

# CRS Report for Congress

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

**Updated January 23, 2007**

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**Prepared for Members and  
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## Summary

During his presidency, as of the final adjournment of the 109<sup>th</sup> Congress, 51 of President George W. Bush's 68 nominees to the U.S. circuit courts of appeals received Senate confirmation. Of the 17 nominees not confirmed, the nominations of three were withdrawn by the President, and the remaining 14 were returned at the end of a Congress; however, four of the 14, after having their nominations returned at the end of the 109<sup>th</sup> Congress, were renominated at the start of the 110<sup>th</sup> Congress. None of President Bush's circuit nominees has been rejected in a Senate confirmation vote. Two were defeated in committee votes, in the 107<sup>th</sup> Congress, although both were renominated in the 108<sup>th</sup> Congress, where one was confirmed.

In the 108<sup>th</sup> Congress, the Senate could not agree to close debate on 10 circuit court nominees. Following controversy over the propriety of filibusters on judicial nominations, a compromise was reached in the 109<sup>th</sup> Congress which resulted in confirmation votes for five of the 10 nominees. The other five, however, failed to gain confirmation. Two of the 10 nominees were given temporary recess appointments by President Bush. After the 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.

Of President Bush's 237 nominees to the U.S. district courts, through the end of the 109<sup>th</sup> Congress, 206 were confirmed (185 in the first Congress in which they were nominated). Of the 31 not confirmed, the nominations of three were withdrawn, and the other 28 were returned at the end of the 109<sup>th</sup> Congress. Twenty-four of the 28 had been renominated in the 110<sup>th</sup> Congress, as of January 19, 2007. None of President Bush's district court nominees was defeated in a committee vote or rejected in a Senate confirmation vote.

President Bush's circuit nominees, like those of most other recent Presidents, have had more difficulty than his district nominees in receiving Senate confirmation. As of the close of the 109<sup>th</sup> Congress, 75.0% of his circuit nominees had been confirmed, compared with 86.9% of his district nominees. The average (mean) time elapsed between first nomination and confirmation for his circuit nominees was 366 days, more than twice as much as the corresponding time interval of 171 days for district nominees. With recent presidencies, the average time taken for circuit nominees to be confirmed has risen steadily — from an average time of 68 days, 104 days, 249 days, and 366 days, respectively for the circuit nominees of Presidents Ronald Reagan, George H. W. Bush, William J. Clinton, and George W. Bush. With recent presidencies, a steady, but less dramatic rise has also occurred in the average time taken for district nominees to be confirmed.

This report will be updated upon the final adjournment of the 110<sup>th</sup> 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

## 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, and any actions taken on these nominations by the Senate Judiciary Committee and the full Senate.<sup>1</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>2</sup>

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<sup>1</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, and CRS Report 93-395, *President [George H. W.] Bush's Judicial Nominations During the 101<sup>st</sup>-102<sup>nd</sup> Congresses*, by Denis Steven Rutkus.

<sup>2</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 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.

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 December 9, 2006,<sup>3</sup> to the circuit and district courts, respectively. The other six tables list all of the circuit and district court nominations made by President Bush during each Congress, — **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* (or *nominees*) 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>, indicating which presidency coincided in time with each Congress. **Figures 3 and 4** show, respectively, for the circuit and district court nominees of the five most recent Presidents, the average number of days that elapsed from their first nomination to final disposition of their last nomination.

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 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>

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<sup>3</sup> December 9, 2006, is the date of final adjournment of the 109<sup>th</sup> Congress.

<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);  
(continued...)

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.

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

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<sup>4</sup> (...continued)

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....”

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 Kevin M. Scott, CRS Analyst in American National Government.<sup>11</sup> 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>12</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, alphabetically, the names of all persons nominated by George W. Bush during his presidency (through the end of the 109<sup>th</sup> Congress) to the circuit courts and to the district courts. These tables show the following for each nominee:

- how often and when the person was nominated to a particular judgeship;
- dates of committee hearings and committee action on all nominations;
- whether and when the nominee was confirmed;
- if confirmed, the number of days that elapsed between the date of the first nomination and the confirmation;
- the outcome of the person's most recent nomination, if the final disposition was not one of confirmation;<sup>13</sup>
- if not confirmed, the number of days that elapsed between the date of the person's first nomination and the final outcome of the person's most recent nomination.

The tables at the end also present, for all confirmed nominees, the average number of days that elapsed between their first nomination and their confirmation, and for all unconfirmed nominees, the average number of days that elapsed between their first nomination and final disposition of their most recent nomination.

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<sup>11</sup> The database was created in part with the benefit of earlier nominations research (conducted for previous versions of this report) by Mitchel A. Sollenberger, former CRS Analyst in American National Government.

<sup>12</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>13</sup> For each nominee not confirmed as of the close of the 109<sup>th</sup> Congress, his or her last nomination was either (1) returned to the President when the Senate adjourned for, or took a recess of, more than 30 days, or (2) withdrawn by the President. Columns in **Appendices 1** and **5** indicate the last nominations of nominees which were returned or withdrawn, the dates of such actions, and the Congress in which the actions occurred.

**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 Senate procedural votes and roll call votes on their nominations, where Senate votes were by roll call. Detailed information of this sort is provided in **Appendices 2-4** (for circuit nominations) and **6-8** (for district nominations).

## Nominations Tables

The first six years of the presidency of George W. Bush roughly 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> (2005-2006). Six tables list all of the circuit and district court nominations made by President Bush during each of the three Congresses, 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>14</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 “final action” 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>15</sup> An entry of “Withdrawn 03/19/01,” as another example, indicates that, on that date, the nomination was withdrawn by the

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<sup>14</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>15</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.

President.<sup>16</sup> The dates and roll call votes of other procedural actions affecting nominations, such as motions to close debate, also have been entered in the “final action” column.

The tables also show, for each nomination, the length of time that passed before a committee hearing, committee vote, or final action 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>17</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 [of a group of numbers]. It is unaffected by extreme values.”<sup>18</sup>

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<sup>16</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 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. By the end of the 109<sup>th</sup> Congress, President Bush had withdrawn three of his circuit nominations and three 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 court nomination of Henry W. Saad, which was withdrawn on Mar. 27, 2006, and the Sept. 29, 2005, circuit court 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, and the Feb. 14, 2006, district nomination of Jerome A. Holmes, which was withdrawn on May 4, 2006.

<sup>17</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>18</sup> William H. Greene, *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).

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 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>19</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>20</sup> **Appendix 6** 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.<sup>21</sup> 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. In the 108<sup>th</sup> and 109<sup>th</sup> Congresses, several additional nominees were renominated at least once in the same Congress. In the 108<sup>th</sup> Congress, three individuals were nominated twice.<sup>22</sup>

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<sup>19</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 Walton on Aug. 22, 2001, and a hearing for Wooten on Aug. 27, 2001.

<sup>20</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>21</sup> Footnotes to each of these “resubmitted” nominations are provided, indicating that the nominees had been nominated earlier to the same judgeships.

<sup>22</sup> In the 108<sup>th</sup> Congress, as **Appendix 3** reveals, three persons were nominated more than once to circuit judgeships; Claude A. Allen of Virginia was nominated to the Fourth Circuit on Apr. 28, 2003, and Jan. 20, 2004; Charles W. Pickering Sr. of Mississippi was nominated to the Fifth Circuit on Jan. 7, 2003, and Feb. 6, 2004; William H. Pryor Jr. of Alabama was nominated to the Eleventh Circuit on Apr. 9, 2003, and Mar. 12, 2004. For both Pickering and Pryor, the second nomination in the 108<sup>th</sup> Congress was to a life term to the position to which they had been recess-appointed earlier in that same Congress.

In the 109<sup>th</sup> Congress, five individuals were nominated three times following returns as the Senate went into recess in August and again in September.<sup>23</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 nominations in the 108<sup>th</sup> Congress were of individuals previously nominated in the 107<sup>th</sup> Congress.<sup>24</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>25</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>26</sup>

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<sup>23</sup> See, in **Appendix 4**, the Feb. 14, 2005, Sept. 5, 2006, and Nov. 15, 2006, nominations of Terrence W. Boyle of North Carolina to the Fourth Circuit, William G. Myers III of Idaho to the Ninth Circuit, and William J. Haynes II, of Virginia, also to the Fourth Circuit; the Dec. 16, 2005, Sept. 5, 2006, and Nov. 15, 2006, nominations of N. Randy Smith of Idaho to the Ninth Circuit; and the Feb. 8, 2006, Sept. 5, 2006, and Nov. 15, 2006, nominations of Michael B. Wallace of Mississippi to the Fifth Circuit.

<sup>24</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>25</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>26</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 R. Owen, Richard A. Griffin, David W. McKeague, Susan B. 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.

## Statistical Findings from the Tables

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

Between January 20, 2001, and December 9, 2006, 51 of President George W. Bush's 68 nominees to the U.S. circuit courts received Senate confirmation.<sup>27</sup> Of the 17 nominees not confirmed, the nominations of three were withdrawn by the President,<sup>28</sup> and the remaining 14 were returned at the end of a Congress.<sup>29</sup> Four of the 14, after having their nominations returned at the end of the 109<sup>th</sup> Congress, were renominated at the start of the 110<sup>th</sup> Congress.<sup>30</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

<sup>27</sup> **Appendix 1** identifies all of President Bush's confirmed circuit court nominees and their confirmation dates, as of Dec. 9, 2006, listing the nominees in alphabetical order.

<sup>28</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 — all three of which subsequently were withdrawn by President Bush.

<sup>29</sup> The nominations of eight of the 14 were returned at the end of a Congress and not resubmitted in a subsequent Congress. Specifically, 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 B. 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. The Nov. 15, 2006, nominations of Terrence W. Boyle of North Carolina, William G. Myers III of Idaho, William J. Haynes II of Virginia, and Michael B. Wallace of Mississippi (all in **Appendix 4**) were returned at the end of the 109<sup>th</sup> Congress, and subsequent news accounts reported that all four nominees had asked the President that they not be renominated in the 110<sup>th</sup> Congress. See Neil A. Lewis, "Bush Drops Plans to Renominate 3 Judges," *New York Times*, Jan. 10, 2007, p. A18, and Seth Stern, "Fifth Circuit Nominee Takes Himself Out of the Running," *CQ Today*, Dec. 26, 2006, available at [<http://www.cq.com>].

The nominations of two of the 14 (see in **Appendices 1** and **4**, the June 28, 2006, nominations to the Sixth Circuit of Raymond M. Kethledge of Michigan and Stephen J. Murphy II, both of Michigan), after being returned at the end of the 109<sup>th</sup> Congress, were reportedly, as of Jan. 9, 2007, under consideration for renomination in the 110<sup>th</sup> Congress. See Ed Whelan, "Re: Court of Appeals Nominations," *Bench Memos*, Jan. 9, 2007, available at [<http://bench.nationalreview.com>].

