



THE ALARMING IMPACT OF TRUMP'S ANTI-LGBTQ+ FEDERAL JUDGES

As a legal organization dedicated to defending the rights of LGBTQ+ people and people living with HIV, Lambda Legal has long understood the need for fair and impartial courts to uphold these rights. When judges have a set of beliefs about a person, group of people, or legal issue before they appear in court, there is serious risk of prejudice that may impact the outcome of cases. As part of Lambda Legal's work to reduce bias in the justice system, we monitor and track federal judicial nominees. These candidates for the federal bench are nominated by the President and must be confirmed by the Senate. Once confirmed, these judicial appointees have lifetime roles as judges or justices and preside over many types of cases from criminal to civil rights.

During the Trump administration (2017- 2020), the Senate confirmed 234 federal judges nominated by former President Trump, including three of the nine current U.S. Supreme Court Justices. Many of these judges had a history of litigating against LGBTQ+ civil rights, publishing legal articles that criticize our fight for equality, and some even denying our existence and humanity. After thorough research into Trump's picks, Lambda Legal formally opposed 34 judicial nominees who we, due to evidence of anti-LGBTQ+ bias in their past, believed were not capable of being impartial and making decisions based on the facts and the law.¹ Of those 34 we opposed, 30 were confirmed by the Senate.

In January 2021, we provided the [first analysis](#) of the impact the Trump administration had in creating a nationwide judicial climate of hostility towards LGBTQ+ people and people living with HIV.

One key finding of this analysis was that at the end of Trump's term, close to 40 percent of the judges he had nominated to the courts of appeal had a previously demonstrated history of bias against the LGBTQ+ community.

Since then, the decisions of many judges nominated by former President Trump have clearly shown their hostility to LGBTQ+ people and to civil rights protections more broadly. The 30 confirmed judges Lambda Legal opposed have now made thousands of decisions on legal issues across the spectrum. As Lambda Legal predicted, many of those decisions have been harmful to our rights and some have shattered decades of bedrock, relied-upon precedent in ways that were unthinkable in the past. In this report we share examples from 19 of these 30 judges.² Lambda Legal's opposition letters for each judge are found at the links included with each judge's name.



U.S. SUPREME COURT

The most well-known nominations made by the former President were his three nominees to the U.S. Supreme Court: [Neil Gorsuch](#) (confirmed April 7, 2017), [Brett Kavanaugh](#) (confirmed October 6, 2018), and [Amy Coney Barrett](#) (confirmed October 26, 2020). These justices—all three confirmed under controversy—now make up one-third of the Supreme Court. Once on the bench, they all delivered on Trump’s campaign promise to overturn *Roe v. Wade*,³ eliminating the right to decide to end a pregnancy. While the decision in *Dobbs v. Jackson Women’s Health*⁴ directly impacted LGBTQ+ people and people living with HIV who need access to abortion, it also used flawed reasoning that could similarly eliminate many other fundamental personal and familial rights.

In *Masterpiece Cakeshop v. Colorado Civil Rights Commission*⁵ (decided prior to Justices Barrett and Kavanaugh joining the Court), *Fulton v. City of Philadelphia*,⁶ and *303 Creative LLC v. Elenis*,⁷ the Supreme Court gave limited but troubling exceptions from LGBTQ+ nondiscrimination laws to those claiming their religious or free speech rights had been violated. In *Masterpiece Cakeshop*, a case stemming from a baker’s refusal to provide a wedding cake for a same-sex couple, the Court’s majority found that instead of the couple’s rights being violated, it was the baker who had been wronged by state agency officials whose comments revealed improper bias against his religious beliefs. In 2021, the Court ruled in *Fulton* that the City of Philadelphia discriminated against Catholic Social Services (CSS), a religious foster care agency, by refusing to contract with them. The City refused because CSS’s policy against working with same-sex couples as foster parents violated the City’s law against hiring contractors to act on the City’s behalf that discriminate against LGBTQ+ people. Last year, in *303 Creative*, the justices decided that Colorado could not enforce a state anti-discrimination law against a Christian website designer who did not want to create wedding websites for same-sex couples because her intended approach to designing them would involve her own ideas and expressions, which have free speech protection. While all three cases are limited to narrow circumstances involving these particular plaintiffs, they continue to send the message that this Court favors certain parties’ freedom to discriminate against LGBTQ+ people.

