

SAVE OUR COURTS

Federal courts are being packed with extremist, anti-LGBTQ judges. Your vote this November can stop the damage from getting worse.

On September 18, our movement was dealt a devastating blow: the loss of Supreme Court Justice Ruth Bader Ginsburg, a longtime ally of LGBTQ rights. Alarm about the future of the Supreme Court is understandable, as our victories there have been incredibly important in our fight for full legal and lived equality. But we must also remember the pivotal role the lower courts play in shaping our lives and liberties.

Take, for instance, Arianna Inurritegui-Lint, a transgender immigrant from Peru living with HIV. She founded Arianna's Center, a member organization of The TransLatin@ Coalition, which helps trans folks in South Florida and Puerto Rico navigate their healthcare and legal matters. A lawyer by trade in Peru, she faced discrimination at every turn and migrated to the United States, where she resorted to sex work to pay for transition-related health care needs. Such care is expensive and, at the time, generally excluded from health insurance plans, which means she needed to go to informal and medically unlicensed providers.

Then came The Affordable Care Act (Obamacare),



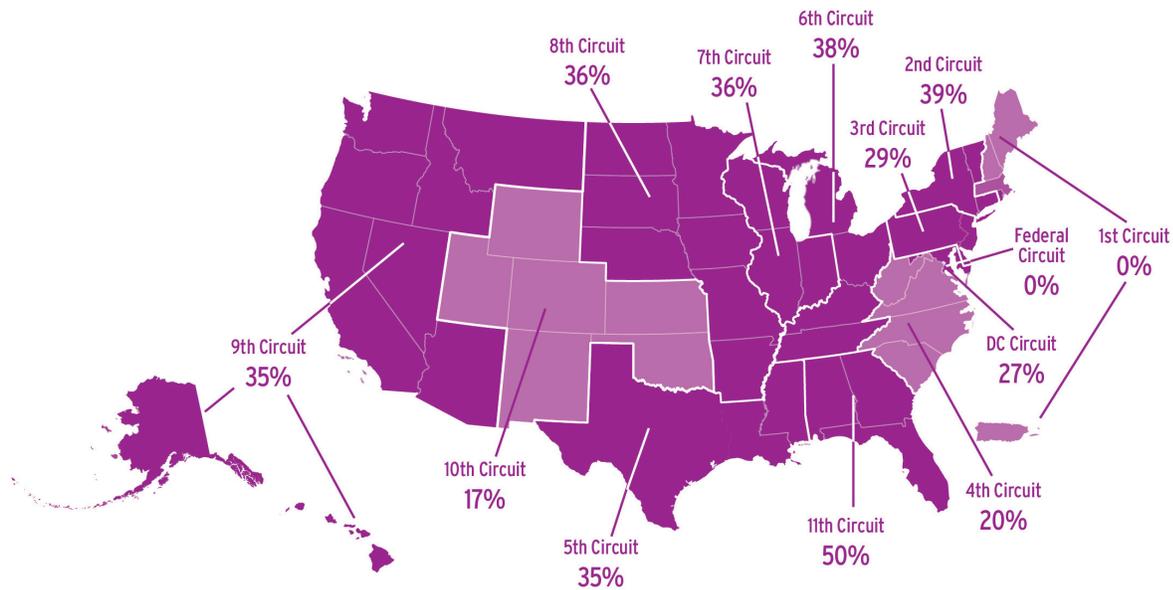
TAKING ON TRANSPHOBIA IN FEDERAL COURT:

After negative experiences navigating the health care system as a transgender woman and a Spanish-speaker, **Arianna Inurritegui-Lint**, volunteered with a public health clinic for years to educate providers about how to respectfully treat transgender patients.

under which the Obama administration finalized a rule in 2016 prohibiting discrimination in health care against LGBTQ people. This made it easier for many transgender and gender-nonconforming people to access critical and oftentimes lifesaving care. But in 2020, the Trump administration's Department of Health and Human Services rolled back the rule, inviting health care providers to discriminate against LGBTQ folks. On behalf of D.C.'s Whitman-Walker Health and The TransLatin@ Coalition, as well as a number of other LGBTQ organizations and providers, Lambda Legal sued.