The nominations of four of the 14, as discussed in the next footnote, after being returned at the end of the 109<sup>th</sup> Congress, were resubmitted at the beginning of the 110<sup>th</sup> Congress.

<sup>30</sup> As of Jan. 19, 2007, the four persons renominated to circuit judgeships in the 110<sup>th</sup> Congress were Thomas M. Hardiman, Peter D. Keisler, and Debra A. Livingston (all renominated on Jan. 9, 2007), and N. Randy Smith (renominated on Jan. 16, 2007). See **Appendices 1** and **4**.

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>31</sup> Subsequently, in the 109<sup>th</sup> Congress, following controversy over the propriety of filibusters on judicial nominations, a compromise was reached in the Senate,<sup>32</sup> which resulted in confirmation votes for five of those 10 circuit nominees.<sup>33</sup> The five others among the 10, however, ultimately failed to gain confirmation: the nomination of one of the five was withdrawn in the 108<sup>th</sup> Congress (after seven unsuccessful votes on motions to close debate);<sup>34</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>35</sup> a renomination of the fourth was withdrawn in the 109<sup>th</sup> Congress;<sup>36</sup> and the fifth nominee was renominated in the 109<sup>th</sup> Congress but was not renominated at the beginning of the 110<sup>th</sup> Congress.<sup>37</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>38</sup> Prior to the expiration of the

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<sup>31</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 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 G. 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>32</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>33</sup> See, in **Appendix 4**, the Feb. 14, 2005, nominations of Richard A. Griffin, David W. McKeague, Priscilla R. Owen, William H. Pryor Jr., and Janice R. Brown — all subsequently confirmed.

<sup>34</sup> See, in **Appendix 3**, the Jan. 7, 2003, nomination of Miguel A. Estrada.

<sup>35</sup> See, in **Appendix 3**, the Jan. 7, 2003, nominations of Carolyn B. Kuhl and Charles W. Pickering Sr.

<sup>36</sup> See, in **Appendix 4**, the Feb. 14, 2005, nomination of Henry W. Saad.

<sup>37</sup> See, in **Appendix 1**, the nominations of William G. Myers III. Myers was renominated three times in the 109<sup>th</sup> Congress, with each nomination returned to the President upon a Senate recess of more than 30 days (the last return occurring at the final adjournment of the 109<sup>th</sup> Congress). Media accounts at the opening of the 110<sup>th</sup> Congress reported that President George W. Bush did not intend to resubmit Myers in the 110<sup>th</sup> Congress. See Keith Perine, “Bush Pulls Plug on Doomed Judicial Nominations, but Differences Remain,” *CQ Today News*, Jan. 9, 2007, available at [<http://www.cq.com>].

<sup>38</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  
(continued...)

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>39</sup>

**Nominees Defeated in Committee.** Two of President Bush's circuit nominations 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>40</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>41</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>42</sup> The other nominee was given a temporary recess appointment by President Bush between the first and second 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>43</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>44</sup> For some who were nominated

<sup>38</sup> (...continued)

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>39</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, 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 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>40</sup> See, in **Appendix 2**, the Sept. 4, 2001, nominations of Priscilla R. 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>41</sup> See, in **Appendix 3**, the Jan. 7, 2003, nominations of Priscilla R. Owen and Charles W. Pickering Sr.

<sup>42</sup> See, in **Appendix 4**, the Feb. 14, 2005, nomination of Priscilla R. Owen.

<sup>43</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>44</sup> Specifically, it will be noted, the table shows, among other things, the number of days that elapsed from the date of each nominee's first nomination to the date of the final disposition (continued...)

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, 20 of George W. Bush's 68 circuit court nominees have been nominated in two or more Congresses — with 14 nominated in two Congresses, and six nominated in three successive Congresses. Of the six nominated in three Congresses, four have been confirmed,<sup>45</sup> one was withdrawn,<sup>46</sup> and the nomination of the sixth person was returned at the end of the 109<sup>th</sup> Congress and was not resubmitted at the beginning of the 110<sup>th</sup> Congress.<sup>47</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>48</sup> The least amount of elapsed time for a circuit nominee between first nomination and confirmation was 63 days.<sup>49</sup> The bottom rows of **Appendix 1** show

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<sup>44</sup> (...continued)

of the nominee's last nomination, as of the end of the 109<sup>th</sup> Congress.

<sup>45</sup> See the nominations of: Priscilla R. 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 B. 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>46</sup> See the nominations of Henry W. Saad to the Sixth Circuit on Nov. 8, 2001 (107<sup>th</sup> Congress), Jan. 8, 2003 (108<sup>th</sup> Congress), and Feb. 14, 2005 (109<sup>th</sup> Congress). The last nomination was withdrawn on Mar. 27, 2006.

<sup>47</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, Sept. 5, 2006, and Nov. 15, 2006 (all in the 109<sup>th</sup> Congress).

<sup>48</sup> See again, in **Appendix 1**, nominee Priscilla R. 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 B. 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>49</sup> See in **Appendix 1** the nomination of Bobby E. Shepherd to the Eighth Circuit on May 18, 2006, which was confirmed on July 20, 2006. The circuit nominees with the next-fewest number of days of elapsed time between their first (and only) nomination and confirmation were Michael A. Chagares to the Third Circuit (69 days — nominated Jan. 25, 2006), William J. Riley to the Eighth Circuit (71 days — nominated May 23, 2001), and Roger L. Gregory to the Fourth Circuit (72 days — nominated May 9, 2001). It should be noted that Gregory had been nominated twice earlier by President William J. Clinton — with the  
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that for President Bush’s 51 circuit nominees confirmed, the average elapsed time between first nomination and final disposition was 366 days. This average, or *mean*, was arrived at by summing the number of days between first nomination and confirmation for all 51 nominees in question, and then dividing by 51. However, the *median* elapsed time (i.e., the time interval for the nominee in the midpoint of the distribution of the 51 confirmed nominees) was significantly less — 216 days. In other words, for 25 of the 51 confirmed circuit nominees, the elapsed time between first nomination and confirmation was less than 216 days; for one nominee, in the midpoint of the distribution, the elapsed time was exactly 216 days;<sup>50</sup> and for 25 others, the elapsed time was more than 216 days.<sup>51</sup>

***Withdrawn or Returned Nominees.*** As discussed above,<sup>52</sup> 17 other circuit court nominees, as of the end of the 109<sup>th</sup> Congress, saw their most recent nominations withdrawn by the President or returned to the President. Among the 17 nominees, the most elapsed time between first nomination and final disposition of last nomination was 2,040 days,<sup>53</sup> whereas the least elapsed time for this interval was 87 days.<sup>54</sup> The mean elapsed time for the relatively small number of nominees in this category was 710 days, and the median elapsed time was 407 days.<sup>55</sup>

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

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<sup>49</sup> (...continued)

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 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 Gregory, because it is a table devoted exclusively to *President Bush’s* circuit court nominees.

<sup>50</sup> See, in **Appendix 1**, the nomination of Michael J. Melloy to the Eighth Circuit. Melloy was first nominated on July 10, 2001. That nomination was returned by the Senate on August 3, 2001. Melloy was renominated on Sept. 4, 2001, and confirmed on Feb. 11, 2002 — a nomination-to-confirmation time interval of 216 days.

<sup>51</sup> The mean (366 days) was much higher than the median (216 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 R. Owen (elapsed time 1,477 days), Susan B. Neilson (1,449 days), David W. McKeague (1,309 days), and Richard A. Griffin (1,079 days).

<sup>52</sup> See, earlier in the body of this report, the first paragraph after the heading “Circuit Court Nominees During the Presidency of George W. Bush.”

<sup>53</sup> See, in **Appendix 1**, the first nomination of Terrence W. Boyle to the Fourth Circuit on May 9, 2001, and the return of his sixth, and last, nomination on Dec. 9, 2006 — 2,040 days later.

<sup>54</sup> See, in **Appendix 1**, the first, nomination of Thomas M. Hardiman to the Third Circuit on Sept. 13, 2006, which was returned to the President on Dec. 9, 2006, 87 days later. Hardiman was renominated to the Third Circuit on Jan. 9, 2007.

<sup>55</sup> See, in **Appendix 1**, the nomination of William H. Steele to the Eleventh Circuit. Steele was nominated on Oct. 9, 2001, and that nomination was returned to the President on Nov. 20, 2002 — a time interval of 407 days.

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>56</sup> and 15 saw their nominations returned to the President at the final adjournment of the 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>57</sup> and two were defeated in committee when the Judiciary Committee voted not to report their nominations.<sup>58</sup> The President renominated 14 of the 15 unconfirmed nominees at the start of the 108<sup>th</sup> Congress.<sup>59</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 follows:

- For 19 of the 20 circuit nominations receiving committee hearings,<sup>60</sup> an average of 176 days elapsed between the date a nomination was received in the Senate and the holding of a hearing; the briefest time

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<sup>56</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**.

<sup>57</sup> See, in **Appendix 2**, the Sept. 4, 2001, nomination of Miguel A. Estrada to the D.C. Circuit.

<sup>58</sup> See, in **Appendix 2**, the Sept. 4, 2001, nominations of Priscilla R. Owen and Charles W. Pickering Sr., both to the Fifth Circuit.

<sup>59</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. 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>60</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.

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 194 days elapsed between Senate receipt and committee vote; the briefest time elapsing from Senate receipt to committee vote was two days,<sup>61</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.

For the 35 circuit nominations that were not confirmed, an average of 204 days elapsed between Senate receipt and final action; the briefest time elapsing was one day, and the longest time was 442 days.

**The 108<sup>th</sup> Congress.** President Bush submitted a total of 37 circuit court nominations to the Senate during the 108<sup>th</sup> Congress. Three of the 37 nominations, however, were renominations of persons nominated earlier in the Congress.<sup>62</sup> Hence, 34 individuals were nominated by President Bush to circuit judgeships during the 108<sup>th</sup> Congress.

The 34 individuals nominated by President Bush to circuit judgeships during the 108<sup>th</sup> Congress included 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>63</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

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<sup>61</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.

<sup>62</sup> See in **Appendix 3** the nomination of Charles W. Pickering Sr. to the Fifth Circuit on Jan. 7, 2003, followed by his renomination on Feb. 6, 2004; of Claude A. Allen to the Fourth Circuit on Apr. 28, 2003, followed by his renomination on Jan. 20, 2004; and of William H. Pryor Jr. to the Eleventh Circuit on Apr. 9, 2003, followed by his renomination on Mar. 12, 2004.