In a significant 2020 win for LGBTQ+ rights, Justice Gorsuch wrote for the 6-3 majority in *Bostock v. Clayton County*,⁸ holding that an employer who fires someone for being LGBTQ+ violates the ban on sex discrimination included in Title VII of the Civil Rights Act of 1964. The logic for why discrimination based on sexual orientation or gender identity is a form of sex discrimination was consistent with lower court opinions, however, Justice Gorsuch ended the opinion with gratuitous language potentially limiting the decision’s application in future cases involving dress codes, restrooms, and other sex-specific matters, or potentially robust religious defenses. And still, despite Justice Gorsuch’s straightforward reasoning, Justice Kavanaugh dissented, rejecting the majority’s logic for Title VII coverage and saying the Court does not have authority to “expand” the statute.⁹ (Justice Barrett had not yet joined the Court). Meanwhile, Justice Gorsuch has sided with the other conservatives on each of the other cases implicating LGBTQ+ rights, including writing for the majority in *303 Creative* and concurring opinions in both *Masterpiece Cakeshop* and *Fulton*.



In addition, just in the last few years, Justices Gorsuch, Kavanaugh, and Barrett have also written the opinion, joined the majority, or written concurrences in the following cases, among others, that have curtailed or reversed the progress of the civil rights movement, shifted the balance of government powers, or harmed the foundation of the rule of law.

- *Alexander v. South Carolina Conference of NAACP* (2024),¹⁰ overturning the district court's decision that South Carolina congressional districts were the product of racial gerrymandering by the state legislature and allowing the gerrymandered maps to be used in the 2024 election.
- *Trump v. United States* (2024),¹¹ deciding for the first time that former presidents cannot be prosecuted for any action taken as part of the "core powers" of their office and that they are also entitled to presumed immunity for all "official" acts.
- *Loper Bright Enterprises v. Raimondo* (2024),¹² striking down the longstanding case that created the Chevron doctrine, which required courts to defer to a federal agency's interpretation of a law in most cases where there is ambiguity. This decision gives judges (and Supreme Court justices) much more power to decide what a law means and takes power away from the experts at agencies who work on these issues every day.
- *City of Grants Pass, Oregon v. Johnson* (2024),¹³ upholding a draconian law that essentially criminalizes homelessness, allowing police to arrest and cite people for camping on public property if there are beds available at a local shelter. Lambda Legal filed an [amicus brief](#) in support of the parties challenging this law.
- *Garland v. Cargill* (2024),¹⁴ striking down a ban on possessing a bump stock, a gun accessory that allows a rifle to rapid fire bullets.
- *Department of State v. Muñoz* (2024),¹⁵ holding a U.S. citizen with a non-citizen spouse does not have a fundamental liberty interest in their spouse being admitted to the country.
- *Securities & Exchange Commission v. Jarkesy* (2024),¹⁶ ruling that the SEC's internal administrative hearings violate the right to a jury trial. This kind of administrative hearing is used regularly within federal and state agencies. This decision will change the way the federal government functions going forward.
- *Students for Fair Admissions v. Harvard* (2023),¹⁷ striking down race-conscious policies in college admissions, which has already led to decline in admissions of Black students at some universities.¹⁸
- *Biden v. Nebraska* (2023),¹⁹ deciding that the Secretary of Education does not have the power to waive student loan debt.
- *New York State Rifle & Pistol Association v. Bruen* (2022),²⁰ striking down a New York gun regulation that required people carrying guns to show proper cause for doing so. The Court created a new test for considering gun regulations that has opened the door to lower courts striking down necessary gun regulations across the country.



CIRCUIT COURTS OF APPEAL

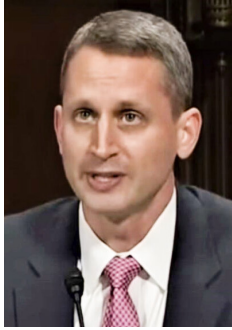
The Supreme Court only takes around 80 cases per term out of the 7,000 - 8,000 petitions they receive annually.²¹ Consequently, in most federal cases, it is the 13 Circuit Courts of Appeal that have the final say. Twelve regional courts cover all 50 states, U.S. territories, and the District of Columbia. The Federal Circuit hears appeals from across the country on specific areas of federal law. Lambda Legal opposed the confirmation of 22 Circuit Court judicial nominees chosen by former President Trump because of their history of anti-LGBTQ bias.²² Below is a sampling of decisions that 12 of these judges have written or joined since they were confirmed to their respective court, already confirming our prior concerns. Judges are listed in alphabetical order.



