a committee vote on whether it should be reported. Even if favorably reported by committee, the nomination might not receive a vote by the Senate on whether to confirm. A nomination, for instance, will not, under Senate rules, receive a vote on whether to confirm if some Senators oppose taking such a vote and a “super-majority” of three-fifths of the full membership of the Senate fails to vote in favor of a motion to close debate on the nomination.<sup>9</sup> If it fails to receive a Senate vote, the nomination ultimately will be either withdrawn by the President or returned to the President by the Secretary of the Senate upon a Senate adjournment or recess of more than 30 days.<sup>10</sup>

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<sup>8</sup> See CRS Report RL31989, *Supreme Court Appointment Process: Roles of the President, Judiciary Committee, and Senate*, by Denis Steven Rutkus; and CRS Report RL31980, *Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki.

<sup>9</sup> See CRS Report RL32878, *Cloture Attempts on Nominations*, by Richard S. Beth and Betsy Palmer.

<sup>10</sup> Rule XXXI, paragraph 6, *Standing Rules of the Senate*, provides, in part, that “if the Senate shall adjourn or take a recess for more than thirty days, all nominations pending and not finally acted upon at the time of taking such adjournment or recess shall be returned by the Secretary to the President and shall not again be considered unless they shall again be made to the Senate by the President.”



## Structure and Contents of the Nominee and Nominations Tables

The tables at the end of this report, **Appendices 1-8**, were generated from a CRS database of nomination dates and actions created by Mitchel A. Sollenberger, former CRS Analyst in American National Government, and Maureen Bearden, CRS Information Research Specialist, with guidance from Clay H. Wellborn and Denis Steven Rutkus, CRS Specialists in American National Government. The data for the CRS database were collected primarily from the Presidential Nominations database in the Legislative Information System of the U.S. Congress (LIS)<sup>11</sup> and from daily editions of volumes 147-152 of the *Congressional Record* (for the years 2001-2006).

### Nominee Tables

As noted previously, **Appendices 1** and **5** list the names of all persons nominated by George W. Bush during his presidency (as of April 7, 2006) to the circuit courts and to the district courts. These tables also show, in one row for each nominee:

- how often and when the person was nominated to a particular judgeship;
- whether and when the person was confirmed;
- if confirmed, the number of days that elapsed between the date of the first nomination and the confirmation;
- the outcome or status of the person's last nomination, if the final disposition was not one of confirmation or if the nomination was pending as of April 7, 2006;<sup>12</sup>
- if not confirmed, the number of days that elapsed between the date of the person's first nomination and the final outcome or pendency date of the person's last nomination.

**Appendices 1** and **5** show all of the persons nominated by President Bush to the circuit and district courts. These tables, however, do not provide comprehensive information on committee and full Senate actions taken on these individuals' nominations — such as the dates of committee hearings, committee votes, Senate procedural votes, and Senate votes on their nominations, as well as roll call numbers

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<sup>11</sup> Available at [<http://www.congress.gov/nomis/search.html>]. The Presidential Nominations database, covering the 97<sup>th</sup> through the 109<sup>th</sup> Congresses, provides for each nomination the name of the nominee, nominee's state of residence, appointive position, date of nomination, hearing date, date of committee vote, date of Senate action, and type of Senate vote (including roll call vote numbers).

<sup>12</sup> For each nominee not confirmed as of Apr. 7, 2006, the outcome or status of his or her last nomination was one of the following: (1) The nomination was returned to the President when the Senate adjourned for, or took a recess of, more than 30 days; (2) the nomination was withdrawn by the President; or (3) the nomination was pending in the Senate as of Apr. 7, 2006. Columns in **Appendices 1** and **5**, separate from those showing confirmation dates, indicate the last nominations of nominees which were returned or withdrawn, and the dates of such actions, as well as the nominations that were pending as of Apr. 7, 2006.

(where Senate votes were by roll call). Detailed information of this sort is provided in **Appendices 2-4** (for circuit nominations) and **5-8** (for district nominations).

## Nominations Tables

The presidency of George W. Bush has coincided in time with three Congresses — the 107<sup>th</sup> Congress (2001-2002), the 108<sup>th</sup> (2003-2004), and the 109<sup>th</sup> (2005-present). Six tables list all of the circuit and district court nominations made by President Bush during each Congress, and any committee or Senate actions taken on the nominations. **Appendices 2, 3, and 4** provide this information for circuit court nominations in the 107<sup>th</sup>, 108<sup>th</sup>, and 109<sup>th</sup> Congresses, respectively, and **Appendices 6, 7, and 8** do so for district court nominations in the same respective Congresses.<sup>13</sup>

Nominations in all six of these tables are listed in chronological order according to the date on which each nomination was received by the Senate. The tables show how far along each nomination progressed in the appointment process and how many days elapsed in the process. The procedural progress of each nomination is shown by separate columns which indicate, respectively, the date on which any of the following occurred:

- the Judiciary Committee held a hearing on the nomination;
- the Judiciary Committee voted to report or take other action on the nomination;
- the Senate voted for confirmation, or some other action occurred.

In the “Senate vote” column, a date by itself indicates that the Senate confirmed the nominee by voice vote or by unanimous consent. A confirmation date with a vote tally underneath indicates that Senate confirmation was by a roll call vote. This column also shows the final disposition of nominations failing to receive Senate confirmation. An entry of “Returned, 11/20/02,” for example, indicates that the nomination was returned to the President on November 20, 2002 (upon the final adjournment of the 107<sup>th</sup> Congress).<sup>14</sup> An entry of “Withdrawn 03/19/01,” as another example, indicates that, on that date, the nomination was withdrawn by the President.<sup>15</sup> The dates and roll call votes of other procedural actions affecting

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<sup>13</sup> **Appendix 2** excludes from its listing nine circuit court nominations submitted at the start of the 107<sup>th</sup> Congress by outgoing President William J. Clinton. These nominations were submitted at the very beginning of the 107<sup>th</sup> Congress but in the final weeks of President Clinton’s second term. All nine of these nominations were withdrawn by President Bush on Mar. 19, 2001, although one of the nine nominees, Roger L. Gregory of Virginia, was renominated by President Bush on May 9, 2001, and confirmed by the Senate on July 20, 2001.

<sup>14</sup> Each such return occurs pursuant to Senate Rule XXXI, paragraph 6, which, as explained earlier, provides for nominations to be returned to the President if the Senate adjourns or takes a recess for more than 30 days.

<sup>15</sup> A President may withdraw a nomination for any number of reasons. The Mar. 19, 2001, withdrawal by President Bush of nine nominations submitted earlier by President William J. Clinton, mentioned in a table note to **Appendix 2**, was in keeping with the usual practice

(continued...)

nominations, such as motions to close debate, also have been entered in the “Senate vote” column.

The tables also show, for each nomination, the length of time that passed before a committee hearing, committee vote, or Senate vote took place. For each nomination, separate columns present the number of days which elapsed between the Senate’s receipt of the nomination and the dates on which it received a hearing, committee vote, or Senate vote. Also, at the bottom of each of these three columns, the tables show the average number of days which elapsed between the President’s submission of judicial nominations to the Senate and the dates on which the nominations received hearings, committee votes, or Senate votes. Each elapsed time average is shown in two forms — as the mean number, and as the median number, of elapsed days.<sup>16</sup> Although the arithmetic mean is the true “average” number, it has the disadvantage of being skewed by extremely high or low values in a distribution of numbers. “Loosely speaking,” one statistician has noted, “the median corresponds more closely than the mean to the middle of a distribution [in a group of numbers]. It is unaffected by extreme values.”<sup>17</sup>

The time averages presented in **Appendices 2-4** and **Appendices 6-8** are calculated from time-elapsed data for specific nominations, as opposed to overall time an individual might have been in nominee status. Thus, in the case of an individual

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<sup>15</sup> (...continued)

of incoming Presidents to withdraw pending nominations submitted by their predecessors. Presidents also sometimes withdraw their own nominations. A President might do so, for example, if the Senate committee to which the nomination has been referred either has voted against reporting the nomination to the Senate, or has made clear its intention not to act on the nomination; if the nomination, even if reported, is likely to face substantial opposition on the Senate floor; or if the nominee has requested that the nomination be withdrawn. As of Apr. 7, 2006, President Bush had withdrawn three of his circuit nominations and two of his district court nominations. See, in **Appendix 3**, the Jan. 7, 2003, circuit court nomination of Miguel A. Estrada, which, at the nominee’s request, was withdrawn by the President on Sept. 4, 2003, following seven unsuccessful votes in the Senate by Estrada supporters to close debate on the nomination; in **Appendix 4**, the Feb. 14, 2005, circuit nomination of Henry W. Saad, which was withdrawn on Mar. 27, 2006, and the Sept. 29, 2005, nomination of James H. Payne, which was withdrawn on Mar. 7, 2006; in **Appendix 7**, the Jan. 7, 2003, district nomination of Frederick W. Rohlffing III, which was withdrawn on May 6, 2004; and, in **Appendix 8**, the Feb. 14, 2005, district nomination of Daniel P. Ryan, which was withdrawn on Mar. 30, 2006.

<sup>16</sup> The mean number is the sum of the number of elapsed days for all of the nominations in question divided by the number of those nominations. The median number is either (1) the elapsed number of days for the nomination in the middle of the distribution of all the nominations in question, with an equal number of the nominations having longer elapsed times than that nomination, and an equal number of nominations having shorter elapsed times; or (2) the mean of the elapsed number of days for the two nominations in the middle of the distribution if there is no one middle nomination.

<sup>17</sup> William H. Green, *Econometric Analysis*, 5<sup>th</sup> ed. (Upper Saddle River, NJ: Prentice Hall, 2003), p. 847. For an introduction to median versus mean and arguments surrounding when each should be used, see chapter 3 in Alan Agresti and Barbara Finlay, *Statistical Methods for the Social Sciences*, 3<sup>rd</sup> ed. (Upper Saddle River, NJ: Prentice Hall, 1997).

nominated twice to the same judgeship, time-elapsed data are counted separately for each nomination — rather than, for instance, measuring the time between a nominee’s first nomination and any action (hearing, committee vote, or Senate vote) on the nominee’s second nomination. A nomination *not* receiving a committee hearing, committee vote, or Senate vote is excluded from the calculation of average time between the nomination date and this particular procedural step. Also, three nominations in which nominees received hearings were, nevertheless, excluded from the calculations of average time between nomination and hearing because the hearings in all three instances preceded the nomination dates.<sup>18</sup>

As noted above, some individuals were nominated more than once to a judgeship within the same Congress. **Appendix 2** includes 20 circuit court nominations, submitted by President Bush during the 107<sup>th</sup> Congress, between May 9 and August 2, 2001, which the Senate returned to the President on August 3, 2001, at the start of the Senate’s August 2001 recess, pursuant to Senate Rule XXXI.<sup>19</sup> **Appendix 5** includes 20 district court nominations submitted by President Bush during the 107<sup>th</sup> Congress, between June 18 and August 2, 2001, which the Senate returned at the start of its August 2001 recess. When the Senate reconvened on September 4, 2001, President Bush renominated all 40 of the individuals involved. Footnotes to each of these “resubmitted” nominations are provided, indicating that the nominees had been nominated earlier to the same judgeships. Similarly, footnotes to the initial 20 circuit and 20 district court nominations that were returned to the President indicate that the nominees in question were later renominated. Also, as **Appendix 3** shows, three individuals were nominated to circuit judgeships twice during the 108<sup>th</sup> Congress, once in the first session and again in the second session.<sup>20</sup>

Several of President Bush’s judicial nominees also have been nominated in more than one Congress. **Appendix 3**, for example, shows that the first 14 circuit court nominations in the 108<sup>th</sup> Congress were of individuals previously nominated in the 107<sup>th</sup> Congress. Likewise, **Appendix 7** shows that the first 15 district court

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<sup>18</sup> In **Appendix 2**, see circuit court nomination of Sharon Prost on Sept. 4, 2001; in anticipation of this nomination, the Judiciary Committee held a hearing for Ms. Prost on Aug. 27, 2001. In **Appendix 5**, see district court nominations of Reggie B. Walton and Terry L. Wooten on Sept. 4, 2001; in anticipation of these nominations, the Judiciary Committee held a hearing for Mr. Walton on Aug. 22, 2001, and a hearing for Mr. Wooten on Aug. 27, 2001.

<sup>19</sup> As noted earlier, Senate Rule XXXI, paragraph 6, provides that nominations pending in the Senate at the time that the Senate adjourns or takes a recess of more than 30 days shall be returned to the President. Usually, but not always, the Senate, before starting a recess of more than 30 days, waives this rule by unanimous consent, allowing pending nominations to remain in “status quo” and continue to be pending in the Senate after it reconvenes. Sometimes, however, when Rule XXXI, paragraph 6, is not waived, nominations, pursuant to the rule, are returned to the President and can only be considered again if they are resubmitted by the President.

<sup>20</sup> See the Jan. 7, 2003, and Jan. 6, 2004, nominations of Charles W. Pickering Sr. of Mississippi to the Fifth Circuit; the Apr. 9, 2003, and Mar. 12, 2004, nominations of William H. Pryor Jr. of Alabama to the Eleventh Circuit; and the Apr. 28, 2003, and Jan. 20, 2004, nominations of Claude A. Allen of Virginia to the Fourth Circuit.

nominations in the 108<sup>th</sup> Congress were of individuals previously nominated in the 107<sup>th</sup> Congress.<sup>21</sup>

More recently, in the 109<sup>th</sup> Congress, President Bush's first 20 judicial nominations were all resubmissions from the 108<sup>th</sup> Congress. Submitted on February 14, 2005, the 20 resubmissions involved 12 circuit nominees and eight district court nominees who had earlier nominations returned to the President at the final adjournment of the 108<sup>th</sup> Congress.<sup>22</sup> Moreover, six of the 12 circuit nominees had been nominated in two prior Congresses — in the 107<sup>th</sup> as well as in the 108<sup>th</sup> — as had two of the eight district court nominees.<sup>23</sup>

## Statistical Findings from the Tables

### Circuit Court Nominees During the Presidency of George W. Bush

Between January 20, 2001, and April 7, 2006, 43 of President George W. Bush's 58 nominees to the U.S. circuit courts received Senate confirmation.<sup>24</sup> Of the 15 nominees not confirmed, the nominations of four were returned at the end of a Congress and not resubmitted in a subsequent Congress;<sup>25</sup> the nominations of three were withdrawn by the President (one during the 108<sup>th</sup> Congress, two during the 109<sup>th</sup>

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<sup>21</sup> All of these resubmitted nominations are footnoted in **Appendices 3** and **7** to indicate that the persons involved also had been nominated in the 107<sup>th</sup> Congress.

<sup>22</sup> All of the nominations returned at the end of the 108<sup>th</sup> Congress which were resubmitted in the 109<sup>th</sup> Congress have footnotes in **Appendices 3** and **7** to indicate that fact.

<sup>23</sup> See in **Appendices 2** and **3** the circuit court nominations in the 107<sup>th</sup> and 108<sup>th</sup> Congresses of Terrence W. Boyle, Priscilla Richman Owen, Richard A. Griffin, David W. McKeague, Susan Bieke Neilson, and Henry W. Saad. See in **Appendices 6** and **7** the district court nominations in the 107<sup>th</sup> and 108<sup>th</sup> Congresses of Thomas L. Ludington and James C. Dever III.

<sup>24</sup> **Appendix 1** identifies all of President Bush's confirmed circuit court nominees and their confirmation dates, as of Apr. 7, 2006, listing the nominees chronologically by the date on which they were first nominated.

<sup>25</sup> The Oct. 8, 2001, nomination of William H. Steele of Alabama (in **Appendix 2**) was returned to the President at the end of the 107<sup>th</sup> Congress and not resubmitted in a subsequent Congress. The Jan. 7, 2003, nomination of Carolyn A. Kuhl of California, the Jan. 7, 2003, and Feb. 6, 2004, nominations of Charles W. Pickering Sr. of Mississippi, and the Jan. 20, 2004, nomination of Claude A. Allen of Virginia (all in **Appendix 3**) were returned to the President at the end of the 108<sup>th</sup> Congress and not resubmitted in the 109<sup>th</sup> Congress.

Congress);<sup>26</sup> and the nominations of the eight others were pending, as of April 7, 2006.<sup>27</sup>

**Nominees Failing to Receive Senate Votes after Unsuccessful Cloture Motions.** None of President Bush’s circuit court nominees has been rejected by the Senate on a vote of whether to confirm. However, in the 108<sup>th</sup> Congress, in the face of significant opposition to their nominations on the Senate floor, 10 circuit court nominees failed to receive final Senate votes after one or more motions to close debate on their nominations proved unsuccessful.<sup>28</sup> Subsequently, in the 109<sup>th</sup> Congress, a compromise was reached in the Senate over filibusters of judicial nominations,<sup>29</sup> which resulted in confirmation votes for five of those 10 circuit nominees.<sup>30</sup> Four others among the 10, however, ultimately failed to gain confirmation. Of the four, the nomination of one was withdrawn in the 108<sup>th</sup> Congress (after seven unsuccessful votes on motions to close debate);<sup>31</sup> the nominations of two were returned at the end of the 108<sup>th</sup> Congress and were not followed by renomination in the 109<sup>th</sup> Congress;<sup>32</sup> and a renomination of the fourth was withdrawn in the 109<sup>th</sup> Congress.<sup>33</sup> The 10th nominee on whom the Senate could not agree to close debate in the 108<sup>th</sup> Congress was renominated in the 109<sup>th</sup> Congress, and that nomination, as

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<sup>26</sup> See, in **Appendix 3**, the Jan. 7, 2003, nomination of Miguel A. Estrada of Virginia and, in **Appendix 4**, the Feb. 14, 2005, nomination of Henry W. Saad of Michigan and the Sept. 29, 2005, nomination of James H. Payne of Oklahoma.

<sup>27</sup> Circuit court nominees pending as of Apr. 7, 2006, are identified as such in **Appendix 1**.

<sup>28</sup> The Senate can close debate by passing a cloture motion, which requires a super-majority of three-fifths of the Senate, or 60 Members, voting in favor. During the 108<sup>th</sup> Congress, the 10 nominations on which the Senate voted, on one or more occasions, not to close debate were: The Jan. 7, 2003, nominations of Miguel Estrada of Virginia, Richard A. Griffin of Michigan, Carolyn B. Kuhl of California, David W. McKeague of Michigan, Priscilla Richman Owen of Texas, Charles W. Pickering of Mississippi, and Henry W. Saad of Michigan; the Apr. 9, 2003, nomination of William H. Pryor Jr. of Alabama; the May 15, 2003, nomination of William Gerry Myers III of Idaho; and the July 25, 2003, nomination of Janice R. Brown of California. On each of these occasions, as **Appendix 3** shows, the number of votes needed to close debate fell short of 60.

<sup>29</sup> For an account of how this compromise was reached, as well as of the details of the compromise, see David Nather, “The Centrists Strike Back,” *CQ Weekly*, vol. 63, May 30, 2005, p. 1420.

<sup>30</sup> See, in **Appendix 4**, the Feb. 14, 2005, nominations of Richard A. Griffin, David W. McKeague, Priscilla Richman Owen, William H. Pryor Jr., and Janice R. Brown — all subsequently confirmed.

<sup>31</sup> See, in **Appendix 3**, the Jan. 7, 2003, nomination of Miguel A. Estrada.

<sup>32</sup> See, in **Appendix 3**, the Jan. 7, 2003, nominations of Carolyn A. Kuhl and Charles W. Pickering Sr.

<sup>33</sup> See, in **Appendix 4**, the Feb. 14, 2005, nomination of Henry W. Saad.

of April 7, 2006, was pending in the Senate (having been reported by the Senate Judiciary Committee more than a year earlier, on March 17, 2005).<sup>34</sup>

**Recess Appointments.** Two of the 10 circuit nominees on whom the Senate could not agree to close debate in the 108<sup>th</sup> Congress were, later in that Congress, given temporary recess appointments by President Bush. After the recess appointment of one of these nominees expired at the end of the 108<sup>th</sup> Congress, he was not renominated by President Bush in the 109<sup>th</sup> Congress.<sup>35</sup> Prior to the expiration of the other nominee's recess appointment, he was renominated by President Bush in the 109<sup>th</sup> Congress and subsequently confirmed by the Senate.<sup>36</sup>

**Nominees Defeated in Committee.** Two of President Bush's circuit nominees were defeated in committee votes. These defeats occurred when the Senate Judiciary Committee, in the 107<sup>th</sup> Congress, voted not to report their nominations to the Senate.<sup>37</sup> The two nominees were renominated by President Bush in the 108<sup>th</sup> Congress and this time were reported out favorably by the Judiciary Committee.<sup>38</sup> However, they (along with eight other circuit nominees) failed to receive final Senate votes in the 108<sup>th</sup> Congress, after motions to close debate on their nominations proved unsuccessful. Ultimately, one of the two nominees was renominated in the 109<sup>th</sup> Congress and confirmed by the Senate in a 55-43 roll call vote.<sup>39</sup> The other nominee was given a temporary recess appointment by President between the first and second

<sup>34</sup> See, in **Appendix 4**, the Feb. 14, 2005, nomination of William Gerry Myers III.

<sup>35</sup> On Jan. 16, 2004, between the first and second sessions of the 108<sup>th</sup> Congress, Charles W. Pickering Sr. of Mississippi (whose nomination in the 107<sup>th</sup> Congress had been rejected by the Senate Judiciary Committee) was recess appointed to the Fifth Circuit by President Bush. The appointment expired on Dec. 8, 2004, at the end of the second session of the 108<sup>th</sup> Congress. Judge Pickering retired at that time and was not renominated by President Bush in the 109<sup>th</sup> Congress. In **Appendix 3**, see the Jan. 7, 2003, and Feb. 6, 2004, nominations of Judge Pickering, both of which were returned to the President on Dec. 8, 2004.