<sup>63</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**.

the 34 nominees received a hearing (31 during the 108<sup>th</sup> Congress, two during the prior Congress),<sup>64</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>65</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>66</sup> The nomination of one of the other 10 nominees was withdrawn by the President, after seven unsuccessful motions were made in the Senate to close debate on the nomination.<sup>67</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 follows:

- 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

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<sup>64</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>65</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 A. 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 G. Myers III of Idaho; and the July 25, 2003, nomination of Janice R. Brown of California. See **Appendix 3**.

<sup>66</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 R. Owen.

<sup>67</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.

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 confirmation votes, 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>68</sup>

For the 19 circuit nominations that were not confirmed, an average of 516 days elapsed between Senate receipt and final action, the briefest time elapsing was 212 days, and the longest time was 701 days (for eight nominations).

**The 109<sup>th</sup> Congress.** President Bush submitted a total of 40 circuit nominations to the Senate during the 109<sup>th</sup> Congress. Twelve of the nominations, however, were renominations of persons nominated earlier in the Congress. (The renominations followed the return to the President of one nomination at the end of the 1<sup>st</sup> session of the Congress,<sup>69</sup> the return of five nominations at the start of the Senate's August 2006 recess,<sup>70</sup> and the return of six nominations when the Senate recessed again for more than 30 days on September 29, 2006.<sup>71</sup>) Hence, 28 individuals were nominated by President Bush to circuit judgeships during the 109<sup>th</sup> Congress.

The 28 individuals nominated by President Bush to circuit judgeships during the 109<sup>th</sup> Congress 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 28 nominees in the 109<sup>th</sup> Congress, the nominations of 16 (seven of them resubmissions from the 108<sup>th</sup> Congress) were confirmed by the Senate (all but two by roll call);<sup>72</sup> two were withdrawn by the President;<sup>73</sup> and 10 were

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<sup>68</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.

<sup>69</sup> See in **Appendix 4** the return of the Feb. 14, 2005, nomination of Brett M. Kavanaugh, followed by his renomination on Jan. 25, 2006.

<sup>70</sup> See in **Appendix 4** the return of the Feb. 14, 2005, nominations of Terrence W. Boyle, William J. Haynes II and William G. Myers III, the Dec. 16, 2005, nomination of N. Randy Smith, and the Feb. 8, 2006, nomination of Michael B. Wallace, all of whom were renominated on Sept. 5, 2006.

<sup>71</sup> See in **Appendix 4** the return of the June 29, 2006, nomination of Peter D. Keisler and the return of the Sept. 5, 2006, nominations of Terrence W. Boyle, William J. Haynes II, William G. Myers III, N. Randy Smith, and Michael B. Wallace, all of whom were renominated on Nov. 15, 2006.

<sup>72</sup> On three of the nominations, the roll call votes were relatively close. 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 R. Owen of Texas to the Fifth Circuit; and the 56-43 vote on June 8, 2005, confirming Janice R. Brown of California to the Ninth Circuit. On three other roll call votes, there was less, but still (continued...)

returned at the end of the Congress. Two of the 28 nominees were nominated twice in the 109<sup>th</sup> Congress;<sup>74</sup> five were nominated three times.<sup>75</sup> Twenty-four of the 28 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 21 had been reported out of committee, all favorably. Of the 10 nominees returned to the President at the end of the 109<sup>th</sup> Congress, three did not receive a hearing, while the other seven received hearings on at least one of their nominations in the 109<sup>th</sup> Congress.

For circuit nominations that received committee hearings, committee votes, or Senate confirmation votes in the 109<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 follows:

- For the 17 circuit nominations receiving hearings in the 109<sup>th</sup> Congress,<sup>76</sup> an average of 76 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 512 days.
- For the 20 circuit nominations receiving committee votes, an average of 87 days elapsed between Senate receipt and committee vote; the

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<sup>72</sup> (...continued)

substantial, recorded opposition to confirmation. See in **Appendix 4** the 73-24 vote on June 14, 2005, confirming Thomas B. Griffith to the District of Columbia Circuit; the 57-36 vote on May 26, 2006, confirming Brett M. Kavanaugh to the District of Columbia Circuit; and the 67-30 vote on July 25, 2006, confirming Jerome A. Holmes to the Tenth Circuit. On the eight other roll call votes, the Senate voted unanimously in favor of confirmation. Two other nominees, Neil M. Gorsuch (Tenth Circuit) and Bobby Shepherd (Eighth Circuit), were confirmed in an en bloc voice vote on July 20, 2006.

<sup>73</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>74</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 and the June 29, 2006, and Nov. 15, 2006, nominations of Peter D. Keisler to the District of Columbia Circuit.

<sup>75</sup> See, in **Appendix 4**, the Feb. 14, 2005, Sept. 5, 2006, and Nov. 15, 2006, nominations of Terrence W. Boyle of North Carolina to the Fourth Circuit, William G. Myers III of Idaho to the Ninth Circuit, and William J. Haynes II, of Virginia, also to the Fourth Circuit; the Dec. 16, 2005, Sept. 5, 2006, and Nov. 15, 2006, nominations of N. Randy Smith of Idaho to the Ninth Circuit; and the Feb. 8, 2006, Sept. 5, 2006, and Nov. 15, 2006, nominations of Michael B. Wallace of Mississippi to the Fifth Circuit.

<sup>76</sup> Seven 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. In addition to those seven, Brett M. Kavanaugh received hearings in both the 108<sup>th</sup> and 109<sup>th</sup> Congresses. See **Appendix 1**.

briefest time elapsing from Senate receipt to committee vote was 16 days,<sup>77</sup> and the longest time was 248 days.

- For the 16 circuit nominations which received Senate confirmation votes, an average of 115 days elapsed between Senate receipt and final Senate vote; the briefest time elapsing from Senate receipt to Senate confirmation vote was 63 days, and the longest time was 255 days.

For the 24 circuit nominations that were not confirmed, an average of 159 days elapsed between Senate receipt and final action; the briefest time elapsing was 24 days, and the longest time was 535 days.

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

During the presidency of George W. Bush — from January 20, 2001, through December 9, 2006 — 206 of his 237 nominees to the U.S. district courts received Senate confirmation. Of the 31 nominees not confirmed, the nominations of three were withdrawn by the President,<sup>78</sup> and the other 28 were returned at the end of the 109<sup>th</sup> Congress.<sup>79</sup> (As of January 19, 2007, 24 of the 28 were renominated to the same district court judgeships in the 110<sup>th</sup> Congress, while one other was nominated again, but this time to a circuit judgeship.)<sup>80</sup> None of President Bush’s district 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 237 individuals nominated by the President to district judgeships (as of the end of the 109<sup>th</sup> Congress), 216 were nominated in only one Congress (with 187 confirmed in their respective Congresses, 28 returned at the end of the 109<sup>th</sup> Congress, and one withdrawn in the same Congress as his first

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<sup>77</sup> This calculation is the time from receipt of the second nomination of N. Randy Smith to the Ninth Circuit. The committee vote on Sept. 21, 2006, came 279 days after the first nomination on Dec. 16, 2005. If this nomination is excluded, the shortest interval from nomination to committee vote in the 109<sup>th</sup> Congress was 31 days.

<sup>78</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 Eastern District of Michigan (withdrawn on Mar. 30, 2006) and the Feb. 14, 2006, nomination of Jerome A. Holmes to the Northern District of Oklahoma (withdrawn on May 4, 2006).

<sup>79</sup> See, in **Appendix 8**, the 28 nominations with the listing of “Returned 12/09/06” in the “Final Action” column.

<sup>80</sup> See notes in **Appendices 5** and **8** that identify nominees who were renominated in the 110<sup>th</sup> Congress. The district court nominee in the 109<sup>th</sup> Congress who was renominated in the 110<sup>th</sup> Congress to a circuit judgeship was Leslie Southwick (initially nominated to Southern District of Mississippi, then nominated to the Fifth Circuit).

nomination).<sup>81</sup> Of the remaining 21 individuals, 19 were nominated in two Congresses,<sup>82</sup> and two were nominated in three Congresses.<sup>83</sup> Nineteen of the 21 nominated in more than one Congress were confirmed; 18 in the second Congress in which they were nominated, one in the third Congress in which he was nominated.<sup>84</sup> The other two nominees whose nominations were submitted in more than one Congress were withdrawn by the President.<sup>85</sup>

**Confirmed Nominees.** Of President Bush's 206 confirmed district court nominees, 187 were confirmed within the same Congress in which they were first nominated, with 19 confirmed in a subsequent Congress. The most elapsed time for a district court nominee between first nomination and confirmation was 1,365 days, almost three years and nine months.<sup>86</sup> The least amount of elapsed time for a district nominee between first nomination and confirmation was 56 days.<sup>87</sup> The bottom rows of **Appendix 5** show that for President Bush's 206 district court nominees confirmed as of December 9, 2006, the average, or mean, elapsed time between first nomination and confirmation was 171 days, whereas the median elapsed time (i.e., the time interval for the nominee in the midpoint of the distribution of the 206 confirmed nominees) was 134 days.

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<sup>81</sup> See in **Appendices 5** and **8** the Feb. 14, 2006, nomination of Jerome A. Holmes to the Northern District of Oklahoma; Holmes was withdrawn on May 4, 2006, and nominated to the Tenth Circuit that same day.

<sup>82</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.

<sup>83</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 confirmed on June 8, 2006). See **Appendix 5**.

<sup>84</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>85</sup> See, in **Appendix 5**, nominees Frederick W. Rohlfig 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>86</sup> See again, in **Appendix 5**, nominee Thomas L. Ludington for the Eastern District of Michigan, 1,365 days between first nomination on Sept. 12, 2002, and confirmation on June 8, 2006. The nominees with the next highest number of days elapsed between first nomination and confirmation are James C. Dever III, nominated to the Eastern District of North Carolina, 1,072 days between first nomination on May 22, 2002, and confirmation on Apr. 28, 2005; and Peter Sheridan, nominated to the District of New Jersey, 946 days between first nomination on Nov. 5, 2003, and confirmation on June 8, 2006.

<sup>87</sup> See, in **Appendix 5**, nominee L. Scott Coogler for the Northern District of Alabama, nominated on Mar. 27, 2003, and confirmed on May 22, 2003. Nominees James V. Selna for the Central District of California and Philip P. Simon for the Northern District of Indiana, were both nominated on Jan. 29, 2003, and both confirmed on Mar. 27, 2003 — an interval of 57 days.

**Withdrawn Nominees.** Three 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, another in the 108<sup>th</sup> and 109<sup>th</sup> Congresses, and one was nominated only in the 109<sup>th</sup> Congress. The elapsed times between their first nomination and the withdrawal of their final or only nomination were 834 days, 1,067 days, and 79 days, respectively.<sup>88</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>89</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>90</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 confirmed in that Congress, one withdrawn by the President in that Congress,<sup>91</sup> and two confirmed in the 109<sup>th</sup> Congress.)<sup>92</sup>

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<sup>88</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; 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; and Jerome A. Holmes, 79 days between nomination on Feb. 14, 2006, and withdrawal on May 4, 2006.