Andrew Brasher – Eleventh Circuit Court of Appeals. In 2023, Alabama’s trial court blocked a state ban on gender-affirming medical care for youth from going into effect.²³ On appeal, Judge Brasher wrote a concurring opinion, stating that this ban did not treat people differently because of their sex or sex stereotypes, and even if it did, Judge Brasher argued, it would survive an Equal Protection Clause challenge. The panel overturned the trial court’s decision and allowed the ban to go into effect.²⁴ The ban prevents transgender and nonbinary youth from accessing gender-affirming medical care until they are 19 years old, forcing them to experience puberty contrary to their gender identity, against the youths’ wishes, their doctors’ recommendations, and their parents’ supportive decisions. Furthermore, the ban makes it a felony for doctors to provide this medically necessary care to adolescents. In June of this year, Judge Brasher also wrote an opinion denying asylum to a transgender woman because he believed she did not prove a pattern or practice of persecution against transgender women in Mexico.²⁵ Lambda Legal filed an [amicus brief](#) in support of the petitioner.



John K. Bush – Sixth Circuit Court of Appeals. In an employment discrimination case,²⁶ Judge Bush affirmed the district court’s grant of summary judgement to employer where a gay employee was subjected to Bible verses being left on his desk, pink nail polish and other pink items being left on his desk, moved to a corner away from colleagues, and a written reprimand about incidents that had happened in the past, after he came out as gay. Prior to the Supreme Court’s decision in *Dobbs*, Judge Bush wrote the majority opinion in one case²⁷ and a concurring opinion in another²⁸ upholding abortion regulations and restrictions in Kentucky and Ohio, respectively, contrary to the then-governing protections of *Roe v. Wade* and subsequent precedent.



Kyle Duncan – Fifth Circuit Court of Appeals. In 2020, less than two years after his confirmation, Judge Duncan wrote one of the most offensive and anti-transgender decisions authored by a federal judge. He refused to call the transgender petitioner by her correct name and pronouns, consistently misgendering her throughout the opinion, despite her handwritten request for the court to simply use her correct pronouns. Judge Duncan concluded that “no authority supports the proposition that we may require litigants, judges, court personnel, or anyone else to refer to gender-dysphoric litigants with pronouns matching their subjective gender identity.”²⁹ Lambda Legal filed an [amicus brief](#) in support of the petitioner when she asked for a rehearing.



Joan Larsen – Sixth Circuit Court of Appeals. Judge Larsen has been the deciding vote in several cases that impact our communities, including blocking the Biden administration’s Title IX guidance that prohibits anti-LGBTQ+ discrimination in federally funded education³⁰ and ruling in favor of a professor who was fired for refusing to use a transgender student’s correct pronouns.³¹



Chad Readler – Sixth Circuit Court of Appeals. Judge Readler affirmed the district court’s grant of summary judgement in favor of employer in sexual orientation discrimination case where an employer told a gay employee to change his appearance, take down his relationship status on social media, and be more “masculine” so he could move up to a managerial role.³²



David Stras – Eighth Circuit Court of Appeals. Judge Stras wrote an opinion³³ ruling in favor of a Christian videography business challenging Minnesota’s public accommodations law because the owners didn’t want to be penalized for refusing to make wedding videos for same-sex couples. Stras wrote that forcing the business owners to produce the videos would be a form of compelled speech prohibited under the First Amendment. He thus decided that certain kinds of commercial businesses don’t have to follow one of the country’s earliest anti-discrimination laws to protect LGBTQ+ people.



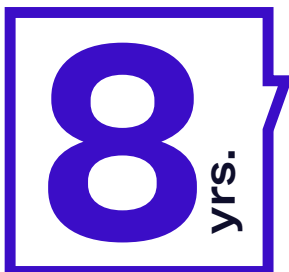
Lawrence VanDyke – Ninth Circuit Court of Appeals. In a case in which Lambda Legal filed an [amicus brief](#), Judge VanDyke ruled that beauty pageants may exclude transgender women based on a pageant’s free speech rights. In a blatant display of anti-trans as well as cultural bias, he wrote, “[i]t is commonly understood that beauty pageants are generally designed to express the ‘ideal vision of American womanhood.’”³⁴



Justin Walker – D.C. Circuit Court of Appeals. While a judge on the District Court for the Western District of Kentucky, Judge Walker issued a preliminary injunction against the Louisville/Jefferson County Metro Government preventing them from enforcing the county nondiscrimination ordinance against Chelsea Nelson Photography, a business that refused to take wedding photographs for same-sex couples’ weddings due to religious objections.³⁵ This decision came after his nomination to the D.C. Circuit and Lambda Legal’s opposition to his confirmation. Former President Trump also nominated him to his seat on the Western District of Kentucky.