<sup>36</sup> On Feb. 20, 2004, during a recess within the second session of the 108<sup>th</sup> Congress, William H. Pryor Jr. of Alabama was recess appointed to the Eleventh Circuit by President Bush. The appointment was to expire at the end of the Senate's first session in the 109<sup>th</sup> Congress, the sine die adjournment of which occurred on Dec. 22, 2005. However, on Feb. 14, 2005, early in the 109<sup>th</sup> Congress, Mr. Pryor was renominated by President Bush and confirmed on June 9, 2005, more than six months before his recess appointment would have expired. See, in **Appendix 3**, the Apr. 9, 2003, and Mar. 12, 2004, nominations of Mr. Pryor, both of which were returned to the President on Dec. 8, 2004, and, in **Appendix 4**, the Feb. 14, 2005, nomination, which was confirmed.

<sup>37</sup> See, in **Appendix 2**, the Sept. 4, 2001, nominations of Priscilla Richman Owen of Texas and Charles W. Pickering, Sr., of Mississippi, both to the Fifth Circuit. In the case of both nominations, the committee defeated successive motions to report favorably, to report without recommendation, and to report unfavorably (doing so with the Pickering nomination on Mar. 14, 2002, and with the Owen nomination on Sept. 5, 2002).

<sup>38</sup> See, in **Appendix 3**, the Jan. 7, 2003, nominations of Priscilla Richman Owen and Charles W. Pickering Sr.

<sup>39</sup> See, in **Appendix 4**, the Feb. 14, 2005, nomination of Priscilla Richman Owen.

sessions of the 108<sup>th</sup> Congress; at the end of that Congress, his recess appointment expired, and he was not renominated by President Bush in the 109<sup>th</sup> Congress.<sup>40</sup>

**Length in Time of the Appointment Process.** **Appendix 1** reveals that President Bush's circuit court nominees have varied considerably in how quickly they have advanced through the appointment process.<sup>41</sup> For some who were nominated more than once to a circuit judgeship, the elapsed time between first nomination and final disposition on a subsequent nomination has extended over two or more Congresses. For other individuals, though, the overall appointment process was much briefer.

Specifically, **Appendix 1** shows that, during the course of his presidency, 32 of George W. Bush's 58 circuit court nominees have been nominated in two or more Congresses — with 27 nominated in two Congresses, and five nominated in three successive Congresses. Of the five nominated in three Congresses, four have been confirmed,<sup>42</sup> while the nomination of the fifth person was pending in the 109<sup>th</sup> Congress as of April 7, 2006.<sup>43</sup>

**Confirmed Nominees.** The longest interval between first nomination and confirmation for a Bush circuit nominee was 1,477 days — slightly more than four years.<sup>44</sup> The least amount of elapsed time for a circuit nominee between first nomination and confirmation was 69 days.<sup>45</sup> The bottom rows of **Appendix 1** show

<sup>40</sup> See above footnote regarding the Jan. 16, 2004, recess appointment of Charles W. Pickering Sr. of Mississippi to the Fifth Circuit by President Bush.

<sup>41</sup> Specifically, it will be noted, the table shows the number of days that elapsed from the date of each nominee's first nomination to the date of the final disposition of the nominee's last nomination, or to April 7, 2006, if pending as of that date.

<sup>42</sup> See the nominations of: Priscilla Richman Owen to the Fifth Circuit on May 9, 2001, and Sept. 4, 2001 (both in 107<sup>th</sup> Congress), Jan. 7, 2003 (108<sup>th</sup> Congress), and Feb. 14, 2005 (109<sup>th</sup> Congress) — the last confirmed on May 25, 2005; David W. McKeague to the Sixth Circuit on Nov. 8, 2001 (107<sup>th</sup> Congress), Jan. 7, 2003 (108<sup>th</sup> Congress), and Feb. 14, 2005 (109<sup>th</sup> Congress) — the last confirmed on June 9, 2004; Susan Bieke Neilson to the Sixth Circuit on Nov. 8, 2001 (107<sup>th</sup> Congress), Jan. 7, 2003 (108<sup>th</sup> Congress), and Feb. 14, 2005 (109<sup>th</sup> Congress) — the last confirmed on Oct. 27, 2005; and Richard A. Griffin to the Sixth Circuit on June 26, 2002 (107<sup>th</sup> Congress), Jan. 7, 2003 (108<sup>th</sup> Congress), and Feb. 14, 2005 (109<sup>th</sup> Congress) — the last confirmed on June 9, 2005.

<sup>43</sup> See the nominations of Terrence W. Boyle to the Fourth Circuit on May 9, 2001, and Sept. 4, 2001 (both in the 107<sup>th</sup> Congress), Jan. 7, 2003 (108<sup>th</sup> Congress), and Feb. 14, 2005 (109<sup>th</sup> Congress) — the last pending as of Apr. 7, 2006.

<sup>44</sup> See again, in **Appendix 1**, nominee Priscilla Richman Owen, first nominated on May 9, 2001, and confirmed on May 25, 2005. The circuit nominees with the next highest number of days elapsed between their first nomination and confirmation were the other three nominees, mentioned above, who were confirmed after being nominated in three straight Congresses: Susan Bieke Neilson (1,449 days — first nominated Nov. 8, 2001), David W. McKeague (1,309 days — first nominated Nov. 8, 2001), and Richard A. Griffin (1,079 days — first nominated June 26, 2002).

<sup>45</sup> See in **Appendix 1** the nomination of Michael A. Chagares on Jan. 25, 2006, which was  
(continued...)



that for President Bush's 43 circuit nominees confirmed, as of April 7, 2006, the average elapsed time between first nomination and final disposition was 394 days. This average, or *mean*, was arrived at by summing the number of days between first nomination and confirmation for all 43 nominees in question, and then dividing by 43. However, the *median* elapsed time (i.e., the time interval for the nominee in the midpoint of the distribution of the 43 confirmed nominees) was significantly less — 234 days. In other words, for 21 of the 43 confirmed circuit nominees, the elapsed time between first nomination and confirmation was less than 234 days; for one nominee, in the midpoint of the distribution, the elapsed time was exactly 234 days,<sup>46</sup> and for 21 others, the elapsed time was more than 234 days.<sup>47</sup>

***Withdrawn or Returned Nominees.*** As noted previously,<sup>48</sup> seven other circuit court nominees saw their last nominations withdrawn by the President or returned to the President and did not have nominations pending before Congress as of April 7, 2006. Among the seven nominees, the most elapsed time between first nomination and final disposition of last nomination was 1,600 days,<sup>49</sup> whereas the least elapsed time for this interval was 159 days.<sup>50</sup> The mean elapsed time for the relatively small number of nominees in this category was 876 days, and the median elapsed time was 848 days.

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<sup>45</sup> (...continued)

confirmed 69 days later on Apr. 4, 2006. The circuit nominees with the next-fewest number of days of elapsed time between their first (and only) nomination and confirmation were William J. Riley to the Eighth Circuit (71 days — nominated May 23, 2001), Roger L. Gregory to the Fourth Circuit (72 days — nominated May 9, 2001), and Allyson K. Duncan to the Fourth Circuit (80 days — nominated Apr. 28, 2003). It should be noted that Mr. Gregory had been nominated twice earlier by President William J. Clinton — with the second nomination occurring in the last days of the Clinton presidency — and that President Bush, upon assuming office, withdrew that second nomination, only to renominate Mr. Gregory himself on May 9, 2001. However, **Appendix 1** lists the May 9, 2001, nomination as not the second or third, but the first and only nomination, of Mr. Gregory, because it is a table devoted exclusively to *President Bush's* circuit court nominees.

<sup>46</sup> See, in **Appendix 1**, the first, and only, nomination of Raymond W. Gruender to the Eighth Circuit on Sept. 29, 2003, which was confirmed on May 20, 2004 — a nomination-to-confirmation time interval of 234 days.

<sup>47</sup> The mean (394 days) was much higher than the median (234 days) because the amount of time elapsed between certain nominees' first nominations and their confirmation dates was markedly higher than nearly all other nominees. See in particular nominees Priscilla Richman Owen (elapsed time 1,477 days), Susan Bieke Neilson (1,449 days), David W. McKeague (1,309 days), and Richard A. Griffin (1,079 days).

<sup>48</sup> See footnotes 25 and 26.

<sup>49</sup> See, in **Appendix 1**, the first nomination of Henry W. Saad to the Sixth Circuit on Nov. 8, 2001, and the withdrawal of his third, and last, nomination by President Bush on Mar. 27, 2006 — 1,600 days later.

<sup>50</sup> See, in **Appendix 1**, the first, and only, nomination of James H. Payne to the Tenth Circuit on Sept. 29, 2005, which was withdrawn by the President on Mar. 7, 2006, 159 days later.

**Pending Nominees.** Eight other circuit court nominees had nominations pending in the 109<sup>th</sup> Congress, as of April 7, 2006. One of the eight nominees was among the first individuals to be nominated by President Bush to the circuit courts; the elapsed time from his first nomination date of May 9, 2001, to April 7, 2006 (when his fourth nomination remained pending), was 1,794 days — one month less than five years.<sup>51</sup> For three other circuit nominees, as of April 7, 2006, more than two and one-half years had elapsed between their first nominations and their pending second nominations.<sup>52</sup> By contrast, for the four other individuals with pending circuit court nominations, the elapsed times between their first (and only) nomination dates in the 109<sup>th</sup> Congress and April 7, 2006, were comparatively brief — 52 days for the shortest elapsed time,<sup>53</sup> and 112 days for the longest elapsed time.<sup>54</sup>

## President Bush's Circuit Court Nominations During Particular Congresses

The following are among the key statistical findings concerning President Bush's circuit court nominations during particular Congresses, and the actions and amount of time taken on them.

**The 107<sup>th</sup> Congress.** President Bush submitted a total of 52 circuit court nominations to the Senate during the 107<sup>th</sup> Congress. Twenty of the 52 nominations, however, were resubmissions (i.e., renominations of persons nominated earlier in the Congress). The resubmissions occurred when 20 circuit nominations, which had been returned by the Senate to President Bush at the beginning of the Senate's August 2001 recess, were resubmitted as new nominations upon the Senate's reconvening in September 2001. Hence, 32 *individuals* were nominated by President Bush to circuit judgeships during the 107<sup>th</sup> Congress.

Of these 32 individuals, 17 were confirmed by the Senate (14 by roll call votes),<sup>55</sup> and 15 saw their nominations returned to the President at the final adjournment of the

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<sup>51</sup> See, in **Appendix 1**, nominee Terrence W. Boyle, first nominated to the Fourth Circuit on May 9, 2001, and whose fourth nomination was pending as of Apr. 7, 2006 — 1,794 days later.

<sup>52</sup> See, in **Appendix 1**, nominees William Gerry Myers III (first nominated to the Ninth Circuit on May 15, 2003), Brett M. Kavanaugh (first nominated to the D.C. Circuit on July 25, 2003), and William James Haynes II (first nominated on Sept. 29, 2003), whose first nomination-to-pendency of second nomination time intervals, as of Apr. 7, 2006, were 1,058, 987, and 921 days, respectively

<sup>53</sup> See, in **Appendix 1**, the Feb. 14, 2006, nomination of Milan D. Smith to the Ninth Circuit.

<sup>54</sup> See, in **Appendix 1**, the Dec. 16, 2005, nomination of Norman R. Smith to the Ninth Circuit.

<sup>55</sup> The closest roll call was the 55-44 vote, on Nov. 19, 2002, confirming Dennis Shedd of South Carolina to the Fourth Circuit; the second-closest was the 64-35 vote, on July 31, 2002, confirming D. Brooks Smith of Pennsylvania to the Third Circuit. In all the other roll call votes on whether to confirm circuit court nominations, the Senate voted unanimously in favor of confirmation, except for one roll call, in which one “nay” vote was recorded. See **Appendix 2**.

107<sup>th</sup> Congress. Of the 15 nominees not confirmed, 12 did not receive a Judiciary Committee hearing; one received a committee hearing but not a committee vote;<sup>56</sup> and two were defeated in committee when the Judiciary Committee voted not to report their nominations.<sup>57</sup> The President renominated 14 of the 15 unconfirmed nominees at the start of the 108<sup>th</sup> Congress.<sup>58</sup>

For circuit nominations that received committee hearings, committee votes, or Senate confirmation votes in the 107<sup>th</sup> Congress, the average (mean) numbers of days that elapsed between the date the nomination was received in the Senate and the aforementioned actions were as follow:

- For 19 of the 20 circuit nominations receiving committee hearings,<sup>59</sup> an average of 154 days elapsed between the date a nomination was received in the Senate and the holding of a hearing; the briefest time elapsing from Senate receipt to committee hearing was nine days, and the longest time was 387 days.
- For the 19 circuit nominations receiving committee votes, an average of 193 days elapsed between Senate receipt and committee vote; the briefest time elapsing from Senate receipt to committee vote was two days,<sup>60</sup> and the longest time (for two nominations) was 436 days.
- For the 17 circuit nominations receiving final Senate votes (all in favor of confirmation), an average of 210 days elapsed between Senate receipt and final Senate vote; the briefest time elapsing from Senate receipt to Senate confirmation vote was 17 days, and the longest time was 441 days.

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<sup>56</sup> See, in **Appendix 2**, the Sept. 4, 2001, nomination of Miguel A. Estrada to the D.C. Circuit.

<sup>57</sup> See, in **Appendix 2**, the Sept. 4, 2001, nominations of Priscilla Richman Owen and Charles W. Pickering Sr., both to the Fifth Circuit.

<sup>58</sup> The Oct. 9, 2001, nomination of William H. Steele to the Eleventh Circuit, in **Appendix 2**, was returned to the President at the final adjournment of the 107<sup>th</sup> Congress on Nov. 20, 2002. Mr. Steele was not re-nominated in the 108<sup>th</sup> Congress. Table notes in **Appendix 3** identify the 14 other circuit nominees who were renominated in the 108<sup>th</sup> Congress, after their earlier nominations were returned to the President at the end of the 107<sup>th</sup> Congress.

<sup>59</sup> A 20<sup>th</sup> circuit court nomination also received a committee hearing, but it was excluded from the calculation of average elapsed time between date of nomination and committee hearing because its hearing date *preceded* its nomination date. See, in **Appendix 2**, the Sept. 24, 2001, nomination of Sharon Prost, in anticipation of which the Senate Judiciary Committee held a hearing, on Aug. 27, 2001.

<sup>60</sup> The nomination which received a committee vote just two days after its receipt by the Senate was a resubmission of an earlier nomination to the same judgeship. See, in **Appendix 2**, the Sept. 4, 2001, nomination of Sharon Prost of the District of Columbia to the District of Columbia Circuit. A hearing was held on Aug. 27, 2001, in anticipation of Ms. Prost's renomination, paving the way for a committee vote after Senate receipt of the nomination without the need for a hearing first.

**The 108<sup>th</sup> Congress.** President Bush nominated 34 individuals to circuit court judgeships during the 108<sup>th</sup> Congress, including 14 who had first been nominated in the 107<sup>th</sup> Congress and then resubmitted. Of the 34 nominees, 18 (including five of the resubmissions) were confirmed by the Senate (14 by roll call votes),<sup>61</sup> the nomination of one was withdrawn by the President during the first session of the 108<sup>th</sup> Congress, and the nominations of 15 were returned at the Congress's final adjournment. All but one of the 34 nominees received a hearing (31 during the 108<sup>th</sup> Congress, two during the prior Congress),<sup>62</sup> and 30 were reported out of committee, all favorably. Of the 16 circuit nominees not confirmed, one did not receive a committee hearing; no committee vote was taken on three others; and 12 did not receive final Senate votes. In the case of 10 of the 12 nominees, cloture motions filed to close debate on their nominations failed to receive the required 60 votes.<sup>63</sup> Two of the 10 nominations on which motions to close debate failed were of the two persons who had been defeated in the Senate Judiciary Committee in the 107<sup>th</sup> Congress.<sup>64</sup> The nomination of one of the other 10 nominees was withdrawn by the President, after

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<sup>61</sup> The closest roll call vote on whether to confirm was the 52-41 vote, on Apr. 29, 2003, confirming Jeffrey S. Sutton of Ohio to the Sixth Circuit; the second-closest was the 58-41 vote, on Apr. 1, 2003, confirming Timothy M. Tymkovich of Colorado to the Tenth Circuit. Substantial, though lesser, numbers of votes against confirmation were cast in the 66-25 vote on May 5, 2003, to confirm Deborah L. Cook of Ohio to the Sixth Circuit; the 70-27 vote on June 24, 2004, to confirm Diane S. Sykes of Wisconsin to the Seventh Circuit; and the 74-19, vote on Mar. 13, 2003, to confirm Jay S. Bybee of Nevada to the Ninth Circuit. In the 10 other roll call confirmation votes for circuit nominees, the Senate voted in favor of confirmation unanimously or with one “nay” vote recorded. See **Appendix 3**.

<sup>62</sup> Two of the three circuit court nominees during the 108<sup>th</sup> Congress who did not receive hearings during that Congress — Miguel Estrada of Virginia and Charles W. Pickering Sr. of Mississippi — had received hearings during the 107<sup>th</sup> Congress. The third circuit nominee not to receive a hearing during the 108<sup>th</sup> Congress, Terrence W. Boyle of North Carolina, had been nominated twice earlier, during the 107<sup>th</sup> Congress, and had not received a hearing on either of these nominations as well. Between his first nomination on May 9, 2001, in the 107<sup>th</sup> Congress and the return of his third nomination to the President at the final adjournment of the 108<sup>th</sup> Congress on Dec. 8, 2004, Boyle was a circuit court nominee for more than three sessions of Congress without receiving a hearing. Subsequently, however, in the 109<sup>th</sup> Congress, Boyle was nominated to the circuit court a fourth time by President Bush, on Feb. 14, 2005, and received a hearing on this nomination on Mar. 3, 2005. See **Appendices 2, 3, and 4**.

<sup>63</sup> As noted earlier, the 10 nominations on which the Senate voted, on one or more occasions, not to close debate were the Jan. 7, 2003, nominations of Miguel Estrada of Virginia, Richard A. Griffin of Michigan, Carolyn B. Kuhl of California, David W. McKeague of Michigan, Priscilla R. Owen of Texas, Charles W. Pickering Sr. of Mississippi, and Henry W. Saad of Michigan; the Apr. 9, 2003, nomination of William H. Pryor Jr. of Alabama; the May 15, 2003, nomination of William Gerry Myers III of Idaho; and the July 25, 2003, nomination of Janice R. Brown of California. See **Appendix 3**.

<sup>64</sup> See, in **Appendix 2**, the Mar. 14, 2002, votes by the Senate Judiciary Committee against reporting the nomination of Charles W. Pickering Sr. and the Sept. 5, 2002, votes by the committee against reporting the nomination of Priscilla Richman Owen.

seven unsuccessful motions were made in the Senate to close debate on the nomination.<sup>65</sup>

For circuit nominations that received committee hearings, committee votes, or Senate confirmation votes in the 108<sup>th</sup> Congress, the average (mean) numbers of days that elapsed between the date the nomination was received in the Senate and the aforementioned actions were as follow:

- For the 31 circuit nominations receiving hearings, an average of 145 days elapsed between the date the nomination was received in the Senate and the holding of a hearing; the briefest time elapsing from Senate receipt to committee hearing was (for three nominations) 22 days, and the longest time was 610 days.
- For the 30 circuit nominations receiving committee votes, an average of 173 days elapsed between Senate receipt and committee vote; the briefest time elapsing from Senate receipt to committee vote was 23 days, and the longest time 636 days.
- For the 18 circuit nominations which received Senate votes on whether to confirm, an average of 140 days elapsed between Senate receipt and final Senate vote; the briefest time elapsing from Senate receipt to Senate confirmation vote was 65 days, and the longest time was 234 days.<sup>66</sup>

**The 109<sup>th</sup> Congress.** As of April 7, 2006, the President had nominated 18 individuals to circuit court judgeships during the 109<sup>th</sup> Congress. The 18 nominees included 12 who were nominated in the 108<sup>th</sup> Congress and then renominated in the 109<sup>th</sup> Congress. Seven of the 12 had seen one or more unsuccessful votes on the Senate floor to close debate on their nominations in the 108<sup>th</sup> Congress. Of the 18 nominees in the 109<sup>th</sup> Congress, the nominations of eight (seven of them resubmissions from the 108<sup>th</sup> Congress) were confirmed by the Senate (all by roll

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<sup>65</sup> See, in **Appendix 3**, the Jan. 7, 2003, nomination of Miguel A. Estrada, which was withdrawn by the President on Sept. 4, 2003, following seven Senate votes on motions to close debate on the nomination.

<sup>66</sup> **Appendix 3** excludes from the measurement and averaging of times from Senate receipt to final Senate vote the 10 circuit nominations during the 108<sup>th</sup> Congress on which there were votes on motions to close Senate debate but no final votes on whether to confirm.

call);<sup>67</sup> two were withdrawn by the President;<sup>68</sup> and eight were pending. One of the 18 nominees was nominated twice in the 109<sup>th</sup> Congress; after his first nomination was returned at the end of the first session (the only judicial nomination which the Senate returned to the President at the end of the session), the individual was renominated by the President at the start of the Congress's second session.<sup>69</sup> Fourteen of the 18 circuit nominees in the 109<sup>th</sup> Congress had received hearings (either in the 109<sup>th</sup> or in the prior Congress), and the nominations of 10 had been reported out of committee, all favorably. Of the eight nominees pending as of April 7, 2006, three awaited hearings, three awaited committee votes, and two awaited Senate floor action.

For circuit nominations that received committee hearings, committee votes, or Senate confirmation votes in the 109<sup>th</sup> Congress, as of April 7, 2006, the average (mean) numbers of days that elapsed between the date the nomination was received in the Senate and the aforementioned actions were as follow:

- For the five circuit nominations receiving hearings in the 109<sup>th</sup> Congress,<sup>70</sup> an average of 35 days elapsed between the date the nomination was received in the Senate and the holding of a hearing; the briefest time elapsing from Senate receipt to committee hearing was 15 days, and the longest time was 75 days.
- For the 10 circuit nominations receiving committee votes, an average of 95 days elapsed between Senate receipt and committee vote; the briefest time elapsing from Senate receipt to committee vote was 31 days, and the longest time was 248 days.
- For the eight circuit nominations which received Senate votes on whether to confirm, an average of 125 days elapsed between Senate receipt and final Senate vote; the briefest time elapsing from Senate receipt to Senate confirmation vote was 69 days, and the longest time was 255 days.