<sup>89</sup> See **Appendix 6**.

<sup>90</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**.

<sup>91</sup> See, in **Appendix 5** the first nomination of Frederick W. Rohlifing III for the District of Hawaii, in the 107<sup>th</sup> Congress and his second nomination, and its withdrawal, in the 108<sup>th</sup> Congress.

<sup>92</sup> See in **Appendix 5** the nominations in the 107<sup>th</sup>, 108<sup>th</sup>, and 109<sup>th</sup> Congresses — and (continued...)

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

- For 81 district nominations receiving committee hearings, an average of 89 days elapsed between the date a nomination was received in the Senate and the holding of a hearing;<sup>93</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>94</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.

For the 35 district court nominations that were not confirmed, an average of 51 days elapsed between Senate receipt and final action; the briefest time elapsing was 17 days, and the longest time was 301 days.

**The 108<sup>th</sup> Congress.** President Bush submitted a total of 96 district court nominations to the Senate during the 108<sup>th</sup> Congress.<sup>95</sup> The number of individuals nominated was also 96, as there were no district judge renominations during the Congress. Of the 96 total, 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

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<sup>92</sup> (...continued)

ultimate confirmation in the 109<sup>th</sup> Congress — of James C. Dever III for the Eastern District of North Carolina and Thomas L. Ludington for the Eastern District of Michigan.

<sup>93</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 nominations of Reggie B. Walton for the District of South Carolina and Terry L. Wooten for the District Court for the District of Columbia on Sept. 4, 2001, which were preceded by hearings on Aug. 22 and Aug. 27, 2001, respectively.

<sup>94</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 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>95</sup> See **Appendix 7**.

withdrawn.<sup>96</sup> In all but three of the 58 roll calls, the Senate voted unanimously in favor of confirmation.<sup>97</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 recommendation.<sup>98</sup> Of the nine nominees not confirmed, seven did not receive a hearing, and no committee vote was taken on two others.<sup>99</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 follows:<sup>100</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.

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<sup>96</sup> See in **Appendix 7** the Jan. 7, 2003, nomination of Frederick W. Rohlfsing III to the U.S. District Court for the District of Hawaii, which was withdrawn by the President on May 6, 2004.

<sup>97</sup> In two of the three other roll calls 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.

<sup>98</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>99</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>100</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**.

For the nine district court nominations that were not confirmed, an average of 415 days elapsed between Senate receipt and final action; the briefest time elapsing was 84 days, and the longest time was 701 days.

**The 109<sup>th</sup> Congress.** President Bush submitted a total of 66 district court nominations to the Senate during the 109<sup>th</sup> Congress.<sup>101</sup> The number of individuals nominated was also 66, as there were no district judge renominations during the Congress, although eight of the nominees had been nominated previously in the 108<sup>th</sup> Congress. The nominations of 36 of the 66, including seven of the eight resubmissions from the 108<sup>th</sup> Congress, were confirmed (eight by roll call);<sup>102</sup> two were withdrawn;<sup>103</sup> and 28 were returned at the end of the 109<sup>th</sup> Congress. Fifty of the 66 nominees had received hearings (48 in the 109<sup>th</sup> Congress, two in the 108<sup>th</sup>), and the nominations of 49 had been reported out of committee, all favorably. Of the 28 nominees returned at the end of the 109<sup>th</sup> Congress, 14 awaited hearings, one awaited a committee vote, and 13 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, the average (mean) numbers of days that elapsed between the date the nomination was received in the Senate and the aforementioned actions were as follows:<sup>104</sup>

- For the 48 district nominations receiving committee hearings,<sup>105</sup> an average of 105 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 442 days.
- For the 48 district court nominations receiving committee votes, an average of 118 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 451 days.
- For the 36 district nominations receiving final Senate votes (all for confirmation), an average of 143 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 479 days.

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<sup>101</sup> See **Appendix 8**.

<sup>102</sup> On all eight roll calls, the Senate voted unanimously in favor of confirmation.

<sup>103</sup> See, in **Appendix 8**, the Feb. 14, 2005, nomination of Daniel P. Ryan (withdrawn on Mar. 30, 2006), and the Feb. 14, 2006, nomination of Jerome A. Holmes (withdrawn on May 4, 2006).

<sup>104</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>105</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.

For the 30 district court nominations that were not confirmed, an average of 140 days elapsed between Senate receipt and final Senate action; the briefest time elapsing was two days, and the longest time was 409 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 the end of the 109<sup>th</sup> Congress, 75.0% of President Bush's circuit court nominees (51 of 68) had received Senate confirmation, compared with 86.9% (206 of 237) of his district court nominees.<sup>106</sup> For President Bush's immediate predecessor in the White House, President 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>107</sup>

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, 366 days, was more than twice as much as the corresponding time interval of 171 days for district nominees. Also, the median number of days, from first nomination to confirmation, was 216 days for circuit nominees, 62% longer than the corresponding time interval, of 134 days, for district nominees. For circuit nominees returned to the President or withdrawn, the mean interval of 710 days between date of first nomination and date of disposition of most recent nomination (as of the end of the 109<sup>th</sup> Congress), was nearly four times the corresponding mean interval of 184 days for district nominees; the median number of days for this time interval for circuit nominees was 407, almost three times higher than the corresponding interval of 149 days for district nominees.

**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 - December 9, 2006)**

|      | Courts to which nominated | Number of days elapsed from first nomination to ... |                                      |
|------|---------------------------|-----------------------------------------------------|--------------------------------------|
|      |                           | Confirmation                                        | Other final disposition <sup>a</sup> |
| Mean | Circuit (N=68)            | 366 (N=51)                                          | 710 (N=17)                           |
|      | District (N=237)          | 171 (N=206)                                         | 184 (N=31)                           |

<sup>106</sup> These numbers and percentages are derived from the circuit and district nominee lists for President Bush in **Appendices 1** and **5**, respectively.

<sup>107</sup> See **Table 3** and related discussion later in this report, concerning comparative judicial nominations statistics for the five most recent Presidents.

|        |                  |             |            |
|--------|------------------|-------------|------------|
| Median | Circuit (N=68)   | 216 (N=51)  | 407 (N=17) |
|        | District (N=237) | 134 (N=206) | 149 (N=31) |

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

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

a. The most recent 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 roughly 30% of the persons President Bush nominated to circuit judgeships through the end of the 109<sup>th</sup> Congress, were nominated in two or more Congresses,<sup>108</sup> whereas fewer than 10% of the persons he nominated to district judgeships were nominated in more than one Congress.<sup>109</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 - December 9, 2006)**

| Courts to which nominated     | Total number of persons nominated | Number of Congresses in which nominated |            |          |
|-------------------------------|-----------------------------------|-----------------------------------------|------------|----------|
|                               |                                   | One                                     | Two        | Three    |
| Circuit                       | 68 (100%)                         | 48 (70.6%)                              | 14 (20.6%) | 6 (8.8%) |
| District                      | 237 (100%)                        | 216 (91.1%)                             | 19 (8.0%)  | 2 (0.8%) |
| Circuit and District combined | 305 (100%)                        | 264 (86.6 %)                            | 33 (10.8%) | 8 (2.6%) |

**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, 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

<sup>108</sup> Specifically, 20.6% were nominated in two Congresses, and 8.8% were nominated in three Congresses.

<sup>109</sup> Specifically, 8.0% were nominated in two Congresses, and 0.9% were nominated in three Congresses.

the four previous Presidents have been taken from an earlier CRS report.<sup>110</sup> These comparative statistics should be interpreted with caution, as they represent the complete presidencies of President George W. Bush's predecessors, but only the first three Congresses of the presidency of George W. Bush. Final confirmation percentages and time elapsed for the current President could change considerably over the next two years.

**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>111</sup>

- the total number of persons nominated to circuit and district court judgeships;
- the number of persons nominated to these judgeships per year;
- the total number of persons who were confirmed;
- the number of persons who were confirmed per year; 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, through the 109<sup>th</sup> Congress, the total number of persons nominated by President George W. Bush to be circuit judges (68) was less than the number nominated by Presidents Ronald Reagan in eight years (94), William J. Clinton in eight years (91), and more than the number of nominees of Jimmy Carter in four years (61), and his father, George H. W. Bush, in four years (53).<sup>112</sup> The number of persons nominated by President Bush *per year* to be circuit judges (11.3), was lowest among the five Presidents, although only slightly

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<sup>110</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.

<sup>111</sup> **Table 3** is an updated and expanded version of Table 2(b) in the previously noted CRS Report RL31635.

<sup>112</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.

lower than the corresponding numbers for Presidents Clinton (11.4) and Reagan (11.8).<sup>113</sup>

The total number of persons nominated by George W. Bush who were confirmed (51) 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 (8.5) 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. Through the 109<sup>th</sup> Congress, however, the presidency of George W. Bush had reversed that downward confirmation trend somewhat, with a 75.0% confirmation rate for the President's circuit nominees.

**District Court Nominees.** Through the end of the 109<sup>th</sup> Congress, **Table 3** shows, the total number of President George W. Bush's district court nominees (237) was the median (middle value) among those for the five most recent Presidents: President Clinton had the most district nominees (352), followed by Presidents Reagan (309), the current President Bush (237), Carter (224), and George H. W. Bush (189).<sup>114</sup> The *per year* number of persons nominated by the current President Bush to be district judges (39.5) was 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).

**Table 3. U.S. Circuit and District Court Nominees of Five Most Recent Presidents (January 20, 1977 - December 9, 2006): Total and Per Year Number of Nominees, Total and Per Year Number Confirmed, and Percent of Total Confirmed**

| President<br>(Congresses, years)                                      |   | Circuit Court<br>Nominees |             | District Court<br>Nominees <sup>a</sup> |             | Circuit and District<br>Combined |             |
|-----------------------------------------------------------------------|---|---------------------------|-------------|-----------------------------------------|-------------|----------------------------------|-------------|
|                                                                       |   | Total                     | Per<br>year | Total                                   | Per<br>year | Total                            | Per<br>year |
| Jimmy Carter<br>(95 <sup>th</sup> to 96 <sup>th</sup> ,<br>1977-1980) | N | 61                        | 15.3        | 224 <sup>b</sup>                        | 56          | 285                              | 71.3        |
|                                                                       | C | 56                        | 14          | 206                                     | 51.5        | 262                              | 65.5        |

<sup>113</sup> President Carter nominated the most circuit nominees per year (15.3), and George H. W. Bush the second-most (13.3).