Don Willett³⁶ – Fifth Circuit Court of Appeals. Judge Willett, wrote for a unanimous panel upholding a permanent injunction prohibiting the Department of Health and Human Services (HHS), from enforcing a nondiscrimination rule against several Christian medical groups. The rule, which addressed section 1557 of the Affordable Care Act (ACA), prohibited healthcare providers that receive federal funding or participate in ACA exchanges from discriminating on the basis of gender identity or termination of pregnancy.³⁷ Relying on junk science, Judge Willett also co-wrote the majority en banc decision upholding a Texas ban on D&E abortions, the standard abortion procedure after 14-15 weeks of pregnancy. Judge Willett opined that this ban on abortion procedures did not put a substantial obstacle in the way of accessing an abortion. This was the first circuit court decision to uphold such a ban.³⁸



**IN JUST EIGHT YEARS,
THE JUDGES AND JUSTICES THAT LAMBDA LEGAL
OPPOSED DURING THE TRUMP ADMINISTRATION
HAVE DONE SERIOUS DAMAGE TO OUR CIVIL
RIGHTS AND TO OUR DEMOCRACY.**



WHILE NOT ALL THE CIRCUIT JUDGES LAMBDA LEGAL OPPOSED HAVE WRITTEN OPINIONS IN LGBTQ+ RIGHTS CASES, MANY HAVE STILL MADE DECISIONS THAT NEGATIVELY IMPACT OUR RIGHTS AND OUR DEMOCRACY. FOR EXAMPLE:



L. Steven Gras – Eighth Circuit Court of Appeals. Found that the Biden administration’s effort to prohibit pistol braces (devices to stabilize guns for one-handed usage) was likely arbitrary and capricious in violation of the Administrative Procedures Act, overturning the lower court’s decision to deny the plaintiff’s a preliminary injunction, and remanding it back to the lower court to consider the motion again.³⁹



Gregory Katsas – D.C. Circuit Court of Appeals. Dissented from a decision ruling that a January 6th defendant could be charged with corruptly obstructing, influencing, or impeding an official proceeding.⁴⁰ The Supreme Court, voting 6-3, agreed with his dissent, which significantly narrowed the federal statute and overturned the Circuit majority’s decision this past summer.⁴¹



Cory Wilson – Fifth Circuit Court of Appeals. Wrote the majority opinion striking down the funding structure of the Consumer Financial Protection Bureau (CFPB), holding it violated the “Appropriation Clause and the Constitution’s underlying structural separation of powers.”⁴² The CFPB establishes and enforces regulations on consumer finance companies to protect people from fraud, deception, and other abuses. It has the power to hold these companies accountable. The Supreme Court reversed Judge Wilson’s decision this summer, holding that the CFPB’s funding structure is consistent with other congressional appropriations and is constitutional. Judge Wilson, again writing for a Circuit majority, also held that the federal statute that prohibits the possession of firearms by people subject to civil, rather than criminal, domestic violence restraining orders is unconstitutional based on the Supreme Court’s decision in Bruen.⁴³ This past summer, the Supreme Court reversed this decision, with Chief Justice Roberts pointing out the errors in Judge Wilson’s decision and upholding the statute.⁴⁴

DISTRICT COURTS

District Courts are the trial courts of the federal judicial system. District court judges make the first decisions about a case, including preliminary injunctions, summary judgment, and other pretrial decisions, as well as presiding over any trials. Attorneys and judges nominated to the district courts tend to have less of a record to review than judges or justices of the appellate courts because many cases resolve without written opinions or with juries making the key decisions. However, Lambda Legal did oppose a handful of nominees to the district courts because of their extreme records. Below is a sample of what some of these judges have done since being confirmed to the bench. Judges are listed in alphabetical order.



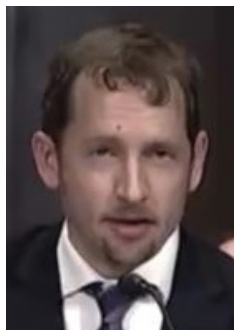
Stephen Clark – Eastern District of Missouri. Has misgendered transgender women/femmes in criminal law decisions.⁴⁵