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<sup>67</sup> On three of the nominations, the roll call votes were relatively close, and on a fourth nomination 24 votes were cast against confirmation. See in **Appendix 4**, the 53-45 vote on June 9, 2005, confirming William H. Pryor Jr. of Alabama to the Eleventh Circuit; the 55-43 vote on May 25, 2005, confirming Priscilla Richman Owen of Texas to the Fifth Circuit; the 56-43 vote on June 8, 2005, confirming Janice R. Brown of California to the Ninth Circuit; and the 73-24 vote on June 14, 2005, confirming Thomas B. Griffith to the District of Columbia Circuit. On the four other roll call votes, the Senate voted unanimously in favor of confirmation.

<sup>68</sup> See in **Appendix 4** the Feb. 14, 2005, nomination of Henry W. Saad of Michigan to the Sixth Circuit (withdrawn on Mar. 27, 2006), and the Sept. 29, 2005, nomination of James H. Payne of Oklahoma to the Tenth Circuit (withdrawn on Mar. 7, 2006).

<sup>69</sup> See in **Appendix 4** the Feb. 14, 2005, and Jan. 25, 2006, nominations of Brett M. Kavanaugh of Maryland to the District of Columbia Circuit.

<sup>70</sup> Nine other circuit court nominees in the 109<sup>th</sup> Congress had received hearings earlier, on nominations referred to the Judiciary Committee in the 108<sup>th</sup> Congress.

## District Court Nominees During the Presidency of George W. Bush

During the presidency of George W. Bush — from January 20, 2001, through April 7, 2006 — 189 of his 206 nominees to the U.S. district courts have received Senate confirmation. Of the 17 nominees not confirmed, the nominations of two were withdrawn by the President (one during the 108<sup>th</sup> Congress, the other during the 109<sup>th</sup> Congress),<sup>71</sup> and the nominations of the 15 others were pending, as of April 7, 2006. None of President Bush’s district court nominees has been defeated in a committee vote or rejected in a Senate confirmation vote.

An examination of **Appendix 5** reveals that President Bush’s district court nominees have varied considerably in how quickly they have advanced through the appointment process. Of the 206 individuals nominated by the President to district judgeships, 185 were in nominee status during only one Congress (with 173 confirmed in their respective Congresses and with 12 pending in the 109<sup>th</sup> Congress, as of April 7, 2006). Of the remaining 21 individuals, 19 were in nominee status in two Congresses,<sup>72</sup> and two were in nominee status in three Congresses.<sup>73</sup> Fifteen of the 21 were confirmed in the first session of the second Congress in which they were nominated (13 within four and one-half months, and the other two within eight months, of their nominations in that Congress). Of the six others, three had nominations pending as of April 7, 2006;<sup>74</sup> two had seen their final nominations

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<sup>71</sup> See, in **Appendices 5** and **7**, the Jan. 7, 2003, nomination of Frederick W. Rohlfling III to the District of Hawaii (withdrawn on May 6, 2004), and in **Appendices 5** and **8** the Feb. 14, 2005, nomination of Daniel P. Ryan to the District of Eastern Michigan (withdrawn on Mar. 30, 2006).

<sup>72</sup> Examination of **Appendix 5** reveals that 13 individuals were nominated to district judgeships in both the 107<sup>th</sup> and 108<sup>th</sup> Congresses, and that six others were nominated to district judgeships in both the 108<sup>th</sup> and 109<sup>th</sup> Congresses. While **Appendix 5** does not list the specific Congresses in which these persons were nominated, it does, as discussed, list the dates of their nominations. The Congresses during which these nominations were made can be identified readily by matching their dates with the years of the three Congresses in question — 2001-2002 for the 107<sup>th</sup>, 2003-2004 for the 108<sup>th</sup>, and 2005-2006 for the 109<sup>th</sup>.

<sup>73</sup> The two were James C. Dever (first nominated to the Eastern District of North Carolina on May 22, 2002, and ultimately confirmed on Apr. 28, 2005), and Thomas L. Ludington (first nominated to the District of Eastern Michigan on Sept. 12, 2002, and whose third nomination was pending, as of Apr. 7, 2006). See **Appendix 5**.

<sup>74</sup> See, in **Appendix 5**, the following three nominees, who had nominations pending in the 109<sup>th</sup> Congress, as of Apr. 7, 2006: Thomas L. Ludington, first nominated on Sept. 12, 2002, in the 107<sup>th</sup> Congress, nominated again on Jan. 7, 2003, in the 108<sup>th</sup> Congress, and nominated a third time, on Feb. 14, 2005, in the 109<sup>th</sup> Congress; Peter G. Sheridan, first nominated on Nov. 5, 2003, in the 108<sup>th</sup> Congress, and nominated a second time, on Feb. 14, 2005, in the 109<sup>th</sup> Congress; and Sean F. Cox, first nominated on Sept. 10, 2004, in the 108<sup>th</sup> Congress, and nominated a second time, on Feb. 14, 2005, in the 109<sup>th</sup> Congress.

withdrawn;<sup>75</sup> and one was confirmed — but only after being nominated in three consecutive Congresses.<sup>76</sup>

**Confirmed Nominees.** Of President Bush's 189 confirmed district court nominees, 173 were confirmed within the same Congress in which they were first nominated, with 16 confirmed in a subsequent Congress. The most elapsed time for a district court nominee between first nomination and confirmation was 1,072 days, or more than two years and 11 months.<sup>77</sup> The least amount of elapsed time for a district nominee between first nomination and confirmation was 57 days.<sup>78</sup> The bottom rows of **Appendix 5** show that for President Bush's 189 district court nominees confirmed as of April 7, 2006, the average, or mean, elapsed time between first nomination and confirmation was 162 days, whereas the median elapsed time (i.e., the time interval for the nominee in the midpoint of the distribution of the 189 confirmed nominees) was 137 days.

**Withdrawn Nominees.** Two of President Bush's district court nominees saw their nominations withdrawn. One had been nominated in the 107<sup>th</sup> and 108<sup>th</sup> Congresses, the other in the 108<sup>th</sup> and 109<sup>th</sup> Congresses. The elapsed times between their first nominations and the withdrawal of their second (and final) nominations were 834 days and 1,067 days respectively.<sup>79</sup>

**Pending Nominees.** As already noted, 15 other district court nominees had nominations pending in the 109<sup>th</sup> Congress, as of April 7, 2006. Three of the 15 had

<sup>75</sup> See, in **Appendix 5**, nominees Frederick W. Rohlifing III, first nominated on Jan. 23, 2002, in the 107<sup>th</sup> Congress, and whose second nomination, on Jan. 7, 2003, in the 108<sup>th</sup> Congress, was withdrawn on May 6, 2004, and Daniel P. Ryan, first nominated on Apr. 28, 2003, in the 108<sup>th</sup> Congress, whose second nomination on Feb. 14, 2004, in the 109<sup>th</sup> Congress, was withdrawn, on Mar. 30, 2006.

<sup>76</sup> See, in **Appendix 5**, nominee James C. Dever III, first nominated on May 22, 2002, in the 107<sup>th</sup> Congress, nominated again on Jan. 7, 2003, in the 108<sup>th</sup> Congress, and nominated a third time, on Feb. 14, 2005, in the 109<sup>th</sup> Congress, and who ultimately was confirmed, on Apr. 28, 2005.

<sup>77</sup> See again, in **Appendix 5**, nominee James C. Dever III for the Eastern District of North Carolina, 1,072 days between first nomination on May 22, 2002, and confirmation on Apr. 28, 2005. The nominees with the next-highest number of days elapsed between their first nomination and confirmation were Robert J. Conrad Jr. to the Western District of North Carolina, 731 days between first nomination on April 28, 2003, and confirmation on Apr. 28, 2005, and J. Leon Holmes to the Eastern District of Arkansas, 524 days between first (and only) nomination on Jan. 29, 2003 and, confirmation on Sept. 6, 2004.

<sup>78</sup> See, in **Appendix 5**, nominees James V. Selna for the Central District of California and Philip P. Simon for the Northern District of Indiana, both nominated on Jan. 29, 2003, and both confirmed on Mar. 27, 2003 — an interval of 57 days.

<sup>79</sup> See again, in **Appendix 5**, nominee Frederick W. Rohlifing III for the District of Hawaii, 834 days between first nomination, on Jan. 23, 2002, in the 107<sup>th</sup> Congress, and withdrawal of second nomination, on May 6, 2004, in the 108<sup>th</sup> Congress, and Daniel P. Ryan for Eastern District of Michigan, 1,067 days between first nomination on Apr. 28, 2003, in the 108<sup>th</sup> Congress, and withdrawal of second nomination, on Mar. 30, 2006, in the 109<sup>th</sup> Congress.



been nominated initially in the 108<sup>th</sup> Congress and then were renominated in the 109<sup>th</sup>, whereas the other 12 had been nominated for the first and only time in the 109<sup>th</sup> Congress. Among the 15, the most elapsed time from date of first nomination to April 7, 2006, was 1,303 days, or roughly three and one-half years, for one nominee.<sup>80</sup> The least amount of elapsed time between first nomination date and the April 7, 2006, cutoff point was 52 days.<sup>81</sup>

## **President Bush's District Court Nominations During Particular Congresses**

The following are among the key statistical findings concerning President Bush's district court nominations during particular Congresses, and the actions and amounts of time taken on them.

**The 107<sup>th</sup> Congress.** President Bush submitted a total of 118 district court nominations to the Senate during the 107<sup>th</sup> Congress.<sup>82</sup> Twenty of the 118 nominations, however, were resubmissions (renominations). The resubmissions occurred when 20 district nominations, which had been returned by the Senate to President Bush at the beginning of the Senate's August 2001 recess, were resubmitted as new nominations upon the Senate's reconvening in September 2001. Hence, 98 individuals were nominated by President Bush to district judgeships during the 107<sup>th</sup> Congress.

Of these 98 individuals, 83 were confirmed by the Senate (45 by roll call votes),<sup>83</sup> after receiving committee hearings and being reported out of committee favorably. The 15 district court nominees who failed to be confirmed saw their nominations returned to the President at the final adjournment of the 107<sup>th</sup> Congress, with none having received committee hearings or committee votes. All 15, however, were renominated by President Bush in the 108<sup>th</sup> Congress, with 12 of the 15 receiving Senate confirmation in that Congress.

For district court nominations which received committee hearings, committee votes, or Senate confirmation votes in the 107<sup>th</sup> Congress, the average (mean) numbers

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<sup>80</sup> See, in **Appendix 5**, nominee Thomas L. Ludington for the Eastern District of Michigan, 1,303 days between first nomination on Sept. 12, 2002, and Apr. 7, 2006. The nominee with the next-highest number of days elapsed between first nomination, on Nov. 5, 2003, and pending status, as of Apr. 7, 2006, was Peter G. Sheridan, for the District of New Jersey — 884 days.

<sup>81</sup> See, in **Appendix 5**, nominees Frank D. Whitney, for the Western District of North Carolina, and Jerome A. Holmes, for the Northern District of Oklahoma, both nominated on Feb. 14, 2006, with their nominations pending as of Apr. 7, 2006.

<sup>82</sup> See **Appendix 6**.

<sup>83</sup> In all except one of the roll calls, the Senate voted unanimously in favor of confirmation. The sole roll call in which “nay” votes were cast against a district court nomination was the 67-20 vote, on May 13, 2002, to confirm Paul G. Cassell to the U.S. District Court for the District of Utah. See **Appendix 6**.

of days that elapsed between the date the nomination was received in the Senate and the aforementioned actions were as follow:

- For 81 district nominations receiving committee hearings, an average of 87 days elapsed between the date a nomination was received in the Senate and the holding of a hearing;<sup>84</sup> the briefest time elapsing for a district nomination from Senate receipt to committee hearing was nine days, and the longest time (for three nominations) was 257 days.
- For the 83 district nominations receiving committee votes, an average of 102 days elapsed between Senate receipt and committee vote; the briefest time elapsing from Senate receipt to committee vote was two days,<sup>85</sup> and the longest time (for two nominations) was 258 days.
- For the 83 district nominations receiving final Senate votes (all for confirmation), an average of 127 days elapsed between Senate receipt and Senate vote; the briefest time elapsing for a district nomination from Senate receipt to Senate confirmation was 17 days, and the longest time (for three nominations) was 295 days.

**The 108<sup>th</sup> Congress.** During the 108<sup>th</sup> Congress, President Bush nominated 96 individuals to district court judgeships.<sup>86</sup> Of these, 87 were confirmed (58 by roll call votes), eight saw their nominations returned at the end of the Congress, and the nomination of one was withdrawn.<sup>87</sup> In all but three of the 58 roll calls, the Senate voted unanimously in favor of confirmation.<sup>88</sup> All of the 87 nominees who were confirmed received committee hearings and were reported out of committee favorably, except for one, whose nomination was reported out of committee without

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<sup>84</sup> Two other district nominations also received hearings; however, they were not included in calculating average time between nomination date and hearing because the individuals' hearings preceded their nomination dates. See, in **Appendix 6**, the district court nominations of Reggie B. Walton and Terry L. Wooten on Sept. 4, 2001, which were preceded by hearings on Aug. 22 and Aug. 27, 2001, respectively.

<sup>85</sup> The nomination which received a committee vote just two days after its receipt by the Senate was a resubmission of an earlier nomination to the same judgeship. See the Sept. 4, 2001, nomination of Reggie B. Walton to the District Court for the District of Columbia. A hearing was held on Aug. 22, 2001, in anticipation of Mr. Walton's renomination, paving the way for a committee vote after Senate receipt of the nomination without the need for a hearing first. See **Appendix 6**.

<sup>86</sup> See **Appendix 7**.

<sup>87</sup> See in **Appendix 7** the Jan. 7, 2003, nomination of Frederick W. Rohlffing III to the U.S. District Court for the District of Hawaii, which was withdrawn by the President on May 6, 2004.

<sup>88</sup> In two of the three other roll call votes, only one "nay" vote was cast against confirmation. However, in the third roll call that was not unanimously in favor of confirmation, a substantial number of "nay" votes were cast. See in **Appendix 7** the Jan. 29, 2003, nomination of J. Leon Holmes to the U.S. District Court for the Eastern District of Arkansas, which was confirmed by the Senate on July 6, 2004, by a 51-46 vote.

recommendation.<sup>89</sup> Of the nine nominees not confirmed, seven did not receive a hearing, and no committee vote was taken on two others.<sup>90</sup> One of the nine district nominees not confirmed, as already noted, was withdrawn by the President, and the other eight were returned to the President at the end of the 108<sup>th</sup> Congress. Early in the 109<sup>th</sup> Congress, the President renominated all of these eight returnees.

For district court nominations in the 108<sup>th</sup> Congress which received committee hearings, committee votes, or Senate confirmation votes, **Appendix 7** shows that the average (mean) numbers of days that elapsed between date of nomination and the aforementioned actions were as follow:<sup>91</sup>

- For the 89 district court nominations receiving hearings during the 108<sup>th</sup> Congress, an average of 85 days elapsed from Senate receipt of nomination to committee hearing; the briefest time elapsing from Senate receipt to committee hearing was (for three nominations) 22 days, and the longest time was 300 days.
- For the 87 district nominations receiving committee votes, an average of 111 days elapsed from Senate receipt to committee vote; the briefest such time interval (for two district nominations) was 30 days, and the longest time (for two nominations) was 336 days.
- For the 87 district nominations receiving final Senate votes (all for confirmation), an average of 156 days elapsed between Senate receipt and Senate vote; the briefest time elapsing for a district court nomination from Senate receipt to Senate confirmation was 34 days (for three nominations), and the longest time was 524 days.

**The 109<sup>th</sup> Congress.** As of April 7, 2006, President Bush had nominated 35 individuals to district court judgeships during the 109<sup>th</sup> Congress, including eight who had been nominated previously in the 108<sup>th</sup> Congress. The nominations of 19 of the 35, including four of the resubmissions from the 108<sup>th</sup> Congress, were confirmed (eight by roll call);<sup>92</sup> one was withdrawn,<sup>93</sup> and the nominations of the other 15 were pending. Twenty-four of the 35 nominees had received hearings (22 in the 109<sup>th</sup>

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<sup>89</sup> See, in **Appendix 7**, the Jan. 29, 2003, nomination of J. Leon Holmes to the U.S. District Court for the Eastern District of Arkansas, which the Senate Judiciary Committee, on May 1, 2003, voted 10-9 to report without recommendation.

<sup>90</sup> Two of the nominees not confirmed were nominated relatively late in the Congress, in September 2004. Although they received committee hearings in November 2004, they were not reported out of committee in the remaining three weeks of the Congress. See, in **Appendix 7**, the Sept. 7, 2004 nomination of Paul A. Crotty to the Southern District of New York and the Sept. 15, 2004 nomination of J. Michael Seabright to the District of Hawaii.

<sup>91</sup> For time interval averages and longest and shortest elapsed times in the confirmation process for district court nominations in the 108<sup>th</sup> Congress, see **Appendix 7**.

<sup>92</sup> On all eight roll calls, the Senate voted unanimously in favor of confirmation.

<sup>93</sup> See, in **Appendix 8**, the Feb. 14, 2005, nomination of Daniel P. Ryan (withdrawn on Mar. 30, 2006).

Congress, two in the 108<sup>th</sup>), and the nominations of 21 had been reported out of committee, all favorably. Of the 15 nominees pending as of April 7, 2006, 10 awaited hearings, three awaited committee votes, and two awaited Senate floor action.

For district court nominations which received committee hearings, committee votes, or Senate confirmation votes in the 109<sup>th</sup> Congress, as of April 7, 2006, the average (mean) numbers of days that elapsed between the date the nomination was received in the Senate and the aforementioned actions were as follow:<sup>94</sup>

- For the 22 district nominations receiving committee hearings,<sup>95</sup> an average of 76 days elapsed between the date a nomination was received in the Senate and the holding of a hearing; the briefest time elapsing from Senate receipt to committee hearing was 17 days, and the longest time was 212 days.
- For the 21 district court nominations receiving committee votes, an average of 87 days elapsed between Senate receipt and committee vote; the briefest time elapsing from Senate receipt to committee vote was 31 days, and the longest time was 233 days.
- For the 19 district nominations receiving final Senate votes (all for confirmation), an average of 110 days elapsed between Senate receipt and Senate vote; the briefest time elapsing from Senate receipt to Senate confirmation was 56 days, and the longest time was 237 days.

## Comparison of President Bush's Circuit Court Nominations with His District Court Nominations

Notable differences can be found between President Bush's circuit court nomination statistics and those for his district court nominations. Perhaps most notable, as of April 7, 2006, 74.1% of President Bush's circuit court nominees (43 of 58) had received Senate confirmation, compared with 91.7% (189 of 206) of his district court nominees.<sup>96</sup> (For President Bush's immediate predecessor in the White House, William J. Clinton, the confirmation rate for his circuit court nominees, 71.4%, was also notably less than for his district court nominees, 87.2%. However, such differences in confirmation rates for circuit and district nominees were either slight or nonexistent for the three Presidents prior to Clinton.)<sup>97</sup>

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<sup>94</sup> For time interval averages and longest and shortest elapsed times in the confirmation process for district court nominations in the 109<sup>th</sup> Congress, see **Appendix 8**.

<sup>95</sup> Excluded from this average were the Feb. 14, 2005, nominations of J. Michael Seabright and Paul A. Crotty. These nominees had received a hearing earlier, in the previous Congress.

<sup>96</sup> These numbers and percentages are derived from the circuit and district nominee lists for President Bush in **Appendices 1** and **5**, respectively.

<sup>97</sup> See **Table 3** and related discussion later in this report, concerning comparative judicial nominations statistics for five most recent Presidents.

Also, the Senate has tended to take much longer to act on President Bush's circuit court nominees than on his district court nominees. As **Table 1**, below, shows, the mean number of days elapsing from first nomination to *confirmation* for circuit nominees, 394 days, was more than twice as much as the corresponding time interval of 162 days for district nominees. Also, the median number of days, from first nomination to confirmation, was 234 days for circuit nominees, about twice as long as the corresponding time interval, of 137 days, for district nominees. For circuit nominees with *nominations pending* as of April 7, 2006, the mean interval of 630 days between date of first nomination and April 7, 2006, was more than two and one-half times the corresponding mean interval of 245 days for district nominees; the median number of days for this time interval for circuit nominees was 517, more than seven times higher than the corresponding interval of 72 days for district nominees.<sup>98</sup>

**Table 1. Mean and Median Number of Days Elapsed from First Nomination to Disposition of Last Nomination for President George W. Bush's Nominees to U.S. Circuit or District Court Judgeships, January 20, 2001 - April 7, 2006**

	Courts to which nominated	Number of days elapsed from first nomination to ...		
		Confirmation	Other final disposition <sup>a</sup>	Pending status, as of Apr. 7, 2006
Mean	Circuit (N=58)	394 (N=43)	876 (N=7)	630 (N=8)
	District (N=206)	162 (N=189)	951 (N=2)	245 (N=15)
Median	Circuit (N=58)	234 (N=43)	848 (N=7)	517 (N=8)
	District (N=206)	137 (N=189)	951 (N=2)	72 (N=15)

**Legend:** N = Number of nominees.

**Sources:** Appendices 1 and 5 at end of this report.

a. The last nominations for these nominees were either withdrawn by the President or returned to the President.

