



May 9, 2001

President Names Eleven Extraordinary Lawyers to the Federal Bench

President George W. Bush today nominated 11 outstanding Americans to the U.S. Courts of Appeals. In making his selections, the President focused on character, integrity, fairness, experience, and intellect — and on the time-honored American principle that judges should interpret the law and not legislate from the bench. Each nominee has demonstrated outstanding legal abilities, the highest ethical standards, and a proven record of service to diverse communities. The nominees are:

District of Columbia Circuit: John G. Roberts and Miguel A. Estrada

Second Circuit (Conn., N.Y., Vt.): Barrington D. Parker, Jr.

Fourth Circuit (Md., N.C., S.C., Va., W. Va.): Roger L. Gregory; Dennis W. Shedd; and Terrence W. Boyle

Fifth Circuit (La., Miss., Tex.): Edith Brown Clement and Priscilla Owen

Sixth Circuit (Ky., Mich., Ohio, Tenn.): Jeffrey S. Sutton and Deborah L. Cook

Tenth Circuit (Colo., Kan., N. Mex., Okla., Ut., Wyo.): Michael W. McConnell

President Bush's Historic Bipartisanship. In making his selections, the President consulted with Senators from both parties and with many others. The President will continue this practice so that these and other outstanding nominees may be confirmed in a timely manner.

The President promised to bring a new spirit of cooperation to the Nation's Capital, and that promise was emphatically re-affirmed today. Of today's nominees, five are sitting federal judges — and two of them were appointed to their current positions by President Clinton. President Bush has renominated Judge Roger Gregory to the United States Court of Appeals for the Fourth Circuit. Judge Gregory was put on the court by President Clinton with a recess appointment. This may be the first time in the history of the country that a president of one party has renominated a circuit judge who originally was nominated by a president of the other party.

In a letter of May 2, 2001 to Democratic Senators on the Judiciary Committee, White House Counsel Alberto Gonzales acknowledged “the need for the Administration and the Senate to work together constructively to ensure the smooth confirmation of federal judges.” He added, “In all cases, you may be certain that we will work hard to ensure that home state Senators will have a suitable opportunity to express their views concerning possible nominees well in advance of nomination.”

Senate’s Action on a President’s Nominees. Historically, new presidents have had cooperation in the Senate. For example, the 95th Congress confirmed 93 percent of President Carter’s judicial nominees. The 97th Congress confirmed 98 percent of President Reagan’s judicial nominees. The 101st Congress confirmed 93 percent of President Bush’s judicial nominees. The 103^d Congress confirmed 90 percent of President Clinton’s judicial nominees.

“Judicial Emergencies” Require Prompt Action. Today’s action by the President — and subsequent necessary action by the Senate — will help address a serious problem in the federal judiciary. At present, there are 31 vacancies in the United States Courts of Appeals, which is about 17 percent of the total. The Administrative Office of the U.S. Courts has declared 15 of these vacancies as “judicial emergencies,” and eight of today’s nominees will fill “emergency” slots.

Reagan, Clinton, and a Republican Senate. During the two terms of President Clinton’s presidency, the Senate confirmed 377 judges, which is just five short of the record set during President Reagan’s two terms. (Senator Hatch says that even more judges would have been confirmed last year “had it not been for Democratic holds on President Clinton’s nominees” who had been reported by the Judiciary Committee.) It is illuminating to compare the Reagan and Clinton terms because both presidents faced Republican-controlled Senates for six of their eight years: The Republican president had 382 judges confirmed; the Democratic president had 377 judges confirmed.

Senate Precedents. Of the 377 judges confirmed during the Clinton years, nearly 60 percent were from states that had at least one Republican Senator. When President Clinton left office, 41 nominees were left unconfirmed by the Republican-controlled Senate. When the first President Bush left office, 53 nominees were left unconfirmed by the Democratic-controlled Senate.

The American people, the President, and Senate Republicans hope, and expect, that these nominees and subsequent nominees will be moved through the Senate in a fair and timely manner, without resort to obstructionist tactics.

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[John Oliphant, Brigham Young University class of 2004, assisted in the preparation of this paper. The data on confirmation rates were taken from a memorandum of the Congressional Research Service, “Judicial appointments and vacancy statistics, 1977-1999,” January 3, 2000. Additional information was taken from a letter from Chairman Hatch to Judiciary Committee Democrats, May 7, 2001. Other information was provided by the White House.]

Brief Biographies of President Bush's Judicial Nominees of May 9, 2001

U.S. Court of Appeals for the District of Columbia Circuit

John G. Roberts

Roberts, 46, is currently a partner at Hogan & Hartson in Washington, D.C. Roberts was Principal Deputy Solicitor General of the United States from 1989 to 1993. Roberts represented interested States in the Microsoft litigation. In addition to his 11 years of private practice, Roberts served as Associate Counsel to President Reagan and as Special Assistant to Attorney General William French Smith. He clerked for then-Associate Justice William H. Rehnquist on the U.S. Supreme Court and in the U.S. Court of Appeals for Second Circuit. Roberts has argued 33 cases before the U.S. Supreme Court. He graduated with honors from Harvard Law School and Harvard College.

Miguel Angel Estrada

Estrada, 39, served as Assistant to the Solicitor General for five years in both the Bush and Clinton Administrations. Before that, he served as an Assistant U.S. Attorney in the Southern District of New York, where he became Deputy Chief of the Appellate Section in the Office. Estrada served as a law clerk for Justice Anthony M. Kennedy on the U.S. Supreme Court and was a law clerk on the U.S. Court of Appeals for the Second Circuit. Estrada is currently a partner at Gibson Dunn & Crutcher. Estrada has argued 15 cases before the U.S. Supreme Court, both for the government and as a private attorney. He graduated with honors from Columbia College and Harvard Law School. Estrada was born in Honduras, immigrating to the U.S. as a teenager.