Matthew Kacsmayk – Northern District of Texas. Judge Kacsmayk has been involved in many high-profile cases during his time on the bench as numerous ultra-conservative groups, including Attorneys General for Texas and other states, file cases in his jurisdiction, expecting their requested, extreme outcomes. He has not disappointed them. In 2023, he issued a preliminary ruling suspending the FDA's approval of mifepristone, even though it had been approved for over 20 years.⁴⁶ In 2022, Judge Kacsmayk ruled that the sex discrimination ban in Section 1557 of the Affordable Care Act did not forbid discrimination in health care on the basis of sexual orientation or gender identity, rejecting the reading of that term adopted by the Supreme Court in *Bostock*.⁴⁷ In the same year, he decided to narrow the *Bostock* decision itself, holding that Title VII does not necessarily prohibit employers from discriminating against employees for being same-sex loving or transgender.⁴⁸



Lee Rudofsky – Eastern District of Arkansas. Ruled, as a matter of first impression, that Section 2 of the Voting Rights Act has no private right of action, ignoring decades of precedent.⁴⁹ The Eighth Circuit affirmed his decision, with Judge Stras (see above) writing the opinion.⁵⁰



Brantley Starr – Northern District of Texas. Refused to recuse from a case where a transgender woman had sued Dallas County, Texas, the Sheriff, and other employees of the county for discrimination and harassment based on her gender identity while she was incarcerated in the Dallas County jail. The plaintiff argued Judge Starr should recuse himself from her case due to his having testified at the state legislature, litigated, and given speeches against LGBTQ+ rights, including transgender rights specifically. Judge Starr held that no reasonable person would question his impartiality, so he was not required to recuse.⁵¹ He later dismissed the plaintiff’s lawsuit,⁵² and the Fifth Circuit upheld his decision.⁵³



CONCLUSION

In just eight years, the judges and justices that Lambda Legal opposed during the Trump administration have done serious damage to our civil rights and to our democracy. Some have also treated people in the LGBTQ+ community with disrespect that shouldn’t come from anyone, particularly a judge who is meant to be a dispassionate arbiter and administrator of justice. While we can’t change the federal judges we already have, except through impeachment, we can push to change the future of our judiciary and restore to the third branch of government a sense of legitimacy and neutrality. President Biden has called for court reform⁵⁴ and has made great strides in diversifying the federal bench by putting forward an impressive mix of experienced attorneys and judges committed to “apply[ing] the law impartially and without favoritism.”⁵⁵ That mix has included twelve lesbian and gay nominees now confirmed to the federal courts.⁵⁶ But there is still much work to be done to bring the courts closer to reflecting the people of this country that they serve. LGBTQ+ people make up 7.6% of the U.S. population, but only 2.7%⁵⁸ of federal judges. There has never been an openly transgender, nonbinary, bisexual, or intersex federal judge or judge living with HIV. And there are still 26 states where a plaintiff has no chance of ever being before a judge in a same-sex relationship.⁵⁹ Additionally, the U.S. population is now 57.8% white.⁶⁰ But the federal bench is still 65% white.⁶¹

We are also fast approaching oral argument at the Supreme Court in what will be another landmark case for LGBTQ+ rights, *L.W. v. Skrametti*. This is Lambda Legal and the ACLU's challenge to Tennessee's gender-affirming care ban for youth, in which the U.S. Department of Justice is litigating by our side. We owe our youth—and everyone seeking health care—a judiciary that does what it is intended to do, particularly when state elected officials are attacking them. Judges are responsible for interpreting the law, applying it to each case without bias, prejudice, or discrimination, and upholding the Constitution's promise of equal justice for all.

As of October 1, there are still 66 judicial vacancies; 37 of which are without nominees from President Biden.⁶² There are 29⁶³ nominees awaiting Senate action, including 17 who are ready and waiting for their vote on the Senate floor.

THERE ARE THREE THINGS WE CAN ALL DO TO ADVOCATE FOR A FAIR AND IMPARTIAL JUDICIARY TODAY:

- 1** **Insist that the Senate consider and confirm all judicial nominees before the end of the year;**
- 2** **Tell President Biden to nominate qualified, fair-minded people to fill the remaining open seats. Each vacancy is an opportunity to put forward an LGBTQ+ nominee and the country's first openly bisexual, non-binary, or transgender federal judicial nominee; and**
- 3** **Call for court reform. We need four more seats on the Supreme Court, many more seats in the overburdened lower courts, and for each Supreme Court justice to be bound as other federal judicial officers are to a code of judicial ethics that is *enforceable*. Congress must act now to restore the integrity of the third branch of government.**