Another indicator that President Bush's circuit court nominees have tended to spend more time in the confirmation process than have his district court nominees is the number of Congresses in which they have been nominated. **Table 2**, below, shows that more than 50% of the persons President Bush nominated to circuit

<sup>98</sup> In the case of the relatively small number of nominees (seven circuit and two district) whose final nominations either were withdrawn by the President or returned to the President, **Table 1** shows that the mean and median number of days elapsed from first nomination to disposition of last nomination for circuit nominees (876 and 848 days respectively) were both somewhat less than the mean and median interval of 951 days for district nominees.

judgeships, as of April 7, 2004, were nominated in two or more Congresses,<sup>99</sup> whereas only about 10% of the persons he nominated to district judgeships were nominated in more than one Congress.<sup>100</sup> As these percentages suggest, President Bush's usual practice, when his judicial nominees failed to receive Senate confirmation in one Congress, was to renominate them in the next Congress.

**Table 2. Number of Congresses in Which Persons Were Nominated by President George W. Bush to U.S. Circuit or District Court Judgeships, January 20, 2001 - April 7, 2006**

Courts to which nominated	Total number of persons nominated	Number of Congresses in which nominated		
		One	Two	Three
Circuit	58 (100%)	26 (44.8%)	27 (46.6%)	5 (8.6%)
District	206 (100%)	185 (89.8%)	19 (9.2%)	2 (1.0%)
Circuit and District combined	264 (100%)	211 (79.9 %)	46 (17.4%)	7 (2.7%)

Sources: Appendices 1-8 at end of this report.

## Comparison of President Bush's Circuit and District Nomination Statistics with Those of Other Recent Presidents

The following paragraphs compare selected nominations statistics for the presidency of George W. Bush, during the 107<sup>th</sup>-109<sup>th</sup> Congresses (as of April 7, 2006), with corresponding statistics for the four previous Presidents. The statistics for President Bush are derived from the tables presented at the end of this report, whereas corresponding statistics for the four previous Presidents have been taken from an earlier CRS report.<sup>101</sup>

<sup>99</sup> Specifically, 46.6% were nominated in two Congresses, and 8.6% were nominated in three Congresses.

<sup>100</sup> Specifically, 9.2% were nominated in two Congresses, and 1.0% were nominated in three Congresses.

<sup>101</sup> See CRS Report RL31635, *Judicial Nomination Statistics: U.S. District and Circuit Courts, 1977-2003*, by Denis Steven Rutkus and Mitchel A. Sollenberger. This report provided a comparative look — from presidency to presidency, from Congress to Congress, and from one congressional session to another — at, among other things, the number of district and circuit court nominations submitted to the Senate, the number and percentage receiving committee and Senate action, and the average time taken to hold hearings, conduct committee votes, and conduct Senate votes on the nominations. CRS Report RL31635, however, did not compile one kind of judicial nomination statistic contained in the current report on George W. Bush's lower court nominations — namely, the number of days which elapsed between the first nominations of a President's circuit and district court nominees and the final disposition of their last nomination.

### Number of Nominees, Number Confirmed, and Percent Confirmed.

**Table 3** provides, for each of the five most recent Presidents, the following judicial nomination statistics:<sup>102</sup>

- the total number of persons nominated to circuit and district court judgeships;
- the number of persons nominated to these judgeships per year;<sup>103</sup>
- the total number of persons who were confirmed;
- the number of persons who were confirmed per year;<sup>104</sup> and
- the percentage of the total number nominated who were confirmed.

The cells in the table, it should be noted, account only for the number of individuals who were nominees, and do not count “re-submitted” nominations made when individuals were renominated to the same judgeship during a particular presidency.

**Circuit Court Nominees.** **Table 3** shows that, as of April 7, 2006, the total number of persons nominated by President George W. Bush to be circuit judges (58) was less than the number nominated by Presidents Ronald Reagan in eight years (94), William J. Clinton in eight years (91), and Jimmy Carter in four years (61), and more than the number of nominees of his father, George H. W. Bush, in four years (53).<sup>105</sup> The number of persons nominated by President Bush *per year* to be circuit judges (11.1), was lowest among the five Presidents, although only slightly lower than the corresponding numbers for Presidents Clinton (11.4) and Reagan (11.8).<sup>106</sup>

<sup>102</sup> **Table 3** is an updated and expanded version of Table 2(b) in the previously noted CRS Report RL31635.

<sup>103</sup> The per year numbers of circuit and district nominees for each President were calculated by dividing each President’s total number of circuit or district nominees by the number of years in his presidency. Specifically, the nominee totals for the respective Presidents were divided by 4 for Carter, 8 for Reagan, 4 for George H. W. Bush, 8 for Clinton, and 5.21 for George W. Bush. The decimal form of 5.21 years for the presidency of George W. Bush, as of Apr. 7, 2006, was calculated as follows: In the sixth year of his presidency, the interval between Jan. 20, 2006 and Apr. 7, 2006, was 77 days, or 21% of a year (77 divided by 365), which was added to 5 years for a sum of 5.21 years.

<sup>104</sup> The per year numbers of circuit and district nominees confirmed for each President were calculated by dividing each President’s total number of confirmed circuit or district nominees by the number of years in his presidency. See preceding footnote explaining the calculation of 5.21 years for the number of years in George W. Bush’s presidency, as of Apr. 7, 2006.

<sup>105</sup> Presidents Carter, Reagan, George H. W. Bush and Clinton, it should be noted, were presented with additional opportunities to make circuit court nominations, over and above those created by vacancies of existing judgeships, when Congress passed legislation in 1978, 1984, and 1990 creating, respectively, 34, 24, and 11 new circuit judgeships. By contrast, thus far in George W. Bush’s presidency, no legislation has been enacted creating new circuit judgeships.

<sup>106</sup> President Carter nominated the most circuit nominees per year (15.3), and George H. W. Bush the second-most (13.3).

The total number of persons nominated by George W. Bush who were confirmed (43) was less than the corresponding confirmation numbers for Presidents Reagan (83), Clinton (65) and Carter (56), but more than for George H. W. Bush (42). The *per year* number of confirmed circuit nominees for the current President Bush (8.3) was slightly above the corresponding number for President Clinton (8.1) and less than those for Presidents Carter (14), George H. W. Bush (10.5), and Reagan (10.4).

Over the course of four successive presidencies, **Table 3** reveals, the Senate confirmation percentage for a President's circuit court nominees declined — from 91.8% for Jimmy Carter, 88.3% for Ronald Reagan, and 79.2% for George H. W. Bush, to 71.4% for William J. Clinton. As of April 7, 2006, however, the presidency of George W. Bush had reversed that downward confirmation trend somewhat, with a 74.1% confirmation rate for the President's circuit nominees.

**District Court Nominees** As of April 7, 2006, **Table 3** shows, the total number of President George W. Bush's district court nominees (206) was second-lowest among those for the five most recent Presidents: President Clinton had the most district nominees (352), followed by Presidents Reagan (309), Carter (224), the current President Bush (206), and George H. W. Bush (189).<sup>107</sup> The *per year* number of persons nominated by the current President Bush to be district judges (39.5) was also second-lowest among the five Presidents, just above the corresponding number for President Reagan (38.6), and below the numbers for Presidents Carter (56), George H. W. Bush (47.3), and Clinton (44).

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<sup>107</sup> Presidents Carter, Reagan, George H. W. Bush, and Clinton were presented with additional opportunities to make district court nominations, over and above those created by vacancies of existing judgeships, when Congress passed legislation in 1978, 1984, and 1990 authorizing, respectively, 117, 63, and 86 new district judgeships. By contrast, during George W. Bush's presidency, as of April 7, 2006, relatively few new judgeships, 20, had been authorized, in one piece of legislation enacted in 2002 (P.L. 107-273, 116 Stat. 1758).



**Table 3. U.S. Circuit and District Court Nominees of Five Most Recent Presidents (1977- April 7, 2006): Total and Per Year Number of Nominees, Total and Per Year Number Confirmed, and Percent of Total Confirmed**

President (Congresses, years)		Circuit Court Nominees		District Court Nominees <sup>a</sup>		Circuit and District Combined	
		Total	Per year	Total	Per year	Total	Per year
<b>Jimmy Carter</b> (95 <sup>th</sup> to 96 <sup>th</sup> , 1977-1980)	N	61	15.3	224 <sup>b</sup>	56	285	71.3
	C	56	14	206	51.5	262	65.5
	%	91.8%	—	92.0%	—	91.9%	
<b>Ronald Reagan</b> (97 <sup>th</sup> to 100 <sup>th</sup> , 1981-1988)	N	94	11.8	309	38.6	403	50.4
	C	83	10.4	292	36.5	375	46.9
	%	88.3%	—	94.5%	—	93.1%	
<b>George H. W. Bush</b> (101 <sup>st</sup> to 102 <sup>nd</sup> , 1989-1992)	N	53	13.3	189	47.3	242	60.5
	C	42	10.5	150	37.5	192	48
	%	79.2%	—	79.4%	—	79.3%	—
<b>William J. Clinton</b> (103 <sup>rd</sup> to 106 <sup>th</sup> , 1993-2000)	N	91	11.4	352	44	443	55.4
	C	65	8.1	307	38.4	372	46.5
	%	71.4%	—	87.2%		84.0%	—
<b>George W. Bush</b> (107 <sup>th</sup> to 109 <sup>th</sup> , 2001-Apr. 7, 2006)	N	58	11.1 <sup>c</sup>	206	39.5 <sup>c</sup>	264	50.7 <sup>c</sup>
	C	43	8.3 <sup>c</sup>	189	36.3 <sup>c</sup>	232	44.5 <sup>c</sup>
	%	74.1%	—	91.7%	—	87.9%	—

**Note:** The cells in this table account only for the number of individuals who were nominees to U.S. circuit and district court judgeships during each of the five most recent presidential administrations. The cells do not count “re-submitted” nominations made when individuals were renominated to the same judgeship during a particular presidency.

**Legend:** N=number of persons nominated by the President; C=number confirmed; %=percent confirmed.

a. Includes nominees to the territorial district courts in the U.S. Virgin Islands, Guam, and the Northern Mariana Islands.

b. Includes one district court nominee whose nomination was submitted by President Carter on Jan. 8 1981, at the start of the 97<sup>th</sup> Congress, and withdrawn by President Reagan on Jan. 21, 1981.

c. The per year numbers for George W. Bush were calculated by dividing total numbers for his presidency by 5.21 years. In the sixth year of his presidency, the interval between Jan. 20 and Apr. 7, 2006 was 77 days, or 21% of a year (77 divided by 365), which was added to 5 years, for a sum of 5.21 years.

The number of persons nominated by George W. Bush who were confirmed (189) was less than the corresponding confirmation numbers for Presidents Clinton (307), Reagan (292), and Carter (206), but more than for George H. W. Bush (150). The *per year* number of confirmed district nominees for the current President Bush (36.3) was lowest among those of the five Presidents, just below the corresponding numbers for Presidents Reagan (36.5), George H. W. Bush (37.5), and Clinton (38.4), with Jimmy Carter having the highest number (51.5).

**Table 3**, on the other hand, also shows that George W. Bush's confirmation percentage of 91.7% for district court nominees as of April 7, 2007, was the middle percentage for the five Presidents. Ronald Reagan and Jimmy Carter had higher confirmation percentages for their district court nominees (94.5% and 92.0%, respectively), whereas William J. Clinton and George H. W. Bush had lower confirmation percentages (87.2% and 79.4%, respectively).

**Circuit Court Nominations: Average Number of Days from Nomination to Confirmation.** **Figure 1**, below, shows the average number of days that elapsed for circuit court nominations, from nomination date to confirmation, during each Congress from the 95<sup>th</sup> (starting in January 1977) to the 109<sup>th</sup>, as of April 7, 2006. These Congresses spanned the years of the administrations of the five most recent Presidents, from Jimmy Carter to George W. Bush. Each bar in **Figure 1** indicates the average number of elapsed days from nomination date to confirmation for a specified Congress, and under each bar is the name of the President whose presidency coincided in time with that Congress.

**Note:** The averages shown in **Figure 1** are those only for circuit court nominations which ultimately were confirmed in a particular Congress. Excluded from the calculation of averages were the pendency times in a Congress for nominations that ultimately were not confirmed, but were withdrawn by the President or returned to the President at some point in the Congress (with most returns occurring at a Congress's final adjournment). Calculations of time averages for *all* nominations in a Congress, from nomination date to final disposition (including not only nominations confirmed, but also those withdrawn or returned) would, it is acknowledged, produce higher average times, in cases where unconfirmed nominations were pending for longer times than the average pendency times for confirmed nominations.<sup>108</sup>

**Figure 1** shows, for the circuit nominations of each of the first four Presidents since January 1977 (Carter, Reagan, George H. W. Bush, and Clinton), a consistent pattern — namely, that the lowest average number of days from nomination to confirmation was recorded in the first Congress during the presidency, and the highest corresponding average was recorded in the last Congress during the presidency.

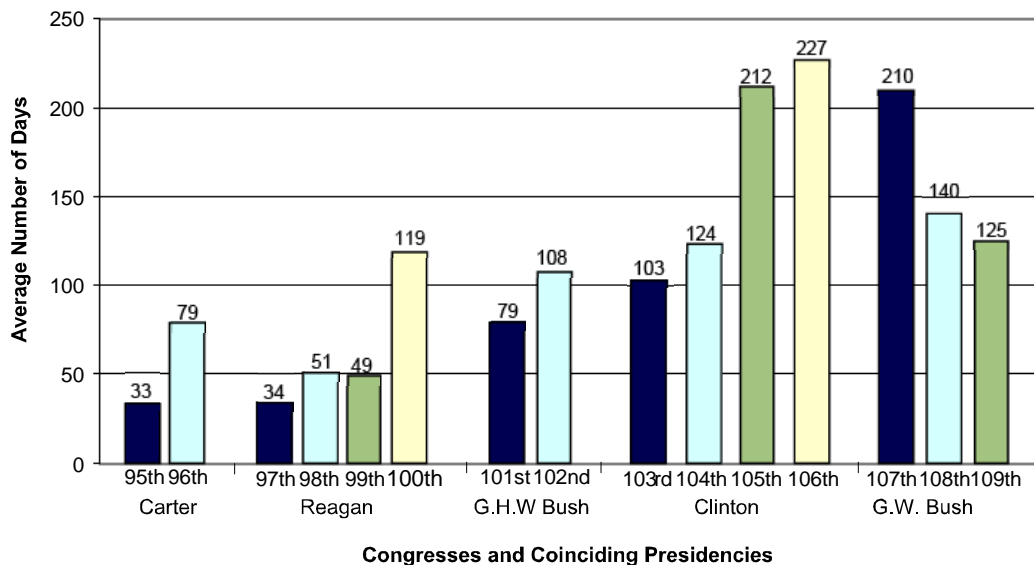
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<sup>108</sup> See Table 8 in CRS Report RL31635, *Judicial Nomination Statistics: U.S. District and Circuit Courts, 1977-2003*. This table presents, by Congress (from the 95<sup>th</sup> through the 1<sup>st</sup> session of the 108<sup>th</sup>) the average number of days elapsing from nomination date to final action for confirmed nominations, unconfirmed nominations, and confirmed and unconfirmed nominations combined. The table shows that, from the 100<sup>th</sup> to the 108<sup>th</sup> Congress, the average elapsed time from nomination to final action in a Congress, for circuit as well as district nominations, was usually, but not always, higher for unconfirmed nominations than it was for confirmed nominations.

Among the first four Presidents, the most dramatic proportional increase within this pattern was the almost four-fold increase in average number of days from nomination to confirmation during the Reagan presidency, with a 34-day average in the 97<sup>th</sup> Congress (the first Congress during that presidency) to a 119-day average in the 100<sup>th</sup> Congress (the last Congress during that presidency). During the years of the first four presidencies, the highest average number of days from nomination to confirmation, 227 days, was recorded in the 106<sup>th</sup> Congress, the last Congress during the Clinton presidency — an average more than twice as long as the 103-day average in the 103<sup>rd</sup> Congress, the first Congress during that presidency.

Thus far, **Figure 1** reveals, the presidency of the current White House occupant, George W. Bush, has seen a reversal of the pattern just described. For President Bush's circuit court nominations, the lowest average number of days elapsing from nomination to confirmation, 125 days, was recorded not in the first Congress during his presidency (the 107<sup>th</sup>), but in the current 109<sup>th</sup> Congress, as of April 7, 2006 — although that average is subject to change as further actions occur on circuit nominations during the remainder of the 109<sup>th</sup> Congress. Thus far in the Bush presidency, the highest average number of days elapsing from nomination to confirmation, 210 days, was recorded in the first Congress during his presidency, the 107<sup>th</sup> Congress.

**Figure 1. U.S. Circuit Court Nominations: Average Number of Days from Nomination to Confirmation, 95<sup>th</sup> Congress to 109<sup>th</sup> Congress (1977 - April 7, 2006)**



**Figure 1** also shows that during every Congress from the 102<sup>nd</sup> to the 109<sup>th</sup>, the average nomination-to-confirmation time interval for circuit court nominations has been more than 100 days. Well above this 100-plus average was the 210-day average for George W. Bush's circuit court nominations during the 107<sup>th</sup> Congress, the first Congress during his presidency. This average, however, can be seen as roughly at the same level as the corresponding time averages for William J. Clinton's circuit court nominations during the 105<sup>th</sup> and 106<sup>th</sup> Congresses (212 days and 227 days respectively). The average elapsed time of 125 days between nomination and confirmation for George W. Bush's circuit nominations in the 109<sup>th</sup> Congress (as of

April 7, 2006) can be seen as roughly the same or slightly above the corresponding averages for President Ronald Reagan's circuit nominations in the 100<sup>th</sup> Congress (119 days), George H. W. Bush's circuit nominations in the 102<sup>nd</sup> Congress (108 days), and President Clinton's circuit nominations in the 103<sup>rd</sup> and 104<sup>th</sup> Congresses (103 and 124 days respectively).

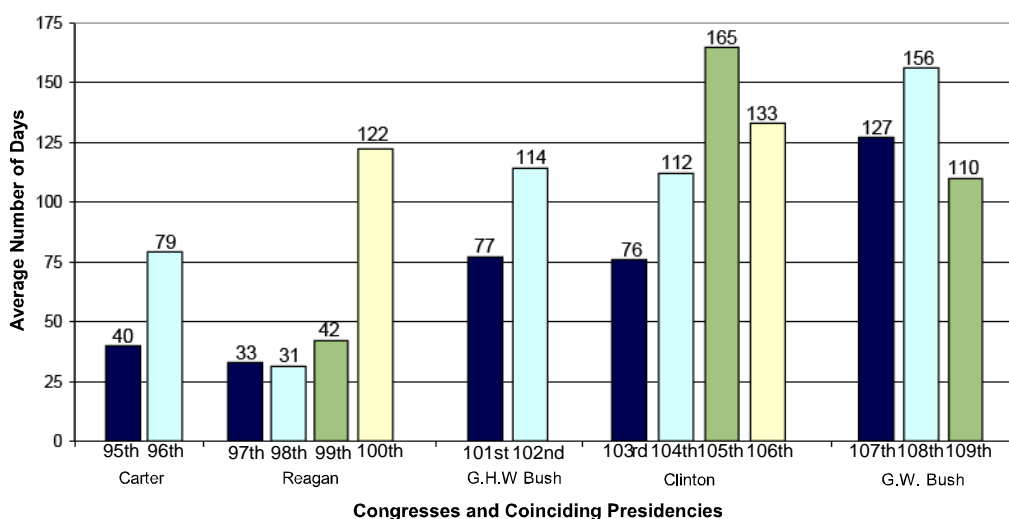
**District Court Nominations: Average Number of Days from Nomination to Confirmation.** **Figure 2**, below, like the preceding **Figure 1** for circuit nominations, shows the average number of days that elapsed for district court nominations, from nomination date to confirmation, during each Congress from the 95<sup>th</sup> Congress to the 109<sup>th</sup> Congress, as of April 7, 2006. Each bar in **Figure 2** indicates the average number of elapsed days from nomination date to confirmation for a specified Congress, and under each bar is the name of the President whose presidency coincided in time with that Congress.

**Note:** The averages shown in **Figure 2** are those only for district court nominations which ultimately were confirmed in a particular Congress. Excluded from the calculation of averages were the pendency times in a Congress for nominations that ultimately were not confirmed, but were withdrawn by the President or returned to the President at some point in the Congress.

**Figure 2** shows, among other things, that from the 95<sup>th</sup> Congress (during the first two years of the Carter presidency) through the 105<sup>th</sup> Congress (during the fifth and sixth years of the Clinton presidency), the average number of elapsed days from nomination to confirmation for district court nominations per Congress increased significantly — from a 40-day average in the 95<sup>th</sup> Congress, to a 165-day average in the 105<sup>th</sup>. This overall pattern of increase, however, was marked by drops in the nomination-to-confirmation time average during the first two years of a presidency (i.e., with the average dropping from a significantly higher average recorded in the last two years of the previous presidency), only to be followed by increases in the average during the subsequent Congress or Congresses of the successor presidency.

The average nomination-to-confirmation time intervals for George W. Bush's district nominees, during the three Congresses coinciding with his presidency, have all been below the peak average of 165 days, recorded for President Clinton's district nominees in the 105<sup>th</sup> Congress. Relatively close to that peak, however, was the 156-day average interval recorded for President Bush's confirmed district nominees in the 108<sup>th</sup> Congress. By contrast, in the 109<sup>th</sup> Congress, as of April 7, 2006, the average number of days elapsed between nomination date and confirmation for President Bush's district nominees, 110 days, was significantly lower. It was also close to the corresponding averages for George H. W. Bush's district nominees in the 102<sup>nd</sup> Congress (114 days) and President Clinton's district nominations in the 104<sup>th</sup> Congress (112 days).

**Figure 2. U.S. District Court Nominations: Average Number of Days from Nomination to Confirmation, 95<sup>th</sup> Congress to 109<sup>th</sup> Congress (1977 - April 7, 2006)**



Comparison of time averages in **Figure 2** with those in **Figure 1** also reveals that in most, but not all, of the Congresses in the 1977-2006 time frame, the average time intervals between nomination and confirmation were less for district than for circuit court nominations. For instance, the nomination-to-confirmation average interval for William J. Clinton's district nominations in the 106<sup>th</sup> Congress was 133 days, compared with 227 days for his circuit nominations in the same Congress; likewise, the average interval for George W. Bush's district nominations in the 107<sup>th</sup> Congress was 127 days, compared with 210 days for his circuit nominations in the same Congress. The most recent departure from this pattern, however, is found in the 108<sup>th</sup> Congress, where, as shown by **Figures 1** and **2**, the average elapsed time between nomination and confirmation for George W. Bush's district nominations (156 days) was *higher* than for his circuit nominations (140 days).