<sup>114</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, through the end of the 109<sup>th</sup> Congress, relatively few new district judgeships, 20, had been authorized, in one piece of legislation enacted in 2002 (P.L. 107-273, 116 Stat. 1758).

| President<br>(Congresses, years)                                                     |   | Circuit Court Nominees |          | District Court Nominees <sup>a</sup> |          | Circuit and District Combined |          |
|--------------------------------------------------------------------------------------|---|------------------------|----------|--------------------------------------|----------|-------------------------------|----------|
|                                                                                      |   | Total                  | Per year | Total                                | Per year | Total                         | Per year |
|                                                                                      | % | 91.8%                  | —        | 92.0%                                | —        | 91.9%                         |          |
| <b>Ronald Reagan</b><br>(97 <sup>th</sup> to 100 <sup>th</sup> ,<br>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><br>(101 <sup>st</sup> to 102 <sup>nd</sup> ,<br>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><br>(103 <sup>rd</sup> to 106 <sup>th</sup> ,<br>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><br>(107 <sup>th</sup> to 109 <sup>th</sup> ,<br>2001-2006)     | N | 68                     | 11.3     | 237                                  | 39.5     | 305                           | 50.8     |
|                                                                                      | C | 51                     | 8.5      | 206                                  | 34.3     | 257                           | 42.8     |
|                                                                                      | % | 75.0%                  | —        | 86.9%                                | —        | 84.3%                         | —        |

**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.

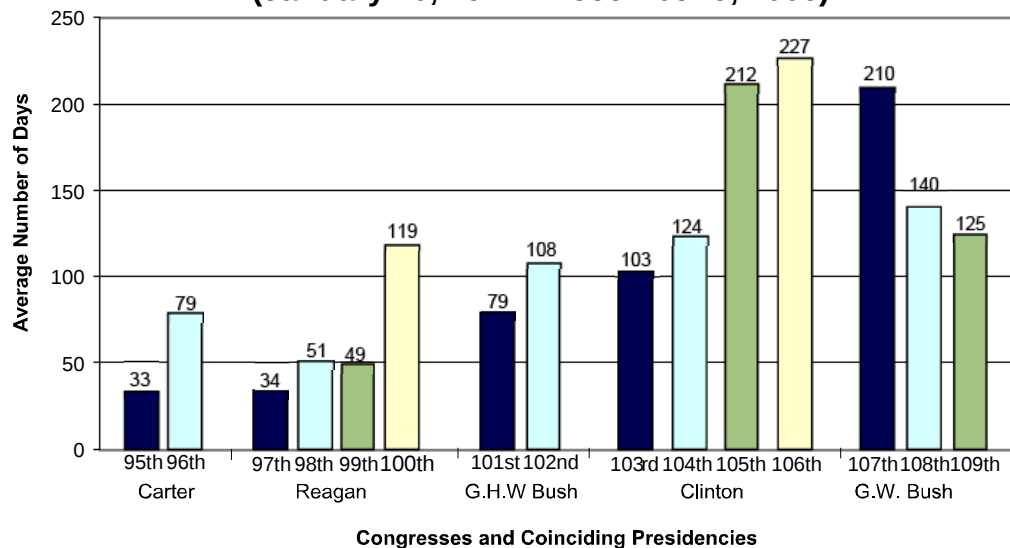
The number of persons nominated by George W. Bush who were confirmed (206) was less than the corresponding confirmation numbers for Presidents Clinton (307), Reagan (292), but the same as Carter (206), and more than for George H. W. Bush (150). The *per year* number of confirmed district nominees for the current President Bush (34.3) was lowest among those of the five Presidents, 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** also shows that George W. Bush’s confirmation percentage of 86.9% for district court nominees through the end of the 109<sup>th</sup> Congress was the second lowest for the five Presidents. Ronald Reagan, Jimmy Carter, and William J. Clinton had higher confirmation percentages for their district court nominees (94.5%, 92.0%, and 87.2%, respectively), whereas George H. W. Bush had a lower confirmation percentage (79.4%).

**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) through the 109<sup>th</sup> (which adjourned for last time on December 9, 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 (i.e., nominations 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>115</sup>

**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 (January 20, 1977 - December 9, 2006)**



<sup>115</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.

**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. 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.

**Figure 1** reveals that, thus far, 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 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.

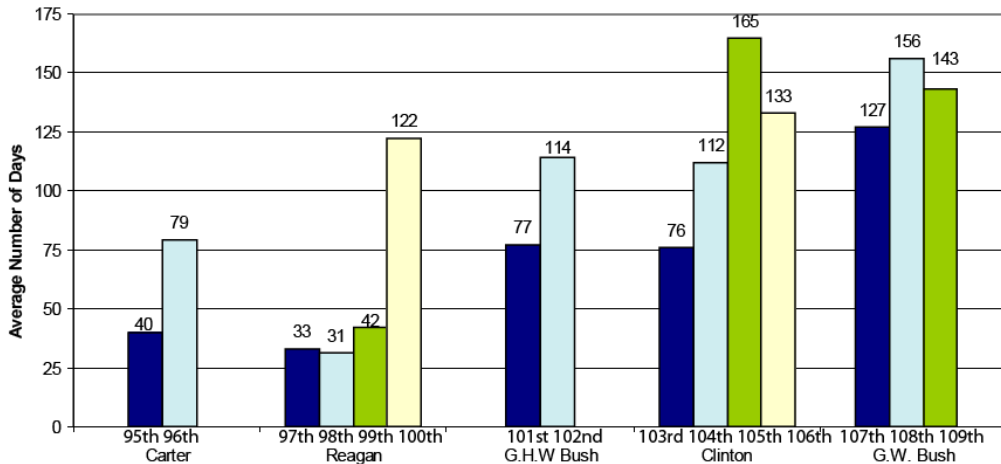
**Figure 1** also shows that during every Congress from the 102<sup>nd</sup> to the 109<sup>th</sup>, the average nomination-to-confirmation time interval for circuit court nominations has been more than 100 days. Well above this 100-plus average was the 210-day average for George W. Bush's circuit court 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 can be seen as being in the same approximate range as 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. 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. U.S. District Court Nominations: Average Number of Days from Nomination to Confirmation, 95<sup>th</sup> Congress to 109<sup>th</sup> Congress (January 20, 1977 - December 9, 2006)**



**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 court nominations, 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 and the 143-day average interval recorded for confirmed district court nominees in the 109<sup>th</sup> Congress.

Comparison of time averages in **Figure 2** with those in **Figure 1** also reveals that in nine of the 15 Congresses in the 1977-2006 time frame, the average time intervals between nomination and confirmation were less for district than for circuit court nominations.<sup>116</sup> 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,

<sup>116</sup> In one of the 15 Congresses, the 96<sup>th</sup>, the average time interval between nomination and confirmation was the same for circuit and district court nominations — 79 days.

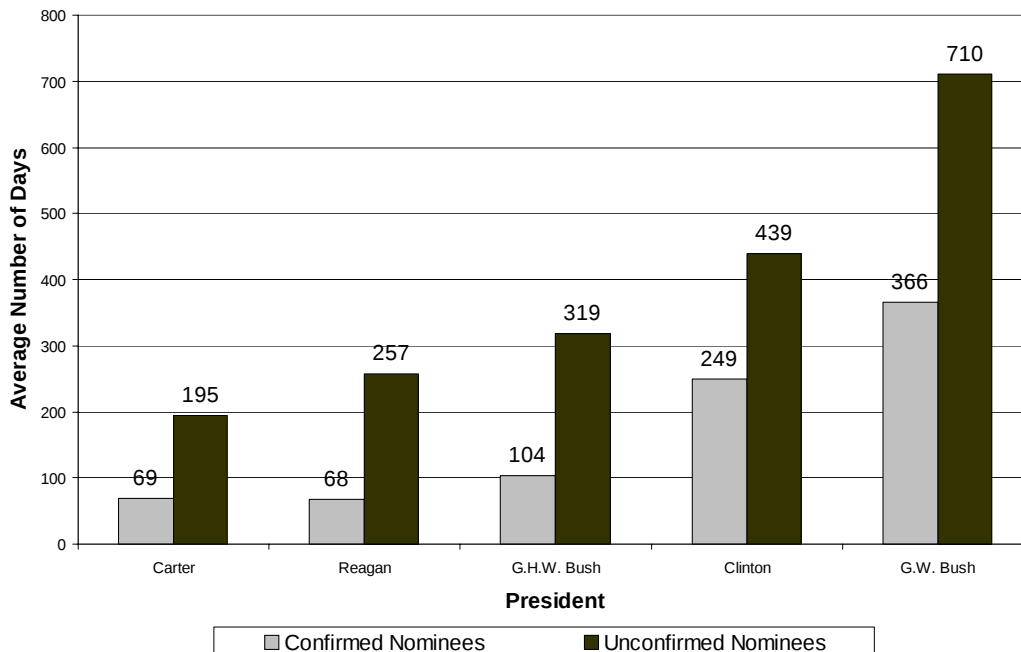
the average interval for George W. Bush's district nominations in the 107<sup>th</sup> Congress was 127 days, compared with 210 days for his circuit nominations in the same Congress. This, however, was not the pattern for the two most recent Congresses. In the 108<sup>th</sup> Congress the average elapsed time between nomination and confirmation for George W. Bush's district nominations (156 days) was *higher* than for his circuit nominations (140 days), as it was, again, in the 109<sup>th</sup> Congress (for district court nominations, 143 days; for circuit nominations, 110 days).

It should be emphasized, as a caveat, that **Figures 1** and **2**, in accounting only for nominations confirmed within a Congress, have certain limitations. The figures focus on the elapsed times of nominations, rather than on nominees, and the time which elapsed from their first nomination to confirmation of their most recent nomination. Focusing only on nominations, rather than persons nominated, underestimates how long individuals awaited confirmation. This is particularly true for courts of appeals nominees, whose nominations have been returned at a greater rate than district court nominees under President George W. Bush. Further, failing to account for nominees who never were confirmed may also understate the average time in pendency for judicial nominations.

To provide a clearer comparative snapshot, by presidency, of the average time pending for all nominees, **Figures 3** and **4** follow. Over the five most recent presidencies, the two figures provide, for circuit and district court nominees, respectively, the average elapsed time from their first nomination to final disposition of their last nomination, separating confirmed and unconfirmed nominees.