ENDNOTES

- 1 Lambda Legal opposed the confirmations of Justices [Neil Gorsuch](#), [Brett Kavanaugh](#), [Amy Coney Barrett](#), and judges [Kyle Duncan](#) (5th Circuit), [Andrew Brasher](#) (11th Circuit), [Lawrence van Dyke](#) (9th Circuit), [David Stras](#) (8th Circuit), [Joan Larsen](#) (6th Circuit), [Chad Readler](#) (6th Circuit), [John K. Bush](#) (6th Circuit), [Gregory Katsas](#) (D.C. Circuit), [Justin Walker](#) (D.C. Circuit), [Allison Jones Rushing](#) (4th Circuit), [Eric Murphy](#) (6th Circuit), [Neomi Rao](#) (4th Circuit), [Kenneth Lee](#) (9th Circuit), [Steven Menashi](#) (2nd Circuit), [Cory Wilson](#) (5th Circuit), [Stephanos Bibas](#) (3rd Circuit), [Allison Eid](#) (10th Circuit), [L. Steven Gras](#) (8th Circuit), [Don Willett](#) (5th Circuit), [David Porter](#) (3rd Circuit), [Matthew Kacsmaryk](#) (N.D. Texas), [Stephen Clark](#) (E.D. Missouri), [Mark Norris](#) (W. D. Tennessee), [Howard Nielson](#) (D. Utah), [Brantley Starr](#) (N.D. Texas), [Lee Rudofsky](#) (E.D. Arkansas), [Stephen Schwartz](#) (Ct. of Federal Claims); and [Jeff Mateer](#) (failed nomination to E.D. Texas), [Gordon Giampietro](#) (failed nomination to E. D. Wisconsin), [Damien Schiff](#) (failed nomination to Ct. of Federal Claims), and [Ryan Bounds](#) (failed nomination to 9th Circuit).
- 2 This report does not specifically address eleven of the judges Lambda Legal opposed before their confirmation, as there is not enough information about the judge's decisions or their records to date are sufficiently mixed or inconclusive that an assessment would be premature.
- 3 *Roe v. Wade*, 410 U.S. 113 (1973), overruled by *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022), and holding modified by *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833 (1992).
- 4 *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022).
- 5 *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 584 U.S. 617 (2018).
- 6 *Fulton v. City of Philadelphia*, 593 U.S. 522 (2021).
- 7 *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023).
- 8 *Bostock v. Clayton County*, 590 U.S. 644 (2020) (consolidated with *Altitude Express, Inc. v. Zarda* and *R.G. & G.R. Funeral Homes v. EEOC*).
- 9 *Id.* at 780.
- 10 *Alexander v. South Carolina Conference of NAACP*, 144 S.Ct. 1221 (2024).
- 11 *Trump v. United States*, 144 S.Ct. 2312 (2024).
- 12 *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244 (2024).
- 13 *City of Grants Pass, Oregon v. Johnson*, 144 S.Ct. 2202 (2024).
- 14 *Garland v. Cargill*, 602 U.S. 406 (2024).
- 15 *Department of State v. Muñoz*, 144 S.Ct. 1812 (2024).
- 16 *Securities & Exch. Comm'n v. Jarkesy*, 144 S.Ct. 2117 (2024).
- 17 *Students for Fair Admissions v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023).
- 18 Chelsea Bailey, *What college campuses look like after the end of affirmative action*, CNN, (Sept. 14, 2024, 12:02 PM EDT), <https://www.cnn.com/2024/09/14/us/diversity-post-affirmative-action-unc-harvard/index.html>.
- 19 *Biden v. Nebraska*, 143 S.Ct. 2355 (2023).
- 20 *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022).
- 21 U.S. Supreme Court, *FAQS – General Information, How many cases are appealed to the Court each year and how many cases does the Court hear?*, https://www.supremecourt.gov/about/faq_general.aspx. (last visited Sept. 18, 2024).
- 22 Lambda Legal opposed 22 nominees to the circuit courts under the Trump administration. One nominee, Ryan Bounds, did not move forward to confirmation. Additionally, Lambda Legal opposed Amy Coney Barrett for both her seat on the Seventh Circuit Court of Appeals and the Supreme Court. She is only included in this report as a Supreme Court justice.
- 23 *Eknes-Tucker v. Marshall*, 603 F.Supp.3d 1131 (M.D. Ala. 2022), *vacated sub nom. Eknes-Tucker v. Governor of Alabama*, 80 F.4th 1205 (11th Cir. 2023).