U.S. Court of Appeals for the Second Circuit (Connecticut, New York, Vermont)

Barrington D. Parker, JR.

Judge Parker, 57, was appointed by President Clinton to the U.S. District Court for the Southern District of New York in 1994. He was listed as one of New York's best judges in a 1998 *New York Post* survey of New York lawyers and judges. Judge Parker was in private practice from 1970 to 1994. He clerked on the U.S. District Court for the District of Columbia. Judge Parker graduated from Yale College and Yale Law School.

U.S. Court of Appeals for the Fourth Circuit (Maryland, North Carolina, South Carolina, Virginia, West Virginia)

Dennis W. Shedd

Judge Shedd, 48, is currently a U.S. District Judge for the District of South Carolina, appointed by President Bush in 1990. Judge Shedd has already sat by designation on the Fourth Circuit and heard over 30 cases and written several opinions. Judge Shedd is the former Chief Counsel and Staff

Director for the Senate Judiciary Committee serving under Chairman Strom Thurmond. He worked in the Senate for 10 years. He also was in private practice and was an adjunct professor of law at the University of South Carolina. Judge Shedd is a graduate of Wofford College and the University of South Carolina Law School. He received an advanced degree (L.L.M.) from Georgetown University Law School.

Terrence W. Boyle

Judge Boyle, 55, is currently the Chief Judge of the U.S. District Court for the Eastern District of North Carolina, appointed by President Reagan in 1984. He was nominated to the Fourth Circuit in 1991 by President Bush, but did not receive a hearing. He has sat on other district courts in the Fourth Circuit by appointment of the Chief Judge. Judge Boyle also has sat by designation on the Fourth Circuit numerous times. Chief Justice Rehnquist appointed Boyle twice to important committees of the U.S. Judicial Conference. He began his career as a congressional aide. He spent 10 years in private practice prior to taking the bench. Judge Boyle is a graduate of Brown University and American University Law School.

Roger L. Gregory

Judge Gregory, 47, was originally nominated to the Fourth Circuit by President Clinton. When he failed to be confirmed before the end of President Clinton's term, President Clinton made a recess appointment. Judge Gregory has been sitting as a judge of the Fourth Circuit for the past several months. Previously, he was managing partner of his own law firm in Richmond, Virginia, and also worked as an associate in two other law firms. Gregory enjoys the support of numerous Senate Democrats, as well as the Republican Senators from his home state of Virginia. He graduated from Virginia State University and Michigan Law School.

U.S. Court of Appeals for the Fifth Circuit (Louisiana, Mississippi, Texas)

Edith Brown Clement

Judge Clement, 53, has been a Federal District Court Judge since 1991. She clerked in the U.S. District Court for Eastern Louisiana. She spent 16 years in private practice in New Orleans. She received her J.D. from Tulane University and her B.A. from the University of Alabama. Judge Clement has been active in a variety of professional organizations, including the American Bar Association and the Federal Bar Association. She has sat on the Fifth Circuit's Judicial Council where she was the District Court Representative.

Priscilla Owen

Justice Owen, 46, is currently serving her seventh year as Associate Justice of the Texas Supreme Court. She is the second woman ever to be elected to the Texas Supreme Court. Justice Owen was re-elected by a wide margin in November, 2000 to a second six-year term. Justice Owen was a partner at Andrews & Kurth in Houston, where she worked for 17 years. Justice Owen graduated from Baylor University and with honors from Baylor Law School.

U.S. Court of Appeals for the Sixth Circuit (Kentucky, Michigan, Ohio, Tennessee)

Jeffrey S. Sutton

Sutton, 40, served for three years as Solicitor of the State of Ohio. He won the Best Brief Award from the National Association of Attorneys General four years in a row. Sutton has argued 12 cases before the Ohio Supreme Court, nine cases before the U.S. Supreme Court, and six cases before the Sixth Circuit. Since 1994, Sutton has taught constitutional law as an adjunct professor of law at Ohio State College of Law. Sutton has practiced law privately for a number of years. He clerked on the Second Circuit and then for Retired Justice Powell and Justice Scalia on the U.S. Supreme Court. Sutton is an honors graduate of Williams College and Ohio State University Law School.

Deborah L. Cook

Justice Cook, 49, has served on the Ohio Supreme Court since her 1994 election. She was reelected in 2000. She previously served on the Ohio Court of Appeals, and altogether has 10 years of appellate judicial experience. She was in private practice for 15 years, rising to partner in her Ohio law firm. Among her many community leadership activities, she and her husband founded a mentored college scholarship program benefitting 23 underprivileged children from the 4th grade through graduation, with the guarantee of four years' college tuition. Justice Cook graduated from the University of Akron and University of Akron Law School.

U.S. Court of Appeals for the Tenth Circuit (Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming)

Michael W. McConnell

McConnell, 45, served as Assistant Solicitor General at the U.S. Department of Justice and as Assistant General Counsel at the Office of Management and Budget under President Reagan. Currently a professor at the University of Utah College of Law, McConnell also has taught at the University of Chicago Law School and at Harvard Law School. Professor McConnell is widely regarded as a top legal scholar in the field of constitutional law and theory, with a specialty in the religion clauses of the First Amendment. He has argued 11 cases before the U.S. Supreme Court and has written numerous briefs and petitions to the U.S. Supreme Court, lower federal courts, and state courts. McConnell clerked for Justice William J. Brennan of the U.S. Supreme Court, and for the U.S. Court of Appeals for the D.C. Circuit. McConnell graduated with honors from the University of Chicago Law School and from Michigan State University.