**Circuit Court Nominees: Average Number of Days from Nomination to Final Action.** Figure 3, below, shows by President (from Jimmy Carter to George W. Bush) the average number of days elapsed from date of first nomination to final action for circuit nominees confirmed, as well as for those not confirmed.<sup>117</sup>

**Figure 3. Average Time to Disposition, Confirmed and Unconfirmed Nominees to the U.S. Courts of Appeals, by President (January 20, 1977 - December 9, 2006)**



**Figure 3** demonstrates that the average time to confirmation for circuit court nominees, after being almost the same for the circuit nominees of Presidents Carter and Reagan, has since risen steadily. The average elapsed time between first nomination and confirmation was 69 days for Carter circuit nominees and 68 days for Reagan nominees. Subsequently, however, with each succeeding presidency, this time average increased significantly. President George H. W. Bush's confirmed nominees to the circuit courts on average waited 104 days to be confirmed (53% longer than President Reagan's confirmed nominees), President Clinton's confirmed circuit nominees on average waited 249 days (139% longer than George H.W. Bush's nominees), and George W. Bush's circuit court nominees waited, on average, 366 days to be confirmed (47% longer than President Clinton's nominees). When using the Reagan and current Bush presidencies as points of reference, **Figure 3** shows, George W. Bush's confirmed circuit court nominees have taken, on average, more than five times as long as President Reagan's circuit nominees to be confirmed (366 versus 68 days).

<sup>117</sup> The numbers shown in **Figure 3** were calculated from a CRS nominations database derived in large part from data available in the Presidential Nominations database in the Legislative Information System of the U.S. Congress (LIS), available at [<http://www.congress.gov/nomis/search.html>]. Data for the 95<sup>th</sup> and 96<sup>th</sup> Congresses were collected from the *Journal of the Executive Proceedings of the Senate*.

For circuit court nominees not confirmed, **Figure 3** reveals that the average elapsed time between first nomination and final disposition of last nomination has, by presidency, also risen steadily, since the presidency of Jimmy Carter. Specifically, the average elapsed times for unconfirmed circuit court nominees between first nomination and final disposition of their last nomination was as follows: for nominees of President Carter, 195 days; nominees of President Reagan, 257 days; nominees of President George H.W. Bush, 319 days; nominees of President Clinton, 439 days; and nominees of President George W. Bush, 710 days — three and a half times longer than the corresponding elapsed time average of 195 days for President Carter’s unconfirmed circuit court nominees.

The preceding discussion, it should be noted, compares time averages for circuit nominees of four completed presidencies (Carter through Clinton) with those of a presidency (George W. Bush’s) which is still in progress. It is, of course, unclear to what extent the time averages for President Bush’s circuit nominees, for his presidency after two completed terms, will be affected by Senate consideration of his nominations in the 110<sup>th</sup> Congress.

**District Court Nominees: Average Number of Days from Nomination to Final Action.** **Figure 4**, below, shows, by President (from Jimmy Carter to George W. Bush) the average number of days elapsed from date of first nomination to final action for district court nominees confirmed, as well as for those not confirmed.<sup>118</sup>

**Figure 4** demonstrates that the average time to confirmation, after being 70 days both for the district court nominees of President Carter and of President Reagan, rose steadily during the next three presidencies. President George H. W. Bush’s confirmed nominees to the district courts on average waited 107 days to be confirmed (52.9% longer than Reagan and Carter district nominees), President Clinton’s confirmed district nominees on average waited 133 days to be confirmed (24.3% longer than George H.W. Bush’s nominees), and George W. Bush’s district court nominees waited 171 days (28.6% longer than Clinton nominees).

Viewed from the perspective of the entire 1977-2006 period in question, George W. Bush’s district court nominees have taken, on average, almost two and a half times as long as the district nominees of Presidents Carter and Reagan to be confirmed (171 days for Bush versus 70 days for Carter and Reagan nominees). The magnitude of this increase, however, was not as great as the above-discussed 500+% increase in average time taken for George W. Bush’s circuit court nominees to be confirmed (366 days) over the average confirmation time taken by President Reagan’s circuit nominees (68 days). In other words, over the course of the last four presidencies (Reagan through George W. Bush) there has been a steady rise in the average times taken to confirm

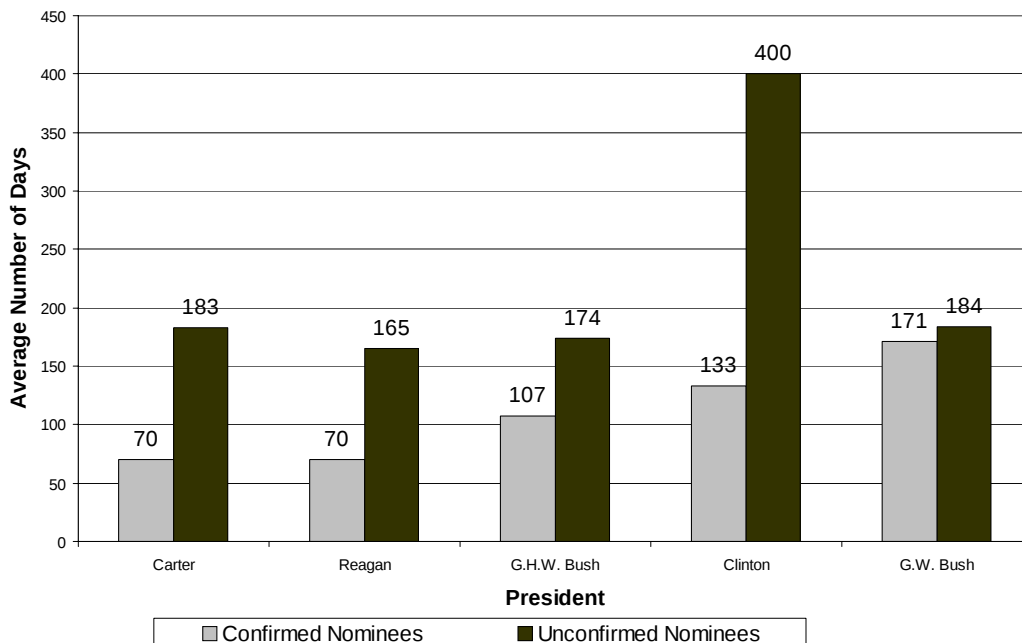
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<sup>118</sup> The numbers shown in **Figure 4**, as for **Figure 3** above, were calculated from a CRS nominations database derived in large part from data available in the Presidential Nominations database in the Legislative Information System of the U.S. Congress (LIS), available at [<http://www.congress.gov/nomis/search.html>]. Data for the 95<sup>th</sup> and 96<sup>th</sup> Congresses were collected from the *Journal of the Executive Proceedings of the Senate*.

district as well as circuit court nominees; however, circuit nominees have experienced a higher rate of increase in their average confirmation time than have district nominees, ultimately resulting in an average confirmation time during the presidency of George W. Bush (366 days) more than twice as long as the average confirmation time for district court nominees (171 days).

For district court nominees not confirmed, **Figure 4** shows, there has not been a steady increase, by presidency, in the average elapsed time between first nomination and final disposition of last nomination. Rather, the average elapsed time stayed at about the same level over the course of the Carter, Reagan, and George H. W. Bush presidencies, increased dramatically, by more than 100%, with the Clinton presidency, and then, for the first six years of the presidency of George W. Bush, fell back to about the same level as the average elapsed times of the Carter, Reagan, and George H.W. Bush presidencies. Specifically, the average elapsed times for unconfirmed district court nominees between first nomination and final disposition of their last nomination was as follows: for Carter nominees, 183 days; Reagan nominees, 165 days; nominees of George H.W. Bush, 174 days; Clinton nominees, 400 days; and nominees of George W. Bush, 184 days.

**Figure 4. Average Time to Disposition, Confirmed and Unconfirmed Nominees to the U.S. District Courts, by President (January 20, 1977 - December 9, 2006)**



The preceding discussion, it is useful to remember, compares time averages for the district court nominees of four completed presidencies (Carter through Clinton) with those of a presidency (George W. Bush's) which is still in progress. For the current Bush presidency, the nominations of four individuals in the last month of the 109<sup>th</sup> Congress, all of whom were returned by the Senate and renominated in the 110<sup>th</sup> Congress, had a downward effect on the average time in pendency for unconfirmed

nominees (184 days).<sup>119</sup> It is, of course, unclear to what extent the time averages for President Bush's district nominees, for his presidency after two completed terms, will be affected by Senate consideration of his nominations in the 110<sup>th</sup> Congress.

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<sup>119</sup> The four nominations (and districts) were of James E. Rogan (Central California) and Benjamin H. Settle (Western Washington) on Nov. 15, 2006; Frederick J. Kapala (Northern Illinois) on Dec. 5, 2006; and Thomas A. Farr (Eastern North Carolina) on Dec. 7, 2006. All of these nominations were returned on Dec. 9, 2006, and resubmitted to the 110<sup>th</sup> Congress on Jan. 9, 2007. The lengths of pendency for each nominee, in the 109<sup>th</sup> Congress, as of Dec. 9, 2006, were 24, 24, four, and two days, respectively. See **Appendix 8**. Whether these nominees are confirmed or not in the 110<sup>th</sup> Congress, the overall time between their first nomination in the 109<sup>th</sup> Congress and final disposition of their last nomination in the 110<sup>th</sup> Congress can be expected to significantly exceed the pendency lengths of 24, 24, four, and two days listed in **Appendix 8**.

## Appendix 1: President George W. Bush's Nominees to the U.S. Circuit Courts of Appeals, 107<sup>th</sup>-109<sup>th</sup> Congresses (January 20, 2001-December 9, 2006)