- 24 *Eknes-Tucker v. Governor of Alabama*, 80 F.4th 1205 (11th Cir. 2023).
- 25 *A.P.A. v. U.S. Attorney General*, 104 F.4th 230 (11th Cir. 2024).
- 26 *Kilpatrick v. HCA Human Resources, LLC*, No. 22-5307, 2023 WL 1961223 (6th Cir. Feb. 13, 2023).
- 27 *EMW Women's Surgical Ctr., P.S.C. v. Beshear*, 920 F.3d 421 (6th Cir. 2019).
- 28 *Preterm-Cleveland v. McCloud*, 994 F.3d 512 (6th Cir. 2022), *abrogated by Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022).
- 29 *U.S. v. Varner*, 948 F.3d 250 (5th Cir. 2020).
- 30 *Tennessee v. Dep't of Educ.*, 104 F.4th 577 (6th Cir. 2024).
- 31 *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021).
- 32 *Boshaw v. Midland Brewing Co.*, 32 F.4th 598 (6th Cir. 2022), *reh'g denied*, No. 21-1365, 2022 WL 2286411 (6th Cir. May 31, 2022).
- 33 *Telescope Media Group v. Lucero*, 936 F.3d 740 (8th Cir. 2019).
- 34 *Green v. Miss United States of Am., LLC*, 52 F.4th 773 (9th Cir. 2022).
- 35 *Chelsea Nelson Photography LLC v. Louisville/Jefferson County Metro Gov't*, 479 F.Supp.3d 543 (W. D. Ky. 2020), *vacated and remanded sub nom. Nelson v. Louisville-Jefferson Cnty. Metro Gov't*, No. 22-5884, 2024 WL 1638860 (6th Cir. Apr. 16, 2024).
- 36 Judge Willett has also written for the majority in cases helpful to our community. *See, Book People Inc. v. Wong*, 91 F.4th 318, (5th Cir. 2024) (finding Texas's law requiring book publishers selling to schools to provide rating for sexual-content of all books unconstitutional and issuing preliminary injunction); *Hamilton v. Dallas County*, 79 F.4th 494 (5th Cir. 2023) (*abrogating* decades of 5th Circuit precedent to find that a Title VII plaintiff no longer has to allege discrimination with respect to an ultimate employment decision; instead, plaintiff only must show that they were discriminated against because of a protected characteristic and experienced an adverse employment action in hiring, firing, or terms of employment).
- 37 *Franciscan Alliance, Inc. v. Becerra*, 47 F.4th 368 (5th Cir. 2022).
- 38 *Whole Woman's Health v. Paxton*, 10 F.4th 430 (5th Cir. 2021), *abrogated by Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022).
- 39 *Firearms Regulatory Accountability Coal., Inc. v. Garland*, 112 F.4th 507 (8th Cir. 2024).
- 40 *United States v. Fischer*, 64 F.4th 239 (D.C. Cir. 2023), *cert. denied*, 144 S. Ct. 437 (2023).
- 41 *Fischer v. United States*, 144 S.Ct. 2176 (U.S. 2024).
- 42 *Community Financial Services Ass'n of Am., Ltd. v. Consumer Financial Protection Bureau*, 51 F.4th 616, (5th Cir. 2022), *cert. granted*, 143 S. Ct. 978 (2023), and *cert. denied sub nom. Cmty. Fin. Servs. Ass'n of Am. v. Consumer Fin. Prot. Bureau*, 143 S. Ct. 981 (2023), and *rev'd and remanded*, 601 U.S. 416 (2024), and reinstated in part by 104 F.4th 930 (5th Cir. 2024).
- 43 *U.S. v. Rahimi*, 61 F.4th 443 (5th Cir. 2024), *cert. granted*, 143 S. Ct. 2688 (2023), and *rev'd and remanded*, 144 S. Ct. 1889 (2024).
- 44 *U.S. v. Rahimi*, 144 S.Ct. 1889, 1903 (2024).
- 45 *Porter v. Correctional Case Manager*, 2021 WL 2435663 (E.D. Missouri 2021); *Roberts v. SECC Department of Corrections*, 2022 WL 4016739 (E.D. Missouri 2022).
- 46 *FDA v. Alliance for Hippocratic Medicine*, 668 F.Supp.3d 507 (N.D. Texas 2023), *aff'd in part, vacated in part*, 78 F.4th 210 (5th Cir. 2023), *cert. granted sub nom. Food & Drug Admin. v. All. for Hippocratic Med.*, 144 S. Ct. 537 (2023), and *cert. granted sub nom. Danco Lab'ys, L.L.C. v. All. for Hippocratic Med.*, 144 S. Ct. 537 (2023), and *cert. denied sub nom. All. for Hippocratic Med. v. Food & Drug Admin.*, 144 S. Ct. 537 (2023), and *rev'd and remanded sub nom. Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367 (2024), and *vacated and remanded*, No. 23-10362, 2024 WL 4196546 (5th Cir. Sept. 16, 2024).