## Appendix 1. President George W. Bush's Nominees to the U.S. Circuit Courts of Appeals, January 20, 2001-April 7, 2006

No.	Name of nominee	Circuit	Nomination dates				Disposition of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			1st	2nd	3rd	4th	Confirmed	Other	Pending	
1	Barrington D. Parker Jr.	Second	05/09/01	09/04/01			10/11/01			155
2	Deborah L. Cook	Sixth	05/09/01	09/04/01	01/07/03		05/05/03			726
3	Dennis W. Shedd	Fourth	05/09/01	09/04/01			11/19/02			559
4	Edith Brown Clement	Fifth	05/09/01	09/04/01			11/13/01			188
5	Jeffrey S. Sutton	Sixth	05/09/01	09/04/01	01/07/03		04/29/03			720
6	John G. Roberts Jr.	DC	05/09/01	09/04/01	01/07/03		05/08/03			729
7	Michael W. McConnell	Tenth	05/09/01	09/04/01			11/15/02			555
8	Miguel A. Estrada	DC	05/09/01	09/04/01	01/07/03			Withdrawn 09/04/03		848
9	Priscilla Richman Owen	Fifth	05/09/01	09/04/01	01/07/03	02/14/05	05/25/05			1477
10	Roger L. Gregory	Fourth	05/09/01				07/20/01			72
11	Terrence W. Boyle	Fourth	05/09/01	09/04/01	01/07/03	02/14/05			X	1794
12	Sharon Prost	Federal	05/21/01	09/04/01			09/21/01			123
13	Lavenski R. Smith	Eighth	05/22/01	09/04/01			07/15/02			419
14	William J. Riley	Eighth	05/23/01				08/02/01			71
15	Charles W. Pickering Sr.	Fifth	05/25/01	09/04/01	01/07/03	02/06/04		Returned 12/08/04		1293

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No.	Name of nominee	Circuit	Nomination dates				Disposition of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			1st	2nd	3rd	4th	Confirmed	Other	Pending	
16	Timothy M. Tymkovich	Tenth	05/25/01	09/04/01	01/07/03		04/01/03			676
17	Harris L. Hartz	Tenth	06/21/01	09/04/01			12/06/01			168
18	Carolyn B. Kuhl	Ninth	06/22/01	09/04/01	01/07/03			Returned 12/08/04		1265
19	Richard R. Clifton	Ninth	06/22/01	09/04/01			07/18/02			391
20	Michael J. Melloy	Eighth	07/10/01	09/04/01			02/11/02			216
21	Jeffrey R. Howard	First	08/02/01	09/04/01			04/23/02			264
22	Terrence L. O'Brien	Tenth	08/02/01	09/04/01			04/15/02			256
23	D. Brooks Smith	Third	09/10/01				07/31/02			324
24	Julia Smith Gibbons	Sixth	10/09/01				07/29/02			293
25	William H. Steele	Eleventh	10/09/01					Returned 11/20/02		407
26	David W. McKeague	Sixth	11/08/01	01/07/03	02/14/05		06/09/05			1309
27	Henry W. Saad	Sixth	11/08/01	01/07/03	02/14/05			Withdrawn 03/27/06		1600
28	Susan Bieke Neilson	Sixth	11/08/01	01/07/03	02/14/05		10/27/05			1449
29	John M. Rogers	Sixth	12/19/01				11/14/02			330
30	Reena Raggi	Second	05/01/02				09/20/02			142
31	Jay S. Bybee	Ninth	05/22/02	01/07/03			03/13/03			295

## CRS-36

No.	Name of nominee	Circuit	Nomination dates				Disposition of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			1st	2nd	3rd	4th	Confirmed	Other	Pending	
32	Richard A. Griffin	Sixth	06/26/02	01/07/03	02/14/05		06/09/05			1079
33	Edward C. Prado	Fifth	02/06/03				05/01/03			84
34	Consuelo Maria Callahan	Ninth	02/12/03				05/22/03			99
35	Steven M. Colloton	Eighth	02/12/03				09/04/03			204
36	Michael Chertoff	Third	03/05/03				06/09/03			96
37	Richard C. Wesley	Second	03/05/03				06/11/03			98
38	William H. Pryor Jr.	Eleventh	04/09/03	03/12/04	02/14/05		06/09/05			792
39	Carlos T. Bea	Ninth	04/11/03				09/29/03			171
40	Allyson K. Duncan	Fourth	04/28/03				07/17/03			80
41	Claude A. Allen	Fourth	04/28/03	01/20/04				Returned 12/08/04		560
42	D. Michael Fisher	Third	05/01/03				12/09/03			222
43	William Gerry Myers III	Ninth	05/15/03	02/14/05					X	1058
44	Brett M. Kavanaugh	DC	07/25/03	02/14/05	01/25/06				X	987
45	Janice R. Brown	DC	07/25/03	02/14/05			06/08/05			684
46	Raymond W. Gruender	Eighth	09/29/03				05/20/04			234
47	William James Haynes II	Fourth	09/29/03	02/14/05					X	921
48	Diane S. Sykes	Seventh	11/14/03				06/24/04			223



## CRS-37

No.	Name of nominee	Circuit	Nomination dates				Disposition of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			1st	2nd	3rd	4th	Confirmed	Other	Pending	
49	Franklin S. Van Antwerpen	Third	11/21/03				05/20/04			181
50	Peter W. Hall	Second	12/09/03				06/24/04			198
51	William Duane Benton	Eighth	02/12/04				06/24/04			133
52	Thomas B. Griffith	DC	05/10/04	02/14/05			06/14/05			400
53	James H. Payne	Tenth	09/29/05					Withdrawn 03/07/06		159
54	Norman R. Smith	Ninth	12/16/05						X	112
55	Michael A. Chagares	Third	01/25/06				04/04/06			69
56	Michael B. Wallace	Fifth	02/08/06						X	58
57	Sandra S. Ikuta	Ninth	02/08/06						X	58
58	Milan D. Smith Jr.	Ninth	02/14/06						X	52
Number of days from date of first nomination to date of disposition of last nomination						Mean <sup>a</sup>	394.3	876.0	630.0	
						Median <sup>b</sup>	234.0	848.0	516.5	

a. The “Mean,” or average, is the sum of the number of elapsed days for all of the nominees in question divided by the number of those nominees.

b. In each “Median” cell, the number represents (1) the elapsed time for the nominee in the middle of the distribution of all the nominees in question, with an equal number of the nominees having longer elapsed times than that nominee and an equal number of nominees having shorter elapsed times; or (2) the arithmetic mean of the elapsed times for the two nominees in the middle of the distribution if there is no one middle nominee.

## Appendix 2. President George W. Bush's Nominations to the U.S. Circuit Courts of Appeals During the 107<sup>th</sup> Congress, January 20, 2001-November 20, 2002

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
1	Barrington D. Parker Jr. of Connecticut <sup>d</sup>	Second	05/09/01	—	—	Returned 08/03/01	—	—	—
2	Terrence W. Boyle of North Carolina <sup>d</sup>	Fourth	05/09/01	—	—	Returned 08/03/01	—	—	—
3	Dennis W. Shedd of South Carolina <sup>d</sup>	Fourth	05/09/01	—	—	Returned 08/03/01	—	—	—
4	Edith Brown Clement of Louisiana <sup>d</sup>	Fifth	05/09/01	—	—	Returned 08/03/01	—	—	—
5	Priscilla Richman Owen of Texas <sup>d</sup>	Fifth	05/09/01	—	—	Returned 08/03/01	—	—	—
6	Deborah L. Cook of Ohio <sup>d</sup>	Sixth	05/09/01	—	—	Returned 08/03/01	—	—	—
7	Jeffrey S. Sutton of Ohio <sup>d</sup>	Sixth	05/09/01	—	—	Returned 08/03/01	—	—	—
8	Michael W. McConnell of Utah <sup>d</sup>	Tenth	05/09/01	—	—	Returned 08/03/01	—	—	—
9	Miguel A. Estrada of Virginia <sup>d</sup>	DC	05/09/01	—	—	Returned 08/03/01	—	—	—
10	Roger L. Gregory of Virginia <sup>e</sup>	Fourth	05/09/01	07/11/01	07/19/01	07/20/01 93-1 vote	63	71	72

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
11	John G. Roberts Jr. of Maryland <sup>d</sup>	DC	05/09/01	—	—	Returned 08/03/01	—	—	—
12	Sharon Prost of the District of Columbia <sup>d</sup>	Federal	05/21/01	—	—	Returned 08/03/01	—	—	—
13	Lavenski R. Smith of Arkansas <sup>d</sup>	Eighth	05/22/01	—	—	Returned 08/03/01	—	—	—
14	William J. Riley of Nebraska	Eighth	05/23/01	07/24/01	08/02/01	08/02/01 97-0 vote	62	71	71
15	Charles W. Pickering Sr. of Mississippi <sup>d</sup>	Fifth	05/25/01	—	—	Returned 08/03/01	—	—	—
16	Timothy M. Tymkovich of Colorado <sup>d</sup>	Tenth	05/25/01	—	—	Returned 08/03/01	—	—	—
17	Harris L. Hartz of New Mexico <sup>d</sup>	Tenth	06/21/01	—	—	Returned 08/03/01	—	—	—
18	Richard R. Clifton of Hawaii <sup>d</sup>	Ninth	06/22/01	—	—	Returned 08/03/01	—	—	—
19	Carolyn B. Kuhl of California <sup>d</sup>	Ninth	06/22/01	—	—	Returned 08/03/01	—	—	—
20	Michael J. Melloy of Iowa <sup>d</sup>	Eighth	07/10/01	—	—	Returned 08/03/01	—	—	—
21	Terrence L. O'Brien of Wyoming <sup>d</sup>	Tenth	08/02/01	—	—	Returned 08/03/01	—	—	—

## CRS-40

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
22	Jeffrey R. Howard of New Hampshire <sup>d</sup>	First	08/02/01	—	—	Returned 08/03/01	—	—	—
23	Michael W. McConnell of Utah <sup>e</sup>	Tenth	09/04/01	09/18/02	11/14/02	11/15/02	379	436	437
24	Michael J. Melloy of Iowa <sup>e</sup>	Eighth	09/04/01	01/24/02	02/07/02	02/11/02 91-0 vote	142	156	160
25	Terrence L. O'Brien of Wyoming <sup>e</sup>	Tenth	09/04/01	03/19/02	04/11/02	04/15/02 98-0 vote	196	219	223
26	Priscilla Richman Owen of Texas <sup>e</sup>	Fifth	09/04/01	07/23/02	Defeated 09/05/02 <sup>f</sup>	Returned 11/20/02	322	366	—
27	Barrington D. Parker of Connecticut <sup>e</sup>	Second	09/04/01	09/13/01	10/04/01	10/11/01 100-0 vote	9	30	37
28	Charles W. Pickering Sr. of Mississippi <sup>e</sup>	Fifth	09/04/01	10/18/01, 02/07/02	Defeated 03/14/02 <sup>g</sup>	Returned 11/20/02	44	191	—
29	Sharon Prost of the District of Columbia <sup>e</sup>	Federal	09/04/01	08/27/01 <sup>h</sup>	09/06/01	09/21/01 97-0 vote	i	2	17
30	John G. Roberts Jr. of Maryland <sup>e</sup>	DC	09/04/01	—	—	Returned 11/20/02	—	—	—
31	Dennis W. Shedd of South Carolina <sup>e</sup>	Fourth	09/04/01	06/27/02	11/14/02	Cloture vitiated 11/18/02	296	436	—
						11/19/02 55-44 vote			441

## CRS-41

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
32	Lavenski R. Smith of Arkansas <sup>e</sup>	Eighth	09/04/01	05/24/02	06/27/02	Cloture 94-3 vote 07/15/02	262	296	—
						07/15/02			314
33	Jeffrey S. Sutton of Ohio <sup>e</sup>	Sixth	09/04/01	—	—	Returned 11/20/02	—	—	—
34	Timothy M. Tymkovich of Colorado <sup>e</sup>	Tenth	09/04/01	—	—	Returned 11/20/02	—	—	—
35	Terrence W. Boyle of North Carolina <sup>e</sup>	Fourth	09/04/01	—	—	Returned 11/20/02	—	—	—
36	Edith Brown Clement of Louisiana <sup>e</sup>	Fifth	09/04/01	10/04/01	11/01/01	11/13/01 99-0 vote	30	58	70
37	Richard R. Clifton of Hawaii <sup>e</sup>	Ninth	09/04/01	05/09/02	05/16/02	Cloture 97-1 vote 07/18/02	247	254	—
						07/18/02 98-0 vote			317
38	Deborah L. Cook of Ohio <sup>e</sup>	Sixth	09/04/01	—	—	Returned 11/20/02	—	—	—
39	Miguel A. Estrada of Virginia <sup>e</sup>	DC	09/04/01	09/26/02	—	Returned 11/20/02	387	—	—
40	Harris L. Hartz of New Mexico <sup>e</sup>	Tenth	09/04/01	10/25/01	11/29/01	12/06/01 99-0 vote	51	86	93

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
41	Jeffrey R. Howard of New Hampshire <sup>e</sup>	First	09/04/01	04/11/02	04/18/02	04/23/02 99-0 vote	219	226	231
42	Carolyn B. Kuhl of California <sup>e</sup>	Ninth	09/04/01	—	—	Returned 11/20/02	—	—	—
43	D. Brooks Smith of Pennsylvania	Third	09/10/01	02/26/02	04/23/02	07/31/02 64-35 vote	169	225	324
44	Julia Smith Gibbons of Tennessee	Sixth	10/09/01	04/25/02	05/02/02	Cloture 89-0 vote 07/26/02	198	205	—
						07/29/02 95-0 vote			293
45	William H. Steele of Alabama	Eleventh	10/09/01	—	—	Returned 11/20/02	—	—	—
46	David W. McKeague of Michigan	Sixth	11/08/01	—	—	Returned 11/20/02	—	—	—
47	Susan Bieke Neilson of Michigan	Sixth	11/08/01	—	—	Returned 11/20/02	—	—	—
48	Henry W. Saad of Michigan	Sixth	11/08/01	—	—	Returned 11/20/02	—	—	—
49	John M. Rogers of Kentucky	Sixth	12/19/01	06/13/02	07/11/02	11/14/02	176	204	330
50	Reena Raggi of New York	Second	05/01/02	08/01/02	09/05/02	09/20/02 85-0 vote	92	127	142

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
51	Jay S. Bybee of Nevada	Ninth	05/23/02	—	—	Returned 11/20/02	—	—	—
52	Richard A. Griffin of Michigan	Sixth	06/26/02	—	—	Returned 11/20/02	—	—	—
Number of days elapsed from date received in Senate						Mean <sup>j</sup>	154	193	210
						Median <sup>k</sup>	142	205	223

**Note:** The above table does not include nine circuit court nominations submitted by President William J. Clinton, on either Jan. 3, 2001, or Jan. 4, 2001, at the start of the 107<sup>th</sup> Congress. (For a list of the nine nominations, see p. 15 of CRS Report 98-510 GOV, *Judicial Nominations by President Clinton During the 103<sup>rd</sup>-106<sup>th</sup> Congresses*, by Denis Steven Rutkus.) All nine nominations were withdrawn by President Bush on Mar. 19, 2001, although one of the nine nominees, Roger L. Gregory of Virginia, was renominated by President Bush on May 9, 2001, and confirmed by the Senate on July 20, 2001.

- The “Committee action” date, unless there is a note indicating otherwise, is the date on which the Senate Judiciary Committee voted to report a nomination favorably to the Senate.
- A date standing alone is the date of Senate confirmation. A vote tally underneath the date is the roll call vote by which the nomination was confirmed. The absence of a roll call vote indicates that the nomination was confirmed by voice vote or by unanimous consent. Where final action was not a Senate vote to confirm, the type of final action is specified, along with the date. “Cloture” indicates that the Senate voted on a motion to close debate (with passage of the motion requiring three-fifths of the Senate, or 60 Members, voting in favor). “Cloture vitiated” indicates that the Senate by unanimous consent vitiated (undid) a motion to close debate. “Withdrawn” indicates that a nomination was withdrawn by the President. “Returned” indicates that the Senate returned a nomination to the President (upon a Senate adjournment or recess of more than 30 days).
- Where a judicial nomination received more than one day of hearings, the “Days from nomination date to:” “Hearing” is the number of days from the nomination date to the *first* hearing date.
- This was the nominee’s first of two nominations to the judgeship. After the nomination was returned to President Bush on Aug. 3, 2001, the individual was renominated on Sept. 4, 2001.
- This was the nominee’s second nomination to the judgeship. See the earlier nomination in the 107<sup>th</sup> Congress.
- The committee vote to report favorably failed (9-10); the vote to report without recommendation failed (9-10); and the vote to report unfavorably failed (9-10).
- The committee vote to report favorably failed (9-10); the vote to report without recommendation failed (9-10); and the vote to report unfavorably failed (9-10).
- On Aug. 27, 2001, during the August recess of the first session of the 107<sup>th</sup> Congress, the Senate Judiciary Committee held a hearing for Ms. Prost in expectation of her renomination to the circuit court. An earlier nomination of Ms. Prost had been returned to the President at the beginning of the August recess.
- The hearing, on Aug. 27, 2001, preceded the nomination date; therefore, no elapsed time between Senate receipt and hearing date has been calculated. See preceding note.

- j. The “Mean,” or average, is the sum of the number of elapsed days for all of the nominations in question divided by the number of those nominations. Note: Calculation of the mean in the “Hearing” column excluded the time that elapsed between the hearing date and Senate receipt of the Sept. 4, 2001, nomination of Sharon Prost, since the hearing date for that nomination preceded the nomination date. (See two preceding table notes regarding the Prost nomination.)
- k. In each “Median” cell, the number represents (1) the elapsed time for the nomination in the middle of the distribution of all the nominations in question, with an equal number of the nominations having longer elapsed times than that nomination and an equal number of nominations having shorter elapsed times; or (2) the arithmetic mean of the elapsed times for the two nominations in the middle of the distribution if there is no one middle nomination.



### Appendix 3. President George W. Bush's Nominations to the U.S. Circuit Courts of Appeals During the 108<sup>th</sup> Congress, January 7, 2003-December 8, 2004

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
1	Terrence W. Boyle of North Carolina <sup>d</sup>	Fourth	01/07/03	—	—	Returned 12/08/04 <sup>e</sup>	—	—	—
2	Jay S. Bybee of Nevada <sup>d</sup>	Ninth	01/07/03	02/05/03	02/27/03	03/13/03 74-19 vote	29	51	65
3	Deborah L. Cook of Ohio <sup>d</sup>	Sixth	01/07/03	01/29/03	02/27/03	05/05/03 66-25 vote	22	51	118
4	Miguel A. Estrada of Virginia <sup>d</sup>	DC	01/07/03	—	01/30/03	Cloture 55-44 vote 03/06/03	—	23	—
						Cloture 55-42 vote 03/13/03			
						Cloture 55-45 vote 03/18/03			
						Cloture 55-44 vote 04/02/03			
						Cloture 52-39 vote 05/05/03			
						Cloture 54-43 vote 05/08/03			

## CRS-46

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
						Cloture 55-43 vote 07/30/03			
						Withdrawn 09/04/03			
5	Richard A. Griffin of Michigan <sup>d</sup>	Sixth	01/07/03	06/16/04	07/20/04	Cloture 54-44 vote 07/22/04	526	560	—
						Returned 12/08/04 <sup>e</sup>			
6	Carolyn A. Kuhl of California <sup>d</sup>	Ninth	01/07/03	04/01/03	05/08/03	Cloture vitiating 07/31/03	84	121	—
						Cloture 53-43 vote 11/14/03			
						Returned 12/08/04			
7	David W. McKeague of Michigan <sup>d</sup>	Sixth	01/07/03	06/16/04	07/20/04	Cloture 53-44 vote 07/22/04	526	560	—
						Returned 12/08/04 <sup>e</sup>			

## CRS-47

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
8	Susan Bieke Neilson of Michigan <sup>d</sup>	Sixth	01/07/03	09/08/04	10/04/04	Returned 12/08/04 <sup>e</sup>	610	636	—
9	Priscilla Richman Owen of Texas <sup>d</sup>	Fifth	01/07/03	03/13/03	03/27/03	Cloture 52-45 vote 05/01/03	65	79	—
						Cloture 52-45 vote 05/08/03			
						Cloture 53-43 vote 07/29/03			
						Cloture 53-42 vote 11/14/03			
						Returned 12/08/04 <sup>e</sup>			
10	Charles W. Pickering Sr. of Mississippi <sup>d</sup>	Fifth	01/07/03	—	10/02/03	Cloture 54-43 vote 10/30/03	—	268	—
						Returned 12/08/04			
11	John G. Roberts Jr. of Maryland <sup>d</sup>	DC	01/07/03	01/29/03	02/27/03	Recommit <sup>f</sup> 04/30/03	22	51	121
				04/30/03	05/08/03	05/08/03			

## CRS-48

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
12	Henry W. Saad of Michigan <sup>d</sup>	Sixth	01/07/03	07/30/03	06/17/04	Cloture 52-46 vote 07/22/04	204	527	—
						Returned 12/08/04 <sup>e</sup>			
13	Jeffrey S. Sutton of Ohio <sup>d</sup>	Sixth	01/07/03	01/29/03	02/13/03	04/29/03 52-41 vote	22	37	112
14	Timothy M. Tymkovich of Colorado <sup>d</sup>	Tenth	01/07/03	02/12/03	03/06/03	04/01/03 58-41 vote	36	58	84
15	Edward C. Prado of Texas	Fifth	02/06/03	03/27/03	04/02/03	05/01/03 97-0 vote	49	55	84
16	Consuelo Maria Callahan of California	Ninth	02/12/03	05/07/03	05/08/03	05/22/03 99-0 vote	84	85	99
17	Steven M. Colloton of Iowa	Eighth	02/12/03	07/22/03	07/31/03	09/04/03 94-1 vote	160	169	204
18	Michael Chertoff of New Jersey	Third	03/05/03	05/07/03	05/22/03	06/09/03 88-1 vote	63	78	96
19	Richard C. Wesley of New York	Second	03/05/03	05/22/03	06/05/03	06/11/03 96-0 vote	78	92	98