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | State | Circuit | Congress          | Date       |                      |                                  |              | Disposition | Days<br>Elapsed,<br>Initial<br>Nomination<br>to Disposition<br>of Most<br>Recent<br>Nomination |
|-------------------------------------------------------------------|-------|---------|-------------------|------------|----------------------|----------------------------------|--------------|-------------|------------------------------------------------------------------------------------------------|
|                                                                   |       |         |                   | Nomination | Hearing <sup>a</sup> | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                                |
| <i>Allen, Claude A.</i>                                           | VA    | Fourth  | 108 <sup>th</sup> | 04/28/03   | 10/28/03             | —                                | 12/09/03     | Returned    | 590                                                                                            |
|                                                                   |       |         |                   | 01/20/04   | —                    | —                                | 12/08/04     | Returned    |                                                                                                |
| Bea, Carlos T.                                                    | CA    | Ninth   | 108 <sup>th</sup> | 04/11/03   | 09/03/03             | 09/25/03                         | 9/29/03      | Confirmed   | 171                                                                                            |
| Benton, William D.                                                | MO    | Eighth  | 108 <sup>th</sup> | 02/12/04   | 04/08/04             | 04/29/04                         | 6/24/04      | Confirmed   | 133                                                                                            |
| <i>Boyle, Terrence W.</i>                                         | NC    | Fourth  | 107 <sup>th</sup> | 05/09/01   | —                    | —                                | 08/03/01     | Returned    | 2,040                                                                                          |
|                                                                   |       |         |                   | 09/04/01   | —                    | —                                | 11/20/02     | Returned    |                                                                                                |
|                                                                   |       |         | 108 <sup>th</sup> | 01/07/03   | —                    | —                                | 12/08/04     | Returned    |                                                                                                |
|                                                                   |       |         |                   | 02/14/05   | 03/03/05             | 06/16/05                         | 08/03/06     | Returned    |                                                                                                |
|                                                                   |       |         |                   | 09/05/06   | —                    | —                                | 09/29/06     | Returned    |                                                                                                |
|                                                                   |       |         |                   | 11/15/06   | —                    | —                                | 12/09/06     | Returned    |                                                                                                |
| Brown, Janice R.                                                  | CA    | D.C.    | 108 <sup>th</sup> | 07/25/03   | 10/22/03             | 11/06/03                         | 12/08/04     | Returned    | 684                                                                                            |
|                                                                   |       |         | 109 <sup>th</sup> | 02/14/05   | —                    | 04/21/05                         | 06/08/05     | Confirmed   |                                                                                                |
| Bybee, Jay S.                                                     | NV    | Ninth   | 107 <sup>th</sup> | 05/22/02   | —                    | —                                | 11/20/02     | Returned    | 295                                                                                            |
|                                                                   |       |         | 108 <sup>th</sup> | 01/07/03   | 02/05/03             | 02/27/03                         | 03/13/03     | Confirmed   |                                                                                                |
| Callahan, Consuelo M.                                             | CA    | Ninth   | 108 <sup>th</sup> | 02/12/03   | 05/07/03             | 05/08/03                         | 05/22/03     | Confirmed   | 99                                                                                             |
| Chagares, Michael A.                                              | NJ    | Third   | 109 <sup>th</sup> | 01/25/06   | 03/14/06             | 03/30/06                         | 04/04/06     | Confirmed   | 69                                                                                             |

## CRS-40

| Name of Nominee<br><br><i>(Nominees Not Confirmed<br/>In Italics)</i> | State | Circuit | Congress          | Date       |                      |                                  |              | Disposition | Days<br>Elapsed,<br>Initial<br>Nomination<br>to Disposition<br>of Most<br>Recent<br>Nomination |
|-----------------------------------------------------------------------|-------|---------|-------------------|------------|----------------------|----------------------------------|--------------|-------------|------------------------------------------------------------------------------------------------|
|                                                                       |       |         |                   | Nomination | Hearing <sup>a</sup> | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                                |
| Chertoff, Michael                                                     | NJ    | Third   | 108 <sup>th</sup> | 03/05/03   | 05/7/03              | 05/22/03                         | 06/09/03     | Confirmed   | 96                                                                                             |
| Clement, Edith B.                                                     | LA    | Fifth   | 107 <sup>th</sup> | 05/09/01   | —                    | —                                | 08/03/01     | Returned    | 188                                                                                            |
|                                                                       |       |         |                   | 09/04/01   | 10/04/01             | 11/01/01                         | 11/13/01     | Confirmed   |                                                                                                |
| Clifton, Richard R.                                                   | HI    | Ninth   | 107 <sup>th</sup> | 06/22/01   | —                    | —                                | 08/03/01     | Returned    | 391                                                                                            |
|                                                                       |       |         |                   | 09/04/01   | 05/09/02             | 05/16/02                         | 07/18/02     | Confirmed   |                                                                                                |
| Colloton, Steven M.                                                   | IA    | Eighth  | 108 <sup>th</sup> | 02/12/03   | 07/22/03             | 07/31/03                         | 09/04/03     | Confirmed   | 204                                                                                            |
| Cook, Deborah L.                                                      | OH    | Sixth   | 107 <sup>th</sup> | 05/09/01   | —                    | —                                | 08/03/01     | Returned    | 726                                                                                            |
|                                                                       |       |         |                   | 09/04/01   | —                    | —                                | 11/20/02     | Returned    |                                                                                                |
|                                                                       |       |         | 108 <sup>th</sup> | 01/07/03   | 01/29/03             | 02/27/03                         | 05/05/03     | Confirmed   |                                                                                                |
| Duncan, Allyson K.                                                    | NC    | Fourth  | 108 <sup>th</sup> | 04/28/03   | 06/25/03             | 07/10/03                         | 07/17/03     | Confirmed   | 80                                                                                             |
| <i>Estrada, Miguel A.</i>                                             | VA    | DC      | 107 <sup>th</sup> | 05/09/01   | —                    | —                                | 08/03/01     | Returned    | 848                                                                                            |
|                                                                       |       |         |                   | 09/04/01   | 09/26/02             | —                                | 11/20/02     | Returned    |                                                                                                |
|                                                                       |       |         | 108 <sup>th</sup> | 01/07/03   | —                    | 01/30/03                         | 09/04/03     | Withdrawn   |                                                                                                |
| Fisher, D. Michael                                                    | PA    | Third   | 108 <sup>th</sup> | 05/01/03   | 10/15/03             | 11/06/03                         | 12/09/03     | Confirmed   | 222                                                                                            |
| Gibbons, Julia S.                                                     | TN    | Sixth   | 107 <sup>th</sup> | 10/09/01   | 04/25/02             | 05/02/02                         | 07/29/02     | Confirmed   | 293                                                                                            |
| Gorsuch, Neil M.                                                      | CO    | Tenth   | 109 <sup>th</sup> | 05/10/06   | 06/21/06             | 07/13/06                         | 07/20/06     | Confirmed   | 71                                                                                             |
| Gregory, Roger L.                                                     | VA    | Fourth  | 107 <sup>th</sup> | 05/09/01   | 07/11/01             | 07/19/01                         | 07/20/01     | Confirmed   | 72                                                                                             |
| Griffin, Richard A.                                                   | MI    | Sixth   | 107 <sup>th</sup> | 06/26/02   | —                    | —                                | 11/20/02     | Returned    | 1,079                                                                                          |
|                                                                       |       |         | 108 <sup>th</sup> | 01/07/03   | 06/16/04             | 07/20/04                         | 12/08/04     | Returned    |                                                                                                |
|                                                                       |       |         | 109 <sup>th</sup> | 02/14/05   | —                    | 05/26/05                         | 06/09/05     | Confirmed   |                                                                                                |

## CRS-41

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | State | Circuit | Congress          | Date       |                      |                                  |              | Disposition | Days<br>Elapsed,<br>Initial<br>Nomination<br>to Disposition<br>of Most<br>Recent<br>Nomination |
|-------------------------------------------------------------------|-------|---------|-------------------|------------|----------------------|----------------------------------|--------------|-------------|------------------------------------------------------------------------------------------------|
|                                                                   |       |         |                   | Nomination | Hearing <sup>a</sup> | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                                |
| Griffith, Thomas B.                                               | UT    | DC      | 108 <sup>th</sup> | 05/10/04   | 11/16/04             | —                                | 12/08/04     | Returned    | 400                                                                                            |
|                                                                   |       |         | 109 <sup>th</sup> | 02/14/05   | 03/08/05             | 04/14/05                         | 06/14/05     | Confirmed   |                                                                                                |
| Gruender, Raymond W.                                              | MO    | Eighth  | 108 <sup>th</sup> | 09/29/03   | 01/22/04             | 03/04/04                         | 05/20/04     | Confirmed   | 234                                                                                            |
| Hall, Peter W.                                                    | VT    | Second  | 108 <sup>th</sup> | 12/09/03   | 03/10/04             | 04/01/04                         | 06/24/04     | Confirmed   | 198                                                                                            |
| <i>Hardiman, Thomas M.</i> <sup>c</sup>                           | PA    | Third   | 109 <sup>th</sup> | 09/13/06   | 11/14/06             | —                                | 12/09/06     | Returned    | 87                                                                                             |
| Hartz, Harris L.                                                  | NM    | Tenth   | 107 <sup>th</sup> | 06/21/01   | —                    | —                                | 08/03/01     | Returned    | 168                                                                                            |
|                                                                   |       |         |                   | 09/04/01   | 10/25/01             | 11/29/01                         | 12/06/01     | Confirmed   |                                                                                                |
| <i>Haynes, William J., II</i>                                     | VA    | Fourth  | 108 <sup>th</sup> | 09/29/03   | 11/19/03             | 03/11/04                         | 12/08/04     | Returned    | 1,167                                                                                          |
|                                                                   |       |         | 109 <sup>th</sup> | 02/14/05   | 07/11/06             | —                                | 08/03/06     | Returned    |                                                                                                |
|                                                                   |       |         |                   | 09/05/06   | —                    | —                                | 09/29/06     | Returned    |                                                                                                |
|                                                                   |       |         |                   | 11/15/06   | —                    | —                                | 12/09/06     | Returned    |                                                                                                |
| Holmes, Jerome A.                                                 | OK    | Tenth   | 109 <sup>th</sup> | 05/04/06   | 06/15/06             | 07/13/06                         | 07/25/06     | Confirmed   | 82                                                                                             |
| Howard, Jeffrey R.                                                | NH    | First   | 107 <sup>th</sup> | 08/02/01   | —                    | —                                | 08/03/01     | Returned    | 264                                                                                            |
|                                                                   |       |         |                   | 09/04/01   | 04/11/02             | 04/18/02                         | 04/23/02     | Confirmed   |                                                                                                |
| Ikuta, Sandra S.                                                  | CA    | Ninth   | 109 <sup>th</sup> | 02/08/06   | 05/02/06             | 05/25/06                         | 06/19/06     | Confirmed   | 131                                                                                            |
| Jordan, Kent A.                                                   | DE    | Third   | 109 <sup>th</sup> | 06/28/06   | 09/06/06             | 09/26/06                         | 12/08/06     | Confirmed   | 163                                                                                            |
| Kavanaugh, Brett M.                                               | MD    | DC      | 108 <sup>th</sup> | 07/25/03   | 04/27/04             | —                                | 12/08/04     | Returned    | 1,036                                                                                          |
|                                                                   |       |         | 109 <sup>th</sup> | 02/14/05   | —                    | —                                | 12/21/05     | Returned    |                                                                                                |
|                                                                   |       |         |                   | 01/25/06   | 05/09/06             | 05/11/06                         | 05/26/06     | Confirmed   |                                                                                                |
| <i>Keisler, Peter D.</i> <sup>c</sup>                             | MD    | DC      | 109 <sup>th</sup> | 06/29/06   | 08/01/06             | —                                | 09/29/06     | Returned    | 163                                                                                            |
|                                                                   |       |         |                   | 11/15/06   | —                    | —                                | 12/09/06     | Returned    |                                                                                                |