- 47 *Neese v. Becerra*, 640 F.Supp.3d 668 (N.D. Texas 2022).
- 48 *Texas v. EEOC*, 633 F.Supp.3d 824 (N.D. Texas 2022).
- 49 *Arkansas State Conference NAACP v. Arkansas Bd. of Apportionment*, 586 F.Supp.3d 893 (E.D. Ark. 2022).
- 50 *Arkansas State Conference NAACP v. Arkansas Bd. of Apportionment*, 86 F.4th 1204 (8th Cir. 2023).
- 51 *Jackson v. Valdez*, 2019 WL 6250779 (N.D. Texas Nov. 22, 2019), *aff'd*, No. 20-10344, 2021 WL 1183020 (5th Cir. Mar. 29, 2021), *opinion withdrawn and superseded*, 852 F. App'x 129 (5th Cir. 2021), and *aff'd*, 852 F. App'x 129 (5th Cir. 2021).
- 52 *Jackson v. Valdez*, 2020 WL 1339923 (N.D. Texas March 23, 2020), *rev'd and remanded*, No. 20-10344, 2021 WL 1183020 (5th Cir. Mar. 29, 2021), *opinion withdrawn and superseded*, 852 F. App'x 129 (5th Cir. 2021), and *aff'd*, 852 F. App'x 129 (5th Cir. 2021).
- 53 *Jackson v. Valdez*, 852 Fed.Appx. 129 (5th Cir. 2021).
- 54 The White House, *FACT SHEET: President Biden Announces Bold Plan to Reform the Supreme Court and Ensure No President Is Above the Law*, (July 29, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/07/29/fact-sheet-president-biden-announces-bold-plan-to-reform-the-supreme-court-and-ensure-no-president-is-above-the-law/>.
- 55 The White House, *Statement from President Joe Biden on Confirming 200 Federal Judges*, (May 22, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/05/22/statement-from-president-joe-biden-on-confirming-200-federal-judges/>.
- 56 Brooke Migdon, *Senate confirms 12th LGBTQ lifetime judge under Biden, breaking Obama-era record*, The Hill (September 18, 2024), <https://thehill.com/homenews/senate/4886460-lgbtq-judge-senate-confirms-mary-kay-costello/>.
- 57 Jeffrey M. Jones, *LGBTQ+ Identification in U.S. Now at 7.6%*, Gallup, (March 13, 2024), <https://news.gallup.com/poll/611864/lgbtq-identification.aspx>.
- 58 With 24 openly LGBTQ+ judges confirmed to the federal courts and 870 Article III judgeships, approximately 2.7% of federal Article III judgeships are held by openly LGBTQ+ people. Lambda Legal, *Despite Gains, LGBTQ+ Representation on the Federal Bench Continues to Decline*, 4 (May 21, 2024) https://lambdalegal.org/publication/us_20240521_lgbtq-representation-on-federal-bench-continues-to-decline/. Leadership Conference on Civil and Human Rights, *Our Federal Courts Need More Openly LGBTQ Judges*, 3 (Sept. 17, 2024) <https://civilrightsdocs.info/pdf/Openly-LGBTQ-Federal-Judges.pdf>.
- 59 These 26 states are Maine, New Hampshire, New Jersey, Delaware, Massachusetts, Ohio, Kentucky, Tennessee, Indiana, Georgia, Alabama, Mississippi, Louisiana, Arkansas, Missouri, Iowa, Minnesota, Wisconsin, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, New Mexico, Utah, and Wyoming. There are no openly lesbian or gay federal trial or appellate judges that preside over cases from these states.
- 60 Eric Jensen, et al, *The Chance That Two People Chosen at Random Are of Different Race or Ethnicity Groups Has Increased Since 2010*, U.S. Census Bureau, (Aug. 12, 2021), <https://www.census.gov/library/stories/2021/08/2020-united-states-population-more-racially-ethnically-diverse-than-2010.html>.
- 61 American Constitution Society, *Diversity of the Federal Bench*, <https://www.acslaw.org/judicial-nominations/diversity-of-the-federal-bench/> (last visited Sept. 18, 2024).
- 62 *Current Judicial Vacancies*, United States Courts, <https://www.uscourts.gov/judges-judgeships/judicial-vacancies/current-judicial-vacancies> (last visited October 1, 2024); *Future Judicial Vacancies*, United States Courts, <https://www.uscourts.gov/judges-judgeships/judicial-vacancies/future-judicial-vacancies> (last visited October 1, 2024).
- 63 *Id.*



■ LAMBDA
■ ■ LEGAL