## CRS-49

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
20	William H. Pryor Jr. of Alabama	Eleventh	04/09/03	06/11/03	07/23/03	Cloture 53-44 vote 07/31/03	63	105	—
						Cloture 51-43 vote 11/06/03			
						Returned 12/08/04			
21	Carlos T. Bea of California	Ninth	04/11/03	09/03/03	09/25/03	09/29/03 86-0 vote	145	167	171
22	Allyson K. Duncan of North Carolina	Fourth	04/28/03	06/25/03	07/10/03	07/17/03 93-0 vote	58	73	80
23	Claude A. Allen of Virginia	Fourth	04/28/03	10/28/03	—	Returned 12/09/03	183	—	—
24	D. Michael Fisher of Pennsylvania	Third	05/01/03	10/15/03	11/06/03	12/09/03	167	189	222
25	William Gerry Myers III of Idaho	Ninth	05/15/03	02/05/04	04/01/04	Cloture 53-44 vote 07/20/04	266	322	—
						Returned 12/08/04 <sup>e</sup>			
26	Janice R. Brown of California	DC	07/25/03	10/22/03	11/06/03	Cloture 53-43 vote 11/14/03	89	104	—
						Returned 12/08/04 <sup>e</sup>			

## CRS-50

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
27	Brett M. Kavanaugh of Maryland	DC	07/25/03	04/27/04	—	Returned 12/08/04 <sup>e</sup>	277	—	—
28	Raymond W. Gruender of Missouri	Eighth	09/29/03	01/22/04	03/04/04	05/20/04 97-1 vote	115	157	234
29	William James Haynes II of Virginia	Fourth	09/29/03	11/19/03	03/11/04	Returned 12/08/04 <sup>e</sup>	51	164	—
30	Diane S. Sykes of Wisconsin	Seventh	11/14/03	02/11/04	03/11/04	06/24/04 70-27 vote	89	118	223
31	Franklin S. Van Antwerpen of Pennsylvania	Third	11/21/03	01/28/04	03/04/04	05/20/04 96-0 vote	68	104	181
32	Peter W. Hall of Vermont	Second	12/09/03	03/10/04	04/01/04	06/24/04	92	114	198
33	Claude A. Allen of Virginia <sup>g</sup>	Fourth	01/20/04	—	—	Returned 12/08/04	—	—	—
34	Charles W. Pickering Sr. of Mississippi <sup>h, i</sup>	Fifth	02/06/04	—	—	Returned 12/08/04	—	—	—
35	William Duane Benton of Mississippi	Eighth	02/12/04	04/08/04	04/29/04	06/24/04	56	77	133
36	William H. Pryor Jr. of Alabama <sup>g, j</sup>	Eleventh	03/12/04	—	—	Returned 12/08/04 <sup>e</sup>	—	—	—
37	Thomas B. Griffith of Utah	DC	05/10/04	11/16/04	—	Returned 12/08/04 <sup>e</sup>	190	—	—
Number of days elapsed from date received in Senate						Mean <sup>k</sup>	145	173	140
						Median <sup>l</sup>	84	105	120

- a. The “Committee action” date, unless there is a note indicating otherwise, is the date on which the Senate Judiciary Committee voted to report a nomination favorably to the Senate.
- b. A date standing alone is the date of Senate confirmation. A vote tally underneath the date is the roll call vote by which the nomination was confirmed. The absence of a roll call vote indicates that the nomination was confirmed by voice vote or by unanimous consent. Where final action was not a Senate vote to confirm, the type of final action is specified, along with the date. “Cloture” indicates that the Senate voted on a motion to close debate (with passage of the motion requiring three-fifths of the Senate, or 60 Members, voting in favor). “Cloture vitiated” indicates that the Senate by unanimous consent vitiated (undid) a motion to close debate. “Withdrawn” indicates that a nomination was withdrawn by the President. “Returned” indicates that the Senate returned a nomination to the President (upon a Senate adjournment or recess of more than 30 days).
- c. Where a judicial nomination received more than one day of hearings, the “Days from nomination date to:” “Hearing” is the number of days from the nomination date to the *first* hearing date.
- d. Resubmission; see earlier nomination(s) in 107<sup>th</sup> Congress.
- e. Nominee was renominated in the 109<sup>th</sup> Congress, on 02/14/2005.
- f. Senate by unanimous consent agreed to recommit the nomination to the Senate Judiciary Committee.
- g. Resubmission; see earlier nomination in 108<sup>th</sup> Congress.
- h. Resubmission; see three earlier nominations — one in 108<sup>th</sup> Congress and two in 107<sup>th</sup> Congress.
- i. On 01/16/2004, between the first and second sessions of the 108<sup>th</sup> Congress, the nominee was appointed to the court by presidential “recess appointment,” an appointment which expired on 12/08/2004, at the end of the second session of the 108<sup>th</sup> Congress.
- j. On 02/20/2004, during a recess within the second session of the 108<sup>th</sup> Congress, the nominee was appointed to the court by presidential “recess appointment,” an appointment that was to expire at the end of the first session of the 109<sup>th</sup> Congress. However, early in the 109<sup>th</sup> Congress, on 02/14/2005, he was renominated and then, on 06/09/05, confirmed, more than six months before his recess appointment would have expired.
- k. The “Mean,” or average, is the sum of the number of elapsed days for all of the nominations in question divided by the number of those nominations.
- l. In each “Median” cell, the number represents (1) the elapsed time for the nomination in the middle of the distribution of all the nominations in questions, with an equal number of the nominations having longer elapsed times than that nomination and an equal number of nominations having shorter elapsed times; or (2) the arithmetic mean of the elapsed times for the two nominations in the middle of the distribution if there is no one middle nomination.

## Appendix 4. President George W. Bush's Nominations to the U.S. Circuit Courts of Appeals During the 109<sup>th</sup> Congress, January 4, 2005 - April 7, 2006

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
1	Terrence W. Boyle of North Carolina <sup>d</sup>	Fourth	02/14/05	03/03/05	06/16/05	—	17	122	—
2	William James Haynes II of Virginia <sup>d</sup>	Fourth	02/14/05	<sup>e</sup>	—	—	—	—	—
3	Priscilla Richman Owen of Texas <sup>d</sup>	Fifth	02/14/05	<sup>e</sup>	04/21/05	Cloture 81-18 vote 05/24/05	—	66	100
						05/25/05 55-43			
4	Richard A. Griffin of Michigan <sup>d</sup>	Sixth	02/14/05	<sup>e</sup>	05/26/05	06/09/05 95-0	—	101	115
5	David W. McKeague of Michigan <sup>d</sup>	Sixth	02/14/05	<sup>e</sup>	05/26/05	06/09/05 96-0	—	101	115
6	Susan Bieke Neilson of Michigan <sup>d</sup>	Sixth	02/14/05	<sup>e</sup>	10/20/05	10/27/05 97-0	—	248	255
7	Henry W. Saad of Michigan <sup>d</sup>	Sixth	02/14/05	<sup>e</sup>	—	Withdrawn 03/27/06	—	—	—
8	William Gerry Myers III of Idaho <sup>d</sup>	Ninth	02/14/05	03/01/05	03/17/05	—	15	31	—



No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
9	William H. Pryor Jr. of Alabama <sup>d</sup>	Eleventh	02/14/05	<sup>e</sup>	05/12/05	Cloture 67-32 06/08/05	—	87	115
						06/09/05 53-45			
10	Janice R. Brown of California <sup>d</sup>	DC	02/14/05	<sup>e</sup>	04/21/05	Cloture 56-43 vote 06/07/05	—	66	114
						06/08/05 56-43			
11	Thomas B. Griffith of Utah <sup>d</sup>	DC	02/14/05	03/08/05	04/14/05	06/14/05 73-24	22	59	120
12	Brett M. Kavanaugh of Maryland <sup>d</sup>	DC	02/14/05	<sup>e</sup>	—	Returned 12/22/05	—	—	—
13	James H. Payne of Oklahoma	Tenth	09/29/05	—	—	Withdrawn 03/07/06	—	—	—
14	Norman R. Smith of Idaho	Ninth	12/16/05	03/01/06	—	—	75	—	—
15	Brett M. Kavanaugh of Maryland <sup>f</sup>	DC	01/25/06	<sup>e</sup>	—	—	—	—	—
16	Michael A. Chagares of New Jersey	Third	01/25/06	03/14/06	03/30/06	04/04/06 98-0	48	64	69
17	Sandra S. Ikuta of California	Ninth	02/08/06	—	—	—	—	—	—

No.	Name of nominee	Circuit	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing <sup>c</sup>	Committee action	Senate vote
18	Michael B. Wallace of Mississippi	Fifth	02/08/06	—	—	—	—	—	—
19	Milan D. Smith Jr. of California	Ninth	02/14/06	—	—	—	—	—	—
Number of days elapsed from date received in Senate						Mean <sup>g</sup>	35	95	125
						Median <sup>h</sup>	22	77	115

- a. The “Committee action” date, unless there is a note indicating otherwise, is the date on which the Senate Judiciary Committee voted to report a nomination favorably to the Senate.
- b. A date standing alone is the date of Senate confirmation. A vote tally underneath the date is the roll call vote by which the nomination was confirmed. The absence of a roll call vote indicates that the nomination was confirmed by voice vote or by unanimous consent. Where final action was not a Senate vote to confirm, the type of final action is specified, along with the date. “Cloture” indicates that the Senate voted on a motion to close debate (with passage of the motion requiring three-fifths of the Senate, or 60 Members, voting in favor). “Cloture vitiated” indicates that the Senate by unanimous consent vitiated (undid) a motion to close debate. “Withdrawn” indicates that a nomination was withdrawn by the President. “Returned” indicates that the Senate returned a nomination to the President (upon a Senate adjournment or recess of more than 30 days).
- c. Where a judicial nomination received more than one day of hearings, the “Days from nomination date to:” “Hearing” is the number of days from the nomination date to the *first* hearing date.
- d. Resubmission; see earlier nomination(s) in 108<sup>th</sup> Congress.
- e. Hearing held on earlier nomination in 108<sup>th</sup> Congress.
- f. Resubmission; see earlier nomination in 109<sup>th</sup> Congress.
- g. The “Mean,” or average, is the sum of the number of elapsed days for all of the nominations in question divided by the number of those nominations.
- h. In each “Median” cell, the number represents (1) the elapsed time for the nomination in the middle of the distribution of all the nominations in questions, with an equal number of the nominations having longer elapsed times than that nomination and an equal number of nominations having shorter elapsed times; or (2) the arithmetic mean of the elapsed times for the two nominations in the middle of the distribution if there is no one middle nomination.

## Appendix 5. President George W. Bush's Nominees to U.S. District Courts, January 20, 2001-April 7, 2006

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
1	Sam E. Haddon	MT	05/17/01			07/20/01			64
2	Richard F. Cebull	MT	05/17/01			07/20/01			64
3	Terry L. Wooten	SC	06/18/01	09/04/01		11/08/01			143
4	Laurie Smith Camp	NE	06/19/01	09/04/01		10/23/01			126
5	Paul G. Cassell	UT	06/19/01	09/04/01		05/13/02			328
6	John D. Bates	DC	06/20/01	09/04/01		12/11/01			174
7	Reggie B. Walton	DC	06/20/01	09/04/01		09/21/01			93
8	James E. Gritzner	South. IA	07/10/01	09/04/01		02/14/02			219
9	Michael P. Mills	North. MS	07/10/01	09/04/01		10/11/01			93
10	Callie V. Granade	South. AL	08/02/01	09/04/01		02/04/02			186
11	Clair V. Eagan	North. OK	08/02/01	09/04/01		10/23/01			82
12	Danny C. Reeves	East. KY	08/02/01	09/04/01		12/06/01			126
13	David L. Bunning	East. KY	08/02/01	09/04/01		02/14/02			196
14	James H. Payne	North., East. & West. OK	08/02/01	09/04/01		10/23/01			82
15	Joe L. Heaton	West. OK	08/02/01	09/04/01		12/06/01			126
16	Karen K. Caldwell	East. KY	08/02/01	09/04/01		10/23/01			82

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No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
17	Karon O. Bowdre	North. AL	08/02/01	09/04/01		11/06/01			96
18	Kurt D. Engelhardt	East. LA	08/02/01	09/04/01		12/11/01			131
19	Larry R. Hicks	NV	08/02/01	09/04/01		11/05/01			95
20	M. Christina Armijo	NM	08/02/01	09/04/01		11/06/01			96
21	Stephen P. Friot	West. OK	08/02/01	09/04/01		11/06/01			96
22	William P. Johnson	NM	08/02/01	09/04/01		12/13/01			133
23	Cindy K. Jorgenson	AZ	09/10/01			02/26/02			169
24	David C. Bury	AZ	09/10/01			03/15/02			186
25	Frederick J. Martone	AZ	09/10/01			12/13/01			94
26	James C. Mahan	NV	09/10/01			01/25/02			137
27	Julie A. Robinson	KS	09/10/01			12/11/01			92
28	Marcia S. Krieger	DC	09/10/01			01/25/02			137
29	Richard J. Leon	DC	09/10/01			02/14/02			157
30	Robert E. Blackburn	DC	09/10/01			02/26/02			169
31	Clay D. Land	Mid. GA	09/21/01			12/13/01			83
32	Randy Crane	South. TX	09/21/01			03/18/02			178
33	C. Ashley Royal	Mid. GA	10/09/01			12/20/01			72
34	Philip R. Martinez	West. TX	10/09/01			02/05/02			119
35	Jay C. Zainey	East. LA	10/10/01			02/11/02			124

## CRS-57

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
36	Ralph R. Beistline	AK	11/08/01			03/12/02			124
37	Andrew S. Hanen	South. TX	01/23/02			05/09/02			106
38	Arthur J. Schwab	West. PA	01/23/02			09/13/02			233
39	Cynthia M. Rufe	East. PA	01/23/02			04/30/02			97
40	David C. Godbey	North. TX	01/23/02			08/01/02			190
41	Frederick W. Rohlfing III	HI	01/23/02	01/07/03			Withdrawn 05/06/04		834
42	Henry E. Hudson	East. VA	01/23/02			08/01/02			190
43	Joan E. Lancaster	MN	01/23/02			04/25/02			92
44	John F. Walter	Cent. CA	01/23/02			04/25/02			92
45	Jose E. Martinez	South. FL	01/23/02			09/13/02			233
46	Joy Flowers Conti	West. PA	01/23/02			07/29/02			187
47	Kenneth A. Marra	South. FL	01/23/02			09/09/02			229
48	Lance M. Africk	East. LA	01/23/02			04/17/02			84
49	Legrome D. Davis	East. PA	01/23/02			04/18/02			85
50	Leonard E. Davis	East. TX	01/23/02			05/09/02			106
51	Michael M. Baylson	East. PA	01/23/02			04/30/02			97
52	Percy Anderson	Cent. CA	01/23/02			04/25/02			92
53	Ronald B. Leighton	West. WA	01/23/02			11/14/02			295
54	Ronald H. Clark	East. TX	01/23/02			10/02/02			252

## CRS-58

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
55	Samuel H. Mays Jr.	West. TN	01/23/02			05/09/02			106
56	Stanley R. Chesler	NJ	01/23/02			11/14/02			295
57	Terrence F. McVerry	West. PA	01/23/02			09/03/02			223
58	Thomas M. Rose	South. OH	01/23/02			05/09/02			106
59	William C. Griesbach	East. WI	01/23/02			04/25/02			92
60	William J. Martini	NJ	01/23/02			11/14/02			295
61	Christopher C. Conner	Mid. PA	02/28/02			07/26/02			148
62	John E. Jones III	Mid. PA	02/28/02			07/29/02			151
63	Amy J. St. Eve	North. IL	03/21/02			08/01/02			133
64	David S. Cercone	West. PA	03/21/02			08/01/02			133
65	Henry E. Autrey	East. MO	03/21/02			08/01/02			133
66	Morrison C. England Jr.	East. CA	03/21/02			08/01/02			133
67	Richard E. Dorr	West. MO	03/21/02			08/01/02			133
68	Timothy J. Savage	East. PA	03/21/02			08/01/02			133
69	James Knoll Gardner	East. PA	04/22/02			10/02/02			163
70	James C. Dever III	East. NC	05/22/02	01/07/03	02/14/05	04/28/05			1072
71	Timothy J. Corrigan	Mid. FL	05/22/02			09/12/02			113
72	Daniel L. Hovland	ND	06/26/02			11/14/02			141
73	Linda R. Reade	North. IA	06/26/02			11/14/02			141

## CRS-59

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
74	Thomas W. Phillips	East. TN	06/26/02			11/14/02			141
75	Alia M. Ludlum	West. TX	07/11/02			11/14/02			126
76	James E. Kinkeade	North. TX	07/18/02			11/14/02			119
77	Robert A. Junell	West. TX	07/18/02	01/07/03		02/10/03			207
78	Robert G. Klausner	Cent. CA	07/18/02			11/14/02			119
79	S. James Otero	Cent. CA	07/18/02	01/07/03		02/10/03			207
80	William E. Smith	RI	07/18/02			11/14/02			119
81	Jeffrey S. White	North. CA	07/25/02			11/14/02			112
82	Kent A. Jordan	DE	07/25/02			11/14/02			112
83	Sandra J. Feuerstein	East. NY	07/25/02	01/07/03		09/17/03			419
84	Freda L. Wolfson	NJ	08/01/02			11/14/02			105
85	Gregory L. Frost	South. OH	08/01/02	01/07/03		03/10/03			221
86	Jose L. Linares	NJ	08/01/02			11/14/02			105
87	Mark E. Fuller	Mid. AL	08/01/02			11/14/02			105
88	Richard J. Holwell	South. NY	08/01/02	01/07/03		09/17/03			412
89	Robert B. Kugler	NJ	08/01/02			11/14/02			105
90	Rosemary M. Collyer	DC	08/01/02			11/14/02			105
91	Ralph R. Erickson	ND	09/12/02	01/07/03		03/12/03			181
92	S. Maurice Hicks Jr.	West. LA	09/12/02	01/07/03		05/19/03			249

## CRS-60

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
93	Thomas L. Ludington	East. MI	09/12/02	01/07/03	02/14/05			X	1303
94	William D. Quarles Jr.	MD	09/12/02	01/07/03		03/12/03			181
95	Cormac J. Carney	Cent. CA	10/10/02	01/07/03		04/07/03			179
96	J. Daniel Breen	West. TN	10/10/02	01/07/03		03/13/03			154
97	John R. Adams	North. OH	10/10/02	01/07/03		02/10/03			123
98	Thomas A. Varlan	East. TN	10/10/02	01/07/03		03/13/03			154
99	William H. Steele	South. AL	01/07/03			03/13/03			65
100	Cecilia M. Altonaga	South. FL	01/15/03			05/06/03			111
101	Dee D. Drell	West. LA	01/15/03			04/09/03			84
102	Patricia Head Minaldi	West. LA	01/15/03			05/06/03			111
103	J. Leon Holmes	East. AR	01/29/03			07/06/04			524
104	James V. Selna	Cent. CA	01/29/03			03/27/03			57
105	Louise W. Flanagan	East. NC	01/29/03			07/17/03			169
106	Philip P. Simon	North. IN	01/29/03			03/27/03			57
107	Richard D. Bennett	MD	01/29/03			04/09/03			70
108	Theresa Lazar Springmann	North. IN	01/29/03			03/31/03			61
109	P. Kevin Castel	South. NY	03/05/03			09/17/03			196
110	Samuel Der-Yeghiayan	North. IL	03/05/03			07/14/03			131
111	Stephen C. Robinson	South. NY	03/05/03			09/17/03			196



## CRS-61

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
112	David G. Campbell	AZ	03/13/03			07/08/03			117
113	John A. Woodcock Jr.	ME	03/27/03			06/12/03			77
114	L. Scott Coogler	North. AL	03/27/03			05/22/03			56
115	Mark R. Kravitz	CT	03/27/03			06/11/03			76
116	J. Ronnie Greer	East. TN	04/09/03			06/11/03			63
117	Thomas M. Hardiman	West. PA	04/09/03			10/22/03			196
118	Daniel P. Ryan	East. MI	04/28/03	02/14/05			Withdrawn 03/30/06		1067
119	Dora L. Irizarry	East. NY	04/28/03			06/24/04			423
120	Gary L. Sharpe	North. NY	04/28/03			01/28/04			275
121	Glen E. Conrad	West. VA	04/28/03			09/22/03			147
122	H. Brent McKnight	West. NC	04/28/03			07/31/03			94
123	James O. Browning	NM	04/28/03			07/31/03			94
124	Kim R. Gibson	West. PA	04/28/03			09/23/03			148
125	Lonny R. Suko	East. WA	04/28/03			07/15/03			78
126	Mark R. Filip	North. IL	04/28/03			02/04/04			282
127	Robert C. Brack	NM	04/28/03			07/14/03			77
128	Robert J. Conrad Jr.	West. NC	04/28/03	02/14/05		04/28/05			731
129	Dale S. Fischer	Cent. CA	05/01/03			10/27/03			179
130	Dana Makoto Sabraw	South. CA	05/01/03			09/25/03			147