The case is before one of the 94 federal district courts where so many crucial issues, including those of life-and-death interest to LGBTQ people,

Trump nominees now represent 25% or more of judges in **nine of the country's 13 circuit courts.**



are ruled on before they may bubble up to the 13 circuit appeals courts and, possibly, “the Supremes.”

THE ASSAULT ON FEDERAL COURTS

Within hours of the news of Justice Ginsburg’s death, Senate Majority Leader Mitch McConnell gloated that he would bring President Trump’s pick for that seat—his third Supreme Court nomination—to the floor for a vote. This should come as no surprise, as over the past three and a half years, the Trump administration has packed the lower courts—and Mitch McConnell’s GOP-led Senate have ushered through—a truly frightening number of extremist judges, many of whom have records displaying their anti-LGBTQ bias. In late July, the Senate confirmed Trump’s 200th judicial appointment.

Now, over 30 percent of the seats on the influential circuit courts of appeals are held by Trump’s hand-picked conservatives, most of them groomed for such seats within the ultra-conservative Federalist Society. Their average age at time of appointment was 48—considerably younger than judges confirmed by previous administrations—meaning that, with their lifetime terms—which could extend, in some cases, into the 2050’s—they have an outsized influence on the courts that will be felt for decades, long after Trump is gone.

“This quiet but vicious assault on our judiciary is the most far-reaching and long-lasting of any attack this Administration has leveled against the LGBTQ community,” says Kylee Reynolds, Lambda Legal Fair Courts Project Fellow. “Never before has the need been so urgent to vote for politicians commit-

ted to confirming fair-minded judicial nominees.”

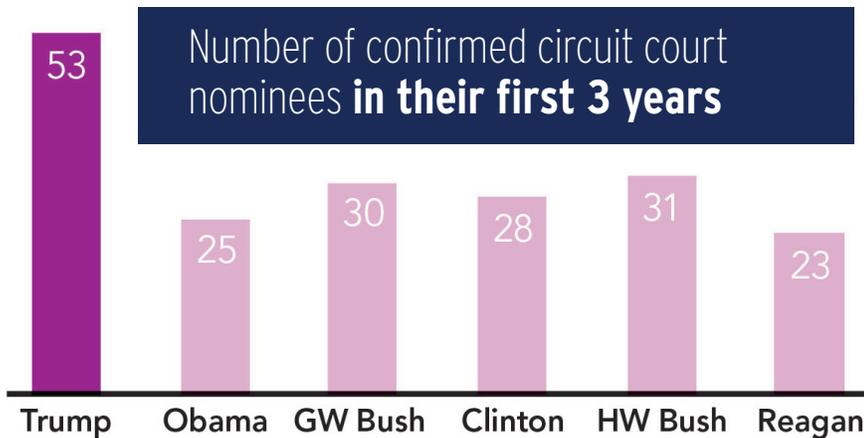
In this last newsletter before the November elections, we have one do-or-die message: You must vote in November, not only in the presidential race but in Senate races, especially in tightly contested swing states or one with a competitive Senate race. (Arizona, Florida, Georgia, Kansas, Kentucky, Maine, Michigan, Nevada, North Carolina, Ohio, Pennsylvania, and Wisconsin...we’re especially talking to you!)

And now, with a Supreme Court seat hanging in the balance, the stakes have never been higher.

TRANSFORMING THE JUDICIARY WITH DEVASTATING SPEED

The Trump Administration is often called bumbling and incompetent—but when it comes to fulfilling his judicial promises to the base that elected him, Trump has actually moved with alarming swiftness and efficiency. President Obama confirmed 55 circuit court picks over his eight years in office. Trump installed 53 in less than half that time. In fact, the Trump Administration is installing circuit court judges at nearly twice the speed of each of the last five presidential administrations.