## CRS-62

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
131	Earl Leroy Yeakel III	West. TX	05/01/03			07/28/03			88
132	Frank Montalvo	West. TX	05/01/03			07/31/03			91
133	James I. Cohn	South. FL	05/01/03			07/31/03			91
134	John A. Houston	South. CA	05/01/03			10/02/03			154
135	Kathleen Cardone	West. TX	05/01/03			07/28/03			88
136	Larry Alan Burns	South. CA	05/01/03			09/24/03			146
137	Marcia A. Crone	East. TX	05/01/03			09/30/03			152
138	R. David Proctor	North. AL	05/01/03			09/17/03			139
139	Roger T. Benitez	South. CA	05/01/03			06/17/04			413
140	William Q. Hayes	South. CA	05/01/03			10/02/03			154
141	Xavier Rodriguez	West. TX	05/01/03			07/31/03			91
142	Michael W. Mosman	OR	05/08/03			09/25/03			140
143	Henry F. Floyd	SC	05/15/03			09/22/03			130
144	Ronald A. White	East. OK	05/15/03			09/30/03			138
145	Phillip S. Figa	CO	06/09/03			10/02/03			115
146	Robert Clive Jones	NV	06/09/03			10/02/03			115
147	Roger W. Titus	MD	06/18/03			11/05/03			140
148	Margaret Catharine Rodgers	North. FL	07/14/03			10/20/03			98
149	F. Dennis Saylor IV	MA	07/30/03			06/01/04			307

## CRS-63

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
150	Sandra L. Townes	East. NY	08/01/03			06/03/04			307
151	Kenneth M. Karas	South. NY	09/18/03			06/03/04			259
152	Judith C. Herrera	NM	09/23/03			06/03/04			254
153	Louis Guirola Jr.	South. MS	09/23/03			03/12/04			171
154	Ricardo S. Martinez	West. WA	10/14/03			06/15/04			245
155	Virginia E. Hopkins	North. AL	10/14/03			06/15/04			245
156	Neil Vincent Wake	AZ	10/22/03			03/12/04			142
157	Walter D. Kelly Jr.	East. VA	10/31/03			06/23/04			236
158	Gene E.K. Pratter	East. PA	11/03/03			06/15/04			225
159	Peter G. Sheridan	NJ	11/05/03	02/14/05				X	884
160	William S. Duffey Jr.	North. GA	11/05/03			06/16/04			224
161	Lawrence F. Stengel	East. PA	11/06/03			06/16/04			223
162	Jane J. Boyle	North. TX	11/24/03			06/17/04			206
163	Curtis V. Gomez	VI	11/25/03			11/20/04			361
164	Juan R. Sanchez	East. PA	11/25/03			06/23/04			211
165	Marcia G. Cooke	South. FL	11/25/03			05/18/04			175
166	James L. Robart	West. WA	12/09/03			06/17/04			191
167	George P. Schiavelli	Cent. CA	01/20/04			06/24/04			156
168	Paul S. Diamond	East. PA	01/20/04			06/16/04			148

## CRS-64

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
169	Robert Bryan Harwell	SC	01/20/04			06/24/04			156
170	Raymond L. Finch	VI	02/20/04			11/21/04			275
171	Michael H. Watson	South. OH	04/06/04			09/07/04			154
172	Virginia Maria H. Covington	Mid. FL	04/20/04			09/07/04			140
173	Michael H. Schneider Sr.	East. TX	05/17/04			09/07/04			113
174	Micaela Alvarez	South. TX	06/16/04			11/21/04			158
175	Keith Starrett	South. MS	07/06/04			11/21/04			138
176	Christopher A. Boyko	North. OH	07/22/04			11/21/04			122
177	Paul A. Crotty	South. NY	09/07/04	02/14/05		04/11/05			216
178	Sean F. Cox	East. MI	09/10/04	02/14/05				X	574
179	J. Michael Seabright	HI	09/15/04	02/14/05		04/27/05			224
180	Brian Edward Sandoval	NV	03/01/05			10/24/05			237
181	John R. Smoak	North. FL	06/08/05			10/27/05			141
182	Harry Sandlin Mattice Jr.	East. TN	07/28/05			10/24/05			88
183	Joseph Frank Bianco	East. NY	07/28/05			12/21/05			146
184	Timothy Mark Burgess	AK	07/28/05			12/21/05			146
185	Gregory F. Van Tatenhove	East. KY	09/13/05			12/21/05			99
186	Kristi K. DuBose	South. AL	09/28/05			12/21/05			84
187	Thomas E. Johnston	South. WV	09/28/05			03/06/06			159

## CRS-65

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
188	Timothy C. Batten Sr.	North. GA	09/28/05			03/06/06			159
189	Virginia Mary Kendall	North. IL	09/28/05			12/21/05			84
190	W. Keith Watkins	Mid. AL	09/28/05			12/21/05			84
191	Eric N. Vitaliano	East. NY	10/06/05			12/21/05			76
192	Aida M. Delgado-Colon	PR	10/25/05			03/06/06			132
193	Jack Zouhary	North. OH	12/14/05			03/16/06			92
194	Patrick J. Schiltz	MN	12/14/05					X	114
195	Stephen G. Larson	Cent. CA	12/15/05			03/16/06			91
196	Michael R. Barrett	South. OH	12/16/05					X	112
197	Andrew J. Guilford	Cent. CA	01/25/06					X	72
198	Brian M. Cogan	East. NY	01/25/06					X	72
199	Gray H. Miller	South. TX	01/25/06					X	72
200	Noel L. Hillman	NJ	01/25/06					X	72
201	Renee M. Bumb	NJ	01/25/06					X	72
202	Susan D. Wigenton	NJ	01/25/06					X	72
203	Thomas M. Golden	East. PA	01/25/06					X	72
204	Vanessa L. Bryant	CT	01/25/06					X	72
205	Frank D. Whitney	West. NC	02/14/06					X	52
206	Jerome A. Holmes	North. OK	02/14/06					X	52

## CRS-66

No.	Name of nominee	District <sup>a</sup>	Nomination dates			Outcome of last nomination			Days from 1 <sup>st</sup> nomination to disposition of last nomination
			First	Second	Third	Confirmed	Other	Pending	
Number of days from date of first nomination to date of disposition of last nomination					Mean <sup>b</sup>	162	951	245	
					Median <sup>c</sup>	137	951	72	

a. District court nominees in this table include nominees to the territorial district courts in the U.S. Virgin Islands, Guam, and the Northern Mariana Islands.

b. The “Mean,” or average, is the sum of the number of elapsed days for all of the nominees in question divided by the number of those nominees.

c. In each “Median” cell, the number represents (1) the elapsed time for the nominee the middle of the distribution of all the nominees in question, with an equal number of the nominees having longer elapsed times than that nominee and an equal number of nominees having shorter elapsed times; or (2) the arithmetic mean of the elapsed times for the two nominees in the middle of the distribution if there is no one middle nominee.

## Appendix 6. President George W. Bush's Nominations to the U.S. District Courts During the 107<sup>th</sup> Congress, January 20, 2001-November 20, 2002

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
1	Sam F. Haddon	MT	05/17/01	07/11/01	07/19/01	07/20/01 95-0 vote	55	63	64
2	Richard F. Cebull	MT	05/17/01	07/11/01	07/19/01	07/20/01 93-0 vote	55	63	64
3	Terry L. Wooten <sup>c</sup>	SC	06/18/01	—	—	Returned 08/03/01	—	—	—
4	Laurie Smith Camp <sup>c</sup>	NE	06/19/01	—	—	Returned 08/03/01	—	—	—
5	Paul G. Cassell <sup>c</sup>	UT	06/19/01	—	—	Returned 08/03/01	—	—	—
6	John D. Bates <sup>c</sup>	DC	06/20/01	—	—	Returned 08/03/01	—	—	—
7	Reggie B. Walton <sup>c</sup>	DC	06/20/01	—	—	Returned 08/03/01	—	—	—
8	James E. Gritzner <sup>c</sup>	South. IA	07/10/01	—	—	Returned 08/03/01	—	—	—
9	Michael P. Mills <sup>c</sup>	North. MS	07/10/01	—	—	Returned 08/03/01	—	—	—
10	M. Christina Armijo <sup>c</sup>	NM	08/02/01	—	—	Returned 08/03/01	—	—	—
11	Karon O. Bowdre <sup>c</sup>	North. AL	08/02/01	—	—	Returned 08/03/01	—	—	—
12	David L. Bunning <sup>c</sup>	East. KY	08/02/01	—	—	Returned 08/03/01	—	—	—
13	Karen K. Caldwell <sup>c</sup>	East. KY	08/02/01	—	—	Returned 08/03/01	—	—	—
14	Clair V. Eagan <sup>c</sup>	North. OK	08/02/01	—	—	Returned 08/03/01	—	—	—
15	Kurt D. Engelhardt <sup>c</sup>	East. LA	08/02/01	—	—	Returned 08/03/01	—	—	—
16	Stephen P. Friot <sup>c</sup>	West. OK	08/02/01	—	—	Returned 08/03/01	—	—	—

## CRS-68

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
17	Callie V. Granade <sup>c</sup>	South. AL	08/02/01	—	—	Returned 08/03/01	—	—	—
18	Joe L. Heaton <sup>c</sup>	West. OK	08/02/01	—	—	Returned 08/03/01	—	—	—
19	Larry R. Hicks <sup>c</sup>	NV	08/02/01	—	—	Returned 08/03/01	—	—	—
20	William P. Johnson <sup>c</sup>	NM	08/02/01	—	—	Returned 08/03/01	—	—	—
21	James H. Payne <sup>c</sup>	North., East. & West. OK	08/02/01	—	—	Returned 08/03/01	—	—	—
22	Danny C. Reeves <sup>c</sup>	East. KY	08/02/01	—	—	Returned 08/03/01	—	—	—
23	Michael P. Mills <sup>d</sup>	North. MS	09/04/01	09/13/01	10/04/01	10/11/01 98-0 vote	9	30	37
24	James H. Payne <sup>d</sup>	North., East. & West. OK	09/04/01	10/04/01	10/18/01	10/23/01 100-0 vote	30	44	49
25	Danny C. Reeves <sup>d</sup>	East. KY	09/04/01	11/07/01	11/29/01	12/06/01	64	86	93
26	Reggie B. Walton <sup>d</sup>	DC	09/04/01	08/22/01 <sup>e</sup>	09/06/01	09/21/01 97-0 vote	<sup>f</sup>	2	17
27	Terry L. Wooten <sup>d</sup>	SC	09/04/01	08/27/01 <sup>g</sup>	11/08/01	11/08/01 98-0 vote	<sup>h</sup>	65	65
28	M. Christina Armijo <sup>d</sup>	NM	09/04/01	10/18/01	11/01/01	11/06/01 100-0 vote	44	58	63
29	John D. Bates <sup>d</sup>	DC	09/04/01	10/25/01	11/29/01	12/11/01 97-0 vote	51	86	98
30	Karon O. Bowdre <sup>d</sup>	North. AL	09/04/01	10/18/01	11/01/01	11/06/01 98-0 vote	44	58	63
31	David L. Bunning <sup>d</sup>	East. KY	09/04/01	12/10/01	02/07/02	02/14/02	97	156	163



## CRS-69

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
32	Karen K. Caldwell <sup>d</sup>	East. KY	09/04/01	10/04/01	10/18/01	10/23/01 100-0 vote	30	44	49
33	Laurie Smith Camp <sup>d</sup>	NE	09/04/01	10/04/01	10/18/01	10/23/01 100-0 vote	30	44	49
34	Paul G. Cassell <sup>d</sup>	UT	09/04/01	03/19/02	05/02/02	05/13/02 67-20 vote	196	240	251
35	Clair V. Eagan <sup>d</sup>	North. OK	09/04/01	10/04/01	10/18/01	10/23/01 99-0 vote	30	44	49
36	Kurt. D. Engelhardt <sup>d</sup>	East. LA	09/04/01	10/25/01	11/29/01	12/11/01	51	86	98
37	Stephen P. Friot <sup>d</sup>	West. OK	09/04/01	10/18/01	11/01/01	11/06/01 98-0 vote	44	58	63
38	Callie V. Granade <sup>d</sup>	South. AL	09/04/01	12/05/01	12/13/01	02/04/02 75-0 vote	92	100	153
39	James E. Gritzner <sup>d</sup>	South. IA	09/04/01	01/24/02	02/07/02	02/14/02	142	156	163
40	Joe L. Heaton <sup>d</sup>	West. OK	09/04/01	11/07/01	11/29/01	12/06/01	64	86	93
41	Larry R. Hicks <sup>d</sup>	NV	09/04/01	10/18/01	11/01/01	11/05/01 83-0 vote	44	58	62
42	William P. Johnson <sup>d</sup>	NM	09/04/01	10/25/01	11/29/01	12/13/01	51	86	100
43	Robert E. Blackburn	DC	09/10/01	01/24/02	02/07/02	02/26/02 98-0 vote	136	150	169
44	David C. Bury	AZ	09/10/01	02/26/02	03/07/02	03/15/02 90-0 vote	169	178	186
45	Cindy K. Jorgenson	AZ	09/10/01	01/24/02	02/07/02	02/26/02 98-0 vote	136	150	169

## CRS-70

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
46	Marcia S. Krieger	DC	09/10/01	12/05/01	12/13/01	01/25/02 83-0 vote	86	94	137
47	Richard J. Leon	DC	09/10/01	01/24/02	02/07/02	02/14/02	136	150	157
48	James C. Mahan	NV	09/10/01	12/05/01	12/13/01	01/25/02 81-0 vote	86	94	137
49	Frederick J. Martone	AZ	09/10/01	11/07/01	11/29/01	12/13/01 97-0 vote	58	80	94
50	Julie A. Robinson	KS	09/10/01	11/07/01	11/29/01	12/11/01	58	80	92
51	Clay D. Land	Mid. GA	09/21/01	11/07/01	11/29/01	12/13/01	47	69	83
52	Randy Crane	South. TX	09/21/01	02/26/02	03/03/02	03/18/02 91-0 vote	158	163	178
53	Philip R. Martinez	West. TX	10/09/01	12/05/01	12/13/01	02/05/02 93-0 vote	57	65	119
54	C. Ashley Royal	Mid. GA	10/09/01	12/05/01	12/13/01	12/20/01	57	65	72
55	Jay C. Zainey	East. LA	10/10/01	01/24/02	02/07/02	02/11/02 92-0 vote	106	120	124
56	Ralph R. Beistline	AK	11/08/01	02/26/02	03/07/02	03/12/02 98-0 vote	110	119	124
57	Kenneth A. Marra	South. FL	01/23/02	06/13/02	06/20/02	09/09/02 82-0 vote	141	148	229
58	Percy Anderson	Cent. CA	01/23/02	04/11/02	04/18/02	04/25/02 99-0 vote	78	85	92
59	Jose E. Martinez	South. FL	01/23/02	07/23/02	07/31/02	09/13/02	181	189	233

## CRS-71

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
60	Lance M. Africk	East. LA	01/23/02	03/29/02	04/11/02	04/17/02 97-0 vote	65	78	84
61	Stanley R. Chesler	NJ	01/23/02	09/26/02	10/08/02	11/14/02	246	258	295
62	Frederick W. Rohlfing III	HI	01/23/02	—	—	Returned 11/20/02	—	—	—
63	Joan E. Lancaster	MN	01/23/02	04/11/02	04/18/02	04/25/02 99-0 vote	78	85	92
64	William J. Martini	NJ	01/23/02	09/18/02	10/08/02	11/14/02	238	258	295
65	Thomas M. Rose	South. OH	01/23/02	04/25/02	05/02/02	05/09/02 95-0 vote	92	99	106
66	Michael M. Baylson	East. PA	01/23/02	04/11/02	04/18/02	04/30/02 98-0 vote	78	85	97
67	Joy Flowers Conti	West. PA	01/23/02	05/09/02	05/16/02	07/29/02 96-0 vote	106	113	187
68	Legrome D. Davis	East. PA	01/23/02	03/19/02	04/11/02	04/18/02 94-0 vote	55	78	85
69	Terrence F. McVerry	West. PA	01/23/02	06/27/02	07/31/02	09/03/02 88-0 vote	155	189	223
70	Cynthia M. Rufe	East. PA	01/23/02	04/11/02	04/18/02	04/30/02 98-0 vote	78	85	97
71	Arthur J. Schwab	West. PA	01/23/02	06/27/02	07/31/02	09/13/02 92-0 vote	155	189	233
72	Samuel H. Mays Jr.	West. TN	01/23/02	04/25/02	05/02/02	05/09/02 97-0 vote	92	99	106
73	Ronald H. Clark	East. TX	01/23/02	08/01/02	09/19/02	10/02/02	190	239	252

## CRS-72

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
74	Leonard E. Davis	East. TX	01/23/02	04/25/02	05/02/02	05/09/02 97-0 vote	92	99	106
75	David C. Godbey	North. TX	01/23/02	04/25/02	06/13/02	08/01/02	92	141	190
76	Andrew S. Hanen	South. TX	01/23/02	04/25/02	05/02/02	05/09/02 97-0 vote	92	99	106
77	Henry E. Hudson	East. VA	01/23/02	05/23/02	06/13/02	08/01/02	120	141	190
78	Ronald B. Leighton	West. WA	01/23/02	10/07/02	10/08/02	11/14/02	257	258	295
79	William C. Griesbach	East. WI	01/23/02	04/11/02	04/18/02	04/25/02 97-0 vote	78	85	92
80	John F. Walter	Cent. CA	01/23/02	04/11/02	04/18/02	04/25/02 99-0 vote	78	85	92
81	Christopher C. Conner	Mid. PA	02/28/02	05/09/02	05/16/02	07/26/02	70	77	148
82	John E. Jones III	Mid. PA	02/28/02	05/09/02	05/16/02	07/29/02 96-0 vote	70	77	151
83	Morrison C. England Jr.	East. CA	03/21/02	06/13/02	06/20/02	08/01/02	84	91	133
84	Amy J. St. Eve	North. IL	03/21/02	05/24/02	06/13/02	08/01/02	64	84	133
85	Henry E. Autrey	East. MO	03/21/02	05/24/02	06/13/02	08/01/02 98-0 vote	64	84	133
86	Richard E. Dorr	West. MO	03/21/02	05/24/02	06/13/02	08/01/02	64	84	133
87	David S. Cercone	West. PA	03/21/02	06/13/02	06/20/02	08/01/02	84	91	133
88	Timothy J. Savage	East. PA	03/21/02	05/24/02	06/13/02	08/01/02	64	84	133
89	James Knoll Gardner	East. PA	04/22/02	08/01/02	09/05/02	10/02/02	101	136	163

## CRS-73

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
90	Timothy J. Corrigan	Mid. FL	05/22/02	07/23/02	07/31/02	09/12/02 88-0 vote	62	70	113
91	James C. Dever III	East. NC	05/22/02	—	—	Returned 11/20/02	—	—	—
92	Daniel L. Hovland	ND	06/26/02	09/26/02	10/08/02	11/14/02	92	104	141
93	Thomas W. Phillips	East. TN	06/26/02	09/18/02	10/08/02	11/14/02	84	104	141
94	Linda R. Reade	North. IA	06/26/02	09/26/02	10/08/02	11/14/02	92	104	141
95	Alia M. Ludlum	West. TX	07/11/02	09/18/02	10/08/02	11/14/02	69	89	126
96	S. James Otero	Cent. CA	07/18/02	—	—	Returned 11/20/02	—	—	—
97	Robert G. Klausner	Cent. CA	07/18/02	10/07/02	10/08/02	11/14/02	81	82	119
98	Robert A. Junell	West. TX	07/18/02	—	—	Returned 11/20/02	—	—	—
99	James E. Kinkeade	North. TX	07/18/02	09/26/02	10/08/02	11/14/02	70	82	119
100	William E. Smith	RI	07/18/02	10/07/02	10/08/02	11/14/02	81	82	119
101	Jeffrey S. White	North. CA	07/25/02	09/18/02	10/08/02	11/14/02	55	75	112
102	Kent A. Jordan	DE	07/25/02	09/18/02	10/08/02	11/14/02	55	75	112
103	Sandra J. Feuerstein	East. NY	07/25/02	—	—	Returned 11/20/02	—	—	—
104	Mark E. Fuller	Mid. AL	08/01/02	10/07/02	10/08/02	11/14/02	67	68	105
105	Rosemary M. Collyer	DC	08/01/02	10/07/02	10/08/02	11/14/02	67	68	105
106	Robert B. Kugler	NJ	08/01/02	10/07/02	10/08/02	11/14/02	67	68	105
107	Jose L. Linares	NJ	08/01/02	10/07/02	10/08/02	11/14/02	67	68	105
108	Freda L. Wolfson	NJ	08/01/02	09/26/02	10/08/02	11/14/02	56	68	105

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received by Senate	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
109	Richard J. Holwell	South. NY	08/01/02	—	—	Returned 11/20/02	—	—	—
110	Gregory L. Frost	South. OH	08/01/02	—	—	Returned 11/20/02	—	—	—
111	Ralph R. Erickson	ND	09/12/02	—	—	Returned 11/20/02	—	—	—
112	S. Maurice Hicks Jr.	West. LA	09/12/02	—	—	Returned 11/20/02	—	—	—
113	Thomas L. Ludington	East. MI	09/12/02	—	—	Returned 11/20/02	—	—	—
114	William D. Quarles Jr.	MD	09/12/02	—	—	Returned 11/20/02	—	—	—
115	Cormac J. Carney	Cent. CA	10/10/02	—	—	Returned 11/20/02	—	—	—
116	John R. Adams	North. OH	10/10/02	—	—	Returned 11/20/02	—	—	—
117	J. Daniel Breen	West. TN	10/10/02	—	—	Returned 11/20/02	—	—	—
118	Thomas A. Varlan	East. TN	10/10/02	—	—	Returned 11/20/02	—	—	—
Number of days elapsed from date received in Senate						Mean <sup>i</sup>	87 <sup>j</sup>	102	127
						Median <sup>k</sup>	78	85	113

a. The “Committee action” date, unless a note indicates otherwise, is the date on which the Senate Judiciary Committee voted to report a nomination favorably to the Senate.

b. A date standing alone is the date of Senate confirmation. A vote tally underneath the date is the roll call vote by which the nomination was confirmed. The absence of a roll call vote indicates that the nomination was confirmed by voice vote or by unanimous consent. Where final action was not a Senate vote to confirm, the type of final action is specified, along with the date. “Returned” indicates that the Senate returned a nomination to the President (upon a Senate adjournment or recess of more than 30 days).

c. This was the nominee’s first of two nominations to the judgeship. After this first nomination was returned to President Bush on Aug. 3, 2001, the individual was renominated on Sept. 4, 2001.

d. This was the nominee’s second nomination to the judgeship. See earlier nomination in the 107<sup>th</sup> Congress.

e. On Aug. 22, 2001, during the August recess of the first session of the 107<sup>th</sup> Congress, the Senate Judiciary Committee held a hearing for Mr. Walton in expectation of his renomination to the district court. An earlier nomination of Mr. Walton had been returned to the President at the beginning of the August recess.

f. The hearing, on Aug. 22, 2001, preceded the nomination date; therefore, no elapsed time between Senate receipt and hearing date has been calculated. See preceding note.