Senate Republicans have been complicit in this swiftness. Last year, they did away with a Senate rule that allowed for 30 hours of debate on a district court judicial nominee. Now, Senators have just two hours to debate a lifetime appointment. This degrades the integrity of the advice and consent process, especially considering how frequently Trump’s nominees have failed to disclose important aspects of their records, such as controversial and inflammatory personal writings.



Number of confirmed circuit court nominees **in their first 3 years**

MANY NOMINEES HAVE ANTI-LGBTQ RECORDS

One in three of Trump's circuit court nominees had a demonstrated history of opposing LGBTQ equality. Lambda Legal has opposed 22 of the 53 circuit court nominees due to their anti-LGBTQ views, chosen in the last three years by the Trump administration. Many of them have been funneled in from conservative organizations.

Anti-LGBTQ Trump judges include Fifth Circuit judge Stuart Kyle Duncan, who argued that transgender people are "delusional," and Lawrence Van Dyke (U.S. Court of Appeals for the Ninth Circuit) whose views prompted the American Bar Association (ABA) to question "whether Mr. VanDyke would be fair to persons who are gay, lesbian, or otherwise part of the LGBTQ community."

Eighth Circuit judge L. Steven Grasz was unanimously rated "not qualified" by an American Bar Association (ABA) committee, on the grounds that he would be unable to put the law before his personal beliefs, particularly regarding transgender people. Grasz also served on the board of a Nebraska group that was pro-conversion therapy and anti-marriage equality.

UNQUALIFIED, 80% MALE, NEARLY ALL WHITE

The only circuit court judges to be confirmed in the last 30 years with a "not qualified" rating from the American Bar Association (ABA) are all Trump appointments. In addition to Grasz, Trump nominees Jonathan Kobes (8th Circuit Court of Appeals) and VanDyke received this shameful rating.

Of Kobes, the ABA said that "his career path has not resulted in sufficient evidence of a developed ability to do the written work of a United States Circuit Court judge" and questioned his understanding of "complex legal analysis" and "knowledge of the law."

Of VanDyke, the ABA's letter said that judges and

lawyers interviewed about him called him "arrogant," "lazy" and "an ideologue" who possesses an "entitlement temperament."

For our court system to be respected and seen as fully legitimate, its judges must reflect the diversity of the U.S. Yet 85 percent of Trump circuit court nominees are white (in a country that is only 60 percent white and non-Latinx) and almost 80 percent are men. None of the Trump nominees are Black and only one is Latinx.

PLEASE VOTE IN NOVEMBER

Come January 2021, who the president is and who controls the Senate will define whether the stacking of the courts with anti-LGBTQ ideologues continues for at least another two years, when the next round of Senate elections will take place. Many of the recent attacks we've seen—on everything from immigration and deregulation to health care and LGBTQ protections—have thus far been blocked by federal courts, but it won't stay that way if more bad judges come onto the courts.

The time to act is upon us. **LL**

EXTREMISTS ON THE BENCH

Some of the anti-LGBTQ judges appointed and confirmed to federal courts recently include



KYLE DUNCAN (U.S. Court of Appeals for the Fifth Circuit) has claimed being transgender is a "delusion" and has defended businesses that assert a religious right to refuse to serve same-sex couples.



STEVEN GRASZ (U.S. Court of Appeals for the Eighth Circuit) was rated "not qualified" by the American Bar Association on the grounds that he would be unable to set aside his views about transgender people.



LAWRENCE VANDYKE (U.S. Court of Appeals for the Ninth Circuit) has asserted that the freedom to marry for same-sex couples hurts families, children and society.

ELECTION PROTECTION



Make sure you are prepared to vote in your state's upcoming elections!

Find state specific information including:
voter registration & deadlines
absentee ballot information
election dates

**Call 866-OUR-VOTE
or visit 866ourvote.org**

*866-OUR-VOTE is administered by the Lawyers' Committee for Civil Rights Under Law on behalf of Election Protection, a national non-partisan coalition of over 100 local, state and national organizations.

Transgender, Gender-Nonconforming & Non-Binary Voters:

YOUR VOTE MATTERS

To learn what you need to know to register and vote, visit lambdalegal.org/vote



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