- g. On Aug. 27, 2001, during the August recess of the first session of the 107<sup>th</sup> Congress, the Senate Judiciary Committee held a hearing for Mr. Wooten in expectation of his renomination to the district court. An earlier nomination of Mr. Wooten was returned to the President at the beginning of the August recess.
- h. The hearing, on Aug. 27, 2001, preceded the nomination date; therefore, no elapsed time between Senate receipt and hearing date has been calculated. See preceding note.
- i. The “Mean,” or average, is the sum of the number of elapsed days for all of the nominations in question divided by the number of those nominations.
- j. Calculation of this time average excluded the times between hearing date and Senate receipt for the September 2001 nominations of Reggie B. Walton and Terry L. Wooten, since their hearing dates preceded their nomination dates. (See preceding table notes “g” and “h” regarding the Walton and Wooten nominations.)
- k. In each “Median” cell, the number represents (1) the elapsed time for the nomination in the middle of the distribution of all the nominations in question, with an equal number of the nominations having longer elapsed times than that nomination and an equal number of nominations having shorter elapsed times; or (2) the arithmetic mean of the elapsed times for the two nominations in the middle of the distribution if there is no one middle nomination.

## Appendix 7. President George W. Bush's Nominations to the U.S. District Courts During the 108<sup>th</sup> Congress, January 7, 2003-December 8, 2004

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
1	John R. Adams <sup>c</sup>	North. OH	01/07/03	01/29/03	02/06/03	02/10/03 91-0 vote	22	30	34
2	J. Daniel Breen <sup>c</sup>	West. TN	01/07/03	02/12/03	03/06/03	03/13/03 92-0 vote	36	58	65
3	Cormac J. Carney <sup>c</sup>	Cent. CA	01/07/03	03/12/03	03/20/03	04/07/03 80-0 vote	64	72	90
4	James C. Dever III <sup>c</sup>	East. NC	01/07/03	—	—	Returned 12/08/04 <sup>d</sup>	—	—	—
5	Ralph R. Erickson <sup>c</sup>	ND	01/07/03	02/05/03	02/27/03	03/12/03	29	51	64
6	Sandra J. Feuerstein <sup>c</sup>	East. NY	01/07/03	07/22/03	07/31/03	09/17/03 93-0 vote	196	205	253
7	Gregory L. Frost <sup>c</sup>	South. OH	01/07/03	02/05/03	02/27/03	03/10/03 91-0 vote	29	51	62
8	S. Maurice Hicks Jr. <sup>c</sup>	West. LA	01/07/03	04/30/03	05/08/03	05/19/03 86-0 vote	113	121	132
9	Richard J. Holwell <sup>c</sup>	South. NY	01/07/03	07/22/03	07/31/03	09/17/03	196	205	253
10	Robert A. Junell <sup>c</sup>	West. TX	01/07/03	01/29/03	02/06/03	02/10/03 91-0 vote	22	30	34
11	Thomas L. Ludington <sup>c</sup>	East. MI	01/07/03	—	—	Returned 12/08/04 <sup>d</sup>	—	—	—



## CRS-77

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
12	S. James Otero <sup>c</sup>	Cent. CA	01/07/03	01/29/03	02/06/03	02/10/03 94-0 vote	22	30	34
13	William D. Quarles Jr. <sup>c</sup>	MD	01/07/03	02/05/03	02/27/03	03/12/03 91-0 vote	29	51	64
14	Frederick W. Rohlfig III <sup>c</sup>	HI	01/07/03	—	—	Withdrawn 05/06/04	—	—	—
15	Thomas A. Varlan <sup>c</sup>	East. TN	01/07/03	02/12/03	03/06/03	03/13/03 97-0 vote	36	58	65
16	William H. Steele	South. AL	01/07/03	02/12/03	03/06/03	03/13/03	36	58	65
17	Patricia Head Minaldi	West. LA	01/15/03	04/01/03	05/01/03	05/06/03	76	106	111
18	Dee D. Drell	West. LA	01/15/03	03/27/03	04/03/03	04/09/03 99-0 vote	71	78	84
19	Cecilia M. Altonaga	South. FL	01/15/03	04/01/03	04/10/03	05/06/03 91-0 vote	76	85	111
20	Louise W. Flanagan	East. NC	01/29/03	06/25/03	07/10/03	07/17/03	147	162	169
21	Richard D. Bennett	MD	01/29/03	03/27/03	04/03/03	04/09/03 99-0 vote	57	64	70
22	Theresa Lazar Springmann	North. IN	01/29/03	03/12/03	03/20/03	03/31/03 93-0 vote	42	50	61
23	James V. Selna	Cent. CA	01/29/03	03/12/03	03/20/03	03/27/03 97-0 vote	42	50	57
24	J. Leon Holmes	East. AR	01/29/03	03/27/03	05/01/03 <sup>e</sup>	07/06/04 51-46 vote	57	92	524
25	Philip P. Simon	North. IN	01/29/03	03/12/03	03/20/03	03/27/03	42	50	57

## CRS-78

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
26	Stephen C. Robinson	South. NY	03/05/03	07/22/03	07/31/03	09/17/03	139	148	196
27	P. Kevin Castel	South. NY	03/05/03	07/22/03	07/31/03	09/17/03	139	148	196
28	Samuel Der-Yeghiayan	North. IL	03/05/03	06/25/03	07/10/03	07/14/03 89-0 vote	112	127	131
29	David G. Campbell	AZ	03/13/03	04/30/03	06/12/03	07/08/03 92-0 vote	48	91	117
30	John A. Woodcock Jr.	ME	03/27/03	05/22/03	06/05/03	06/12/03	56	70	77
31	Mark R. Kravitz	CT	03/27/03	05/22/03	06/05/03	06/11/03 97-0 vote	56	70	76
32	L. Scott Coogler	North. AL	03/27/03	05/07/03	05/15/03	05/22/03	41	49	56
33	Thomas M. Hardiman	West. PA	04/09/03	05/22/03	06/26/03	10/22/03	43	78	196
34	J. Ronnie Greer	East. TN	04/09/03	05/22/03	06/05/03	06/11/03 97-0 vote	43	57	63
35	Robert C. Brack	NM	04/28/03	06/25/03	07/10/03	07/14/03	58	73	77
36	James O. Browning	NM	04/28/03	07/09/03	07/24/03	07/31/03	72	87	94
37	Glen E. Conrad	West. VA	04/28/03	07/30/03	09/04/03	09/22/03 89-0 vote	93	129	147
38	Robert J. Conrad Jr.	West. NC	04/28/03	—	—	Returned 12/08/04 <sup>d</sup>	—	—	—
39	Mark R. Filip	North. IL	04/28/03	10/28/03	11/06/03	02/04/04 96-0 vote	183	192	282
40	Kim R. Gibson	West. PA	04/28/03	07/30/03	09/04/03	09/23/03 94-0 vote	93	129	148

## CRS-79

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
41	Dora L. Irizarry	East. NY	04/28/03	10/01/03	10/30/03	06/24/04	156	185	423
42	H. Brent McKnight	West. NC	04/28/03	07/22/03	07/24/03	07/31/03	85	87	94
43	Daniel P. Ryan	East. MI	04/28/03	—	—	Returned 12/08/04 <sup>d</sup>	—	—	—
44	Gary L. Sharpe	North. NY	04/28/03	10/15/03	10/23/03	01/28/04 95-0 vote	170	178	275
45	Lonny R. Suko	East. WA	04/28/03	06/25/03	07/10/03	07/15/03 94-0 vote	58	73	78
46	Roger T. Benitez	South. CA	05/01/03	02/25/04	04/01/04	06/17/04 98-1 vote	300	336	413
47	Larry Alan Burns	South. CA	05/01/03	07/30/03	09/04/03	09/24/03 91-0 vote	90	126	146
48	Kathleen Cardone	West. TX	05/01/03	07/09/03	07/17/03	07/28/03	69	77	88
49	James I. Cohn	South. FL	05/01/03	07/09/03	07/17/03	07/31/03 96-0 vote	69	77	91
50	Marcia A. Crone	East. TX	05/01/03	09/03/03	09/25/03	09/30/03 91-0 vote	125	147	152
51	Dale S. Fischer	Cent. CA	05/01/03	10/15/03	10/23/03	10/27/03 86-0 vote	167	175	179
52	William Q. Hayes	South. CA	05/01/03	09/03/03	09/25/03	10/02/03 98-0 vote	125	147	154
53	John A. Houston	South. CA	05/01/03	09/03/03	09/25/03	10/02/03	125	147	154
54	Frank Montalvo	West. TX	05/01/03	07/09/03	07/17/03	07/31/03 95-0 vote	69	77	91

## CRS-80

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
55	R. David Proctor	North. AL	05/01/03	07/22/03	07/31/03	09/17/03 98-0 vote	82	91	139
56	Xavier Rodriguez	West. TX	05/01/03	07/09/03	07/17/03	07/31/03	69	77	91
57	Dana Makoto Sabraw	South. CA	05/01/03	07/30/03	09/04/03	09/25/03 95-0 vote	90	126	147
58	Earl Leroy Yeakel III	West. TX	05/01/03	06/25/03	07/10/03	07/28/03 91-0 vote	55	70	88
59	Michael W. Mosman	OR	05/08/03	07/30/03	09/04/03	09/25/03 93-0 vote	83	119	140
60	Henry F. Floyd	SC	05/15/03	07/30/03	09/04/03	09/22/03 89-0 vote	76	112	130
61	Ronald A. White	East. OK	05/15/03	09/03/03	09/25/03	09/30/03 93-0 vote	111	133	138
62	Robert Clive Jones	NV	06/09/03	09/03/03	09/25/03	10/02/03	86	108	115
63	Phillip S. Figa	CO	06/09/03	09/03/03	09/25/03	10/02/03	86	108	115
64	Roger W. Titus	MD	06/18/03	09/17/03	10/02/03	11/05/03 97-0 vote	91	106	140
65	Margaret Catharine Rodgers	North. FL	07/14/03	09/17/03	10/02/03	10/20/03 82-0 vote	65	80	98
66	F. Dennis Saylor IV	MA	07/30/03	11/12/03	03/04/04	06/01/04 89-0 vote	105	218	307
67	Sandra L. Townes	East. NY	08/01/03	11/12/03	03/04/04	06/03/04 95-0 vote	103	216	307

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No.	Name of nominee	District	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
68	Kenneth M. Karas	South. NY	09/18/03	11/19/03	03/04/04	06/03/04 95-0 vote	62	168	259
69	Judith C. Herrera	NM	09/23/03	11/12/03	03/04/04	06/03/04 93-0 vote	50	163	254
70	Louis Guirola Jr.	South. MS	09/23/03	11/19/03	03/04/04	03/12/04 92-0 vote	57	163	171
71	Virginia E. Hopkins	North. AL	10/14/03	11/19/03	03/04/04	06/15/04 98-0 vote	36	142	245
72	Ricardo S. Martinez	West. WA	10/14/03	01/22/04	03/04/04	06/15/04 98-0 vote	100	142	245
73	Neil Vincent Wake	AZ	10/22/03	01/22/04	03/04/04	03/12/04	92	134	142
74	Walter D. Kelly Jr.	East. VA	10/31/03	03/10/04	04/01/04	06/23/04 94-0 vote	131	153	236
75	Gene E. K. Pratter	East. PA	11/03/03	01/22/04	03/04/04	06/15/04 98-0 vote	80	122	225
76	Peter G. Sheridan	NJ	11/05/03	—	—	Returned 12/08/04 <sup>d</sup>	—	—	—
77	William S. Duffey Jr.	North. GA	11/05/03	02/05/04	03/04/04	06/16/04 97-0 vote	92	120	224
78	Lawrence F. Stengel	East. PA	11/06/03	02/05/04	03/11/04	06/16/04 97-0 vote	91	126	223
79	Jane J. Boyle	North. TX	11/24/03	03/10/04	04/01/04	06/17/04 99-0 vote	107	129	206
80	Marcia G. Cooke	South. FL	11/25/03	03/10/04	04/01/04	05/18/04 96-0 vote	106	128	175

## CRS-82

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
81	Curtis V. Gomez	VI	11/25/03	04/08/04	04/29/04	11/21/04	135	156	362
82	Juan R. Sanchez	East. PA	11/25/03	02/11/04	03/11/04	06/23/04 98-0 vote	78	107	211
83	James L. Robart	West. WA	12/09/03	02/11/04	03/11/04	06/17/04 99-0 vote	64	93	191
84	Paul S. Diamond	East. PA	01/20/04	03/24/04	04/01/04	06/16/04 97-0 vote	64	72	148
85	Robert Bryan Harwell	SC	01/20/04	04/08/04	04/29/04	06/24/04	79	100	156
86	George P. Schiavelli	Cent. CA	01/20/04	04/08/04	04/29/04	06/24/04	79	100	156
87	Raymond L. Finch	VI	02/20/04	09/08/04	09/30/04	11/21/04	200	222	274
88	Michael H. Watson	South. OH	04/06/04	06/04/04	07/08/04	09/07/04	59	93	154
89	Virginia Maria Hernandez Covington	Mid. FL	04/20/04	06/16/04	07/20/04	09/07/04 91-0 vote	57	91	140
90	Michael H. Schneider Sr.	East. TX	05/17/04	07/07/04	07/20/04	09/07/04 92-1 vote	51	64	113
91	Micaela Alvarez	South. TX	06/16/04	09/08/04	09/30/04	11/20/04	84	106	157
92	Keith Starrett	South. MS	07/06/04	09/08/04	09/30/04	11/21/04	64	86	137
93	Christopher A. Boyko	North. OH	07/22/04	09/22/04	10/04/04	11/21/04	62	74	122
94	Paul A. Crotty	South. NY	09/07/04	11/16/04	—	Returned 12/08/04 <sup>d</sup>	70	—	—
95	Sean F. Cox	East. MI	09/10/04	—	—	Returned 12/08/04 <sup>d</sup>	—	—	—

No.	Name of nominee	District	Date				Days from nomination date to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
96	J. Michael Seabright	HI	09/15/04	11/16/04	—	Returned 12/08/04 <sup>d</sup>	62	—	—
Number of days elapsed from date received in Senate						Mean <sup>f</sup>	85	111	156
						Median <sup>g</sup>	76	106	140

- a. The “Committee action” date, unless a note indicates otherwise, is the date on which the Senate Judiciary Committee voted to report a nomination favorably to the Senate.
- b. A date standing alone is the date of Senate confirmation. A vote tally underneath the date is the roll call vote by which the nomination was confirmed. The absence of a roll call vote indicates that the nomination was confirmed by voice vote or by unanimous consent. Where final action was not a Senate vote to confirm, the type of final action is specified, along with the date. “Returned” indicates that the Senate returned a nomination to the President (upon a Senate adjournment or recess of more than 30 days).
- c. Resubmission; see earlier nomination in 107<sup>th</sup> Congress.
- d. Nominee was renominated in the 109<sup>th</sup> Congress, on 02/14/2005.
- e. On a committee vote of 10-9, the nomination was reported without recommendation.
- f. The “Mean,” or average, is the sum of the number of elapsed days for all of the nominations in question divided by the number of those nominations.
- g. In each “Median” cell, the number represents (1) the elapsed time for the nomination in the middle of the distribution of all the nominations in question, with an equal number of the nominations having longer elapsed times than that nomination and an equal number of nominations having shorter elapsed times; or (2) the arithmetic mean of the elapsed times for the two nominations in the middle of the distribution if there is no one middle nomination.

## Appendix 8. President George W. Bush's Nominations to the U.S. District Courts During the 109<sup>th</sup> Congress, January 4, 2005-April 7, 2006

No.	Name of Nominee	District	Date				Days from Nomination to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
1	J. Michael Seabright <sup>c</sup>	HI	02/14/05	<sup>d</sup>	03/17/05	04/27/05 98-0	—	31	72
2	Daniel P. Ryan <sup>c</sup>	East. MI	02/14/05	—	—	Withdrawn 03/30/06	—	—	—
3	Thomas L. Ludington <sup>c</sup>	East. MI	02/14/05	—	—	—	—	—	—
4	Sean F. Cox <sup>c</sup>	East. MI	02/14/05	—	—	—	—	—	—
5	James C. Dever III <sup>c</sup>	East. NC	02/14/05	03/03/05	04/14/05	04/28/05	17	59	73
6	Robert J. Conrad Jr. <sup>c</sup>	West. NC	02/14/05	03/03/05	04/14/05	04/28/05	17	59	73
7	Peter G. Sheridan <sup>c</sup>	NJ	02/14/05	—	—	—	—	—	—
8	Paul A. Crotty <sup>c</sup>	South. NY	02/14/05	<sup>d</sup>	03/17/05	04/11/05 95-0	—	31	56
9	Brian E. Sandoval	NV	03/01/05	09/29/05	10/20/05	10/24/05 89-0	212	233	237
10	John Richard Smoak	North. FL	06/08/05	09/29/05	10/20/05	10/27/05 97-0	113	134	141
11	Timothy Mark Burgess	Alaska	07/28/05	11/01/05	11/17/05	12/21/05	96	112	146
12	Joseph Frank Bianco	East. NY	07/28/05	11/01/05	11/17/05	12/21/05	96	112	146
13	Harry Sandlin Mattice Jr.	East. TN	07/28/05	09/29/05	10/20/05	10/24/05 91-0	63	84	88



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No.	Name of Nominee	District	Date				Days from Nomination to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
14	Gregory F. Van Tatenhove	East. KY	09/13/05	11/01/05	11/17/05	12/21/05	49	65	99
15	Timothy C. Batten Sr.	North. GA	09/28/05	02/07/06	02/16/06	03/06/06 88-0	132	141	159
16	Kristi K. DuBose	South. AL	09/28/05	11/15/05	11/17/05	12/21/05	48	50	84
17	Thomas E. Johnston	South. WV	09/28/05	02/07/06	02/16/06	03/06/06 89-0	132	141	159
18	Virginia Mary Kendall	North. IL	09/28/05	11/15/05	11/17/05	12/21/05	48	50	84
19	W. Keith Watkins	Mid. AL	09/28/05	11/15/05	11/17/05	12/21/05	48	50	84
20	Eric N. Vitaliano	East. NY	10/06/05	11/01/05	11/17/05	12/21/05	26	42	76
21	Aida M. Delgado-Colon	PR	10/25/05	02/07/06	02/16/06	03/06/06	105	114	132
22	Patrick J. Schiltz	MN	12/14/05	03/01/06	03/30/06	—	77	106	—
23	Jack Zouhary	North. OH	12/14/05	02/15/06	03/02/06	03/16/06 96-0	63	78	92
24	Stephen G. Larson	Cent. CA	12/15/05	02/15/06	03/02/06	03/16/06	62	77	91
25	Michael R. Barrett	South. OH	12/16/05	03/29/06	—	—	103	—	—
26	Vanessa L. Bryant	CT	01/25/06	—	—	—	—	—	—
27	Renee M. Bumb	NJ	01/25/06	—	—	—	—	—	—
28	Brian M. Cogan	East. NY	01/25/06	03/29/06	—	—	63	—	—
29	Thomas M. Golden	East. PA	01/25/06	03/29/06	—	—	63	—	—
30	Andrew J. Guildford	Cent. CA	01/25/06	—	—	—	—	—	—
31	Noel L. Hillman	NJ	01/25/06	—	—	—	—	—	—

No.	Name of Nominee	District	Date				Days from Nomination to:		
			Received	Hearing	Committee action <sup>a</sup>	Senate vote <sup>b</sup>	Hearing	Committee action	Senate vote
32	Gray H. Miller	South. TX	01/25/06	03/14/06	03/30/06	—	48	64	—
33	Susan D. Wigenton	NJ	01/25/06	—	—	—	—	—	—
34	Jerome A. Holmes	North. OK	02/14/06	—	—	—	—	—	—
35	Frank D. Whitney	West. NC	02/14/06	—	—	—	—	—	—
Number of days elapsed from date received in Senate						Mean <sup>e</sup>	76	87	110
						Median <sup>f</sup>	63	77	91

- a. The “Committee action” date, unless a note indicates otherwise, is the date on which the Senate Judiciary Committee voted to report a nomination favorably to the Senate.
- b. A date standing alone is the date of Senate confirmation. A vote tally underneath the date is the roll call vote by which the nomination was confirmed. The absence of a roll call vote indicates that the nomination was confirmed by voice vote or by unanimous consent. Where final action was not a Senate vote to confirm, the type of final action is specified, along with the date. “Returned” indicates that the Senate returned a nomination to the President (upon a Senate adjournment or recess of more than 30 days).
- c. Resubmission; see earlier nomination in 108<sup>th</sup> Congress.
- d. Hearing held on earlier nomination in 108<sup>th</sup> Congress.
- f. The “Mean,” or average, is the sum of the number of elapsed days for all of the nominations in question divided by the number of those nominations.
- g. In each “Median” cell, the number represents (1) the elapsed time for the nomination in the middle of the distribution of all the nominations in question, with an equal number of the nominations having longer elapsed times than that nomination and an equal number of nominations having shorter elapsed times; or (2) the arithmetic mean of the elapsed times for the two nominations in the middle of the distribution if there is no one middle nomination.