## CRS-42

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | State | Circuit | Congress          | Date       |                      |                                  |              | Disposition | Days<br>Elapsed,<br>Initial<br>Nomination<br>to Disposition<br>of Most<br>Recent<br>Nomination |
|-------------------------------------------------------------------|-------|---------|-------------------|------------|----------------------|----------------------------------|--------------|-------------|------------------------------------------------------------------------------------------------|
|                                                                   |       |         |                   | Nomination | Hearing <sup>a</sup> | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                                |
| <i>Kethledge, Raymond M.</i>                                      | MI    | Sixth   | 109 <sup>th</sup> | 06/28/06   | —                    | —                                | 12/09/06     | Returned    | 164                                                                                            |
| <i>Kuhl, Carolyn B.</i>                                           | CA    | Ninth   | 107 <sup>th</sup> | 06/22/01   | —                    | —                                | 08/03/01     | Returned    | 1,265                                                                                          |
|                                                                   |       |         | 108 <sup>th</sup> | 09/04/01   | —                    | —                                | 11/20/02     | Returned    |                                                                                                |
|                                                                   |       |         |                   | 01/07/03   | 04/01/03             | 05/08/03                         | 12/08/04     | Returned    |                                                                                                |
| <i>Livingston, Debra A.</i> <sup>c</sup>                          | NY    | Second  | 109 <sup>th</sup> | 06/28/06   | —                    | —                                | 12/09/06     | Returned    | 164                                                                                            |
| McConnell, Michael W.                                             | UT    | Tenth   | 107 <sup>th</sup> | 05/09/01   | —                    | —                                | 08/03/01     | Returned    | 555                                                                                            |
|                                                                   |       |         |                   | 09/04/01   | 09/18/02             | 11/14/02                         | 11/15/02     | Confirmed   |                                                                                                |
| McKeague, David W.                                                | MI    | Sixth   | 107 <sup>th</sup> | 11/08/01   | —                    | —                                | 11/20/02     | Returned    | 1,309                                                                                          |
|                                                                   |       |         | 108 <sup>th</sup> | 01/07/03   | 06/16/04             | 07/20/04                         | 12/08/04     | Returned    |                                                                                                |
|                                                                   |       |         | 109 <sup>th</sup> | 02/14/05   | —                    | 05/26/05                         | 06/09/05     | Confirmed   |                                                                                                |
| Melloy, Michael J.                                                | IA    | Eighth  | 107 <sup>th</sup> | 07/10/01   | —                    | —                                | 08/03/01     | Returned    | 216                                                                                            |
|                                                                   |       |         |                   | 09/04/01   | 01/24/02             | 02/07/02                         | 02/11/02     | Confirmed   |                                                                                                |
| Moore, Kimberly A.                                                | VA    | Federal | 109 <sup>th</sup> | 05/18/06   | 06/28/06             | 07/27/06                         | 09/05/06     | Confirmed   | 110                                                                                            |
| <i>Murphy, Stephen J., II</i>                                     | MI    | Sixth   | 109 <sup>th</sup> | 06/28/06   | —                    | —                                | 12/09/06     | Returned    | 164                                                                                            |
| <i>Myers, William G., III</i>                                     | ID    | Ninth   | 108 <sup>th</sup> | 05/15/03   | 02/05/04             | 04/01/04                         | 12/08/04     | Returned    | 1,304                                                                                          |
|                                                                   |       |         | 109 <sup>th</sup> | 02/14/05   | 03/01/05             | 03/17/05                         | 08/03/06     | Returned    |                                                                                                |
|                                                                   |       |         |                   | 09/05/06   | —                    | —                                | 09/29/06     | Returned    |                                                                                                |
|                                                                   |       |         |                   | 11/15/06   | —                    | —                                | 12/09/06     | Returned    |                                                                                                |
| Neilson, Susan B.                                                 | MI    | Sixth   | 107 <sup>th</sup> | 11/08/01   | —                    | —                                | 11/20/02     | Returned    | 1,449                                                                                          |
|                                                                   |       |         | 108 <sup>th</sup> | 01/07/03   | 09/08/04             | 10/04/04                         | 12/08/04     | Returned    |                                                                                                |
|                                                                   |       |         | 109 <sup>th</sup> | 02/14/05   | —                    | 10/20/05                         | 10/27/05     | Confirmed   |                                                                                                |

## CRS-43

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | State | Circuit  | Congress          | Date       |                      |                                  |              | Disposition | Days<br>Elapsed,<br>Initial<br>Nomination<br>to Disposition<br>of Most<br>Recent<br>Nomination |
|-------------------------------------------------------------------|-------|----------|-------------------|------------|----------------------|----------------------------------|--------------|-------------|------------------------------------------------------------------------------------------------|
|                                                                   |       |          |                   | Nomination | Hearing <sup>a</sup> | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                                |
| O'Brien, Terrence L.                                              | WY    | Tenth    | 107 <sup>th</sup> | 08/02/01   | —                    | —                                | 08/03/01     | Returned    | 223                                                                                            |
|                                                                   |       |          |                   | 09/04/01   | 03/19/02             | 04/11/02                         | 04/15/02     | Confirmed   |                                                                                                |
| Owen, Priscilla R.                                                | TX    | Fifth    | 107 <sup>th</sup> | 05/09/01   | —                    | —                                | 08/03/01     | Returned    | 1,477                                                                                          |
|                                                                   |       |          |                   | 09/04/01   | 07/23/02             | 09/05/02 <sup>d</sup>            | 11/20/02     | Returned    |                                                                                                |
|                                                                   |       |          | 108 <sup>th</sup> | 01/07/03   | 03/13/03             | 03/27/03                         | 12/08/04     | Returned    |                                                                                                |
|                                                                   |       |          | 109 <sup>th</sup> | 02/14/05   | —                    | 04/21/05                         | 05/25/05     | Confirmed   |                                                                                                |
| Parker, Barrington D., Jr.                                        | CT    | Second   | 107 <sup>th</sup> | 05/09/01   | —                    | —                                | 08/03/01     | Returned    | 155                                                                                            |
|                                                                   |       |          |                   | 09/04/01   | 09/13/01             | 10/04/01                         | 10/11/01     | Confirmed   |                                                                                                |
| <i>Payne, James H.</i>                                            | OK    | Tenth    | 109 <sup>th</sup> | 09/29/05   | —                    | —                                | 03/07/06     | Withdrawn   | 159                                                                                            |
| <i>Pickering, Charles W., Sr.</i>                                 | MS    | Fifth    | 107 <sup>th</sup> | 05/25/01   | —                    | —                                | 08/03/01     | Returned    | 1,293                                                                                          |
|                                                                   |       |          |                   | 09/04/01   | 10/18/01             | 03/14/02 <sup>e</sup>            | 11/20/02     | Returned    |                                                                                                |
|                                                                   |       |          | 108 <sup>th</sup> | 01/07/03   | —                    | 10/02/03                         | 12/08/04     | Returned    |                                                                                                |
|                                                                   |       |          |                   | 02/06/04   | —                    | —                                | 12/08/04     | Returned    |                                                                                                |
| Prado, Edward C.                                                  | TX    | Fifth    | 108 <sup>th</sup> | 02/06/03   | 03/27/03             | 04/03/03                         | 05/01/03     | Confirmed   | 84                                                                                             |
| Prost, Sharon                                                     | DC    | Federal  | 107 <sup>th</sup> | 05/21/01   | —                    | —                                | 08/03/01     | Returned    | 123                                                                                            |
|                                                                   |       |          |                   | 09/04/01   | 08/27/01             | 09/06/01                         | 09/21/01     | Confirmed   |                                                                                                |
| Pryor, William H., Jr.                                            | AL    | Eleventh | 108 <sup>th</sup> | 04/09/03   | 06/11/03             | 07/23/03                         | 12/08/04     | Returned    | 792                                                                                            |
|                                                                   |       |          |                   | 03/12/04   | —                    | —                                | 12/08/04     | Returned    |                                                                                                |
|                                                                   |       |          | 109 <sup>th</sup> | 02/14/05   | —                    | 05/12/05                         | 06/09/05     | Confirmed   |                                                                                                |
| Raggi, Reena                                                      | NY    | Second   | 107 <sup>th</sup> | 05/01/02   | 08/01/02             | 09/05/02                         | 09/20/02     | Confirmed   | 142                                                                                            |
| Riley, William J.                                                 | NE    | Eighth   | 107 <sup>th</sup> | 05/23/01   | 07/24/01             | 08/02/01                         | 08/02/01     | Confirmed   | 71                                                                                             |

## CRS-44

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | State | Circuit  | Congress          | Date       |                      |                                  |              | Disposition | Days<br>Elapsed,<br>Initial<br>Nomination<br>to Disposition<br>of Most<br>Recent<br>Nomination |
|-------------------------------------------------------------------|-------|----------|-------------------|------------|----------------------|----------------------------------|--------------|-------------|------------------------------------------------------------------------------------------------|
|                                                                   |       |          |                   | Nomination | Hearing <sup>a</sup> | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                                |
| Roberts, John G., Jr.                                             | MD    | DC       | 107 <sup>th</sup> | 05/09/01   | —                    | —                                | 08/03/01     | Returned    | 729                                                                                            |
|                                                                   |       |          |                   | 09/04/01   | —                    | —                                | 11/20/02     | Returned    |                                                                                                |
|                                                                   |       |          | 108 <sup>th</sup> | 01/07/03   | 01/29/03             | 02/27/03                         | 05/08/03     | Confirmed   |                                                                                                |
| Rogers, John M.                                                   | KY    | Sixth    | 107 <sup>th</sup> | 12/19/01   | 06/13/02             | 07/11/02                         | 11/14/02     | Confirmed   | 330                                                                                            |
| <i>Saad, Henry W.</i>                                             | MI    | Sixth    | 107 <sup>th</sup> | 11/08/01   | —                    | —                                | 11/20/02     | Returned    | 1,600                                                                                          |
|                                                                   |       |          | 108 <sup>th</sup> | 01/07/03   | 07/30/03             | 06/17/04                         | 12/08/04     | Returned    |                                                                                                |
|                                                                   |       |          | 109 <sup>th</sup> | 02/14/05   | —                    | —                                | 03/27/06     | Withdrawn   |                                                                                                |
| Shedd, Dennis W.                                                  | SC    | Fourth   | 107 <sup>th</sup> | 05/09/01   | —                    | —                                | 08/03/01     | Returned    | 559                                                                                            |
|                                                                   |       |          |                   | 09/04/01   | 06/27/02             | 11/14/02                         | 11/19/02     | Confirmed   |                                                                                                |
| Shepherd, Bobby E.                                                | AR    | Eighth   | 109 <sup>th</sup> | 05/18/06   | 06/28/06             | 07/13/06                         | 07/20/06     | Confirmed   | 63                                                                                             |
| Smith, D. Brooks                                                  | PA    | Third    | 107 <sup>th</sup> | 09/10/01   | 02/26/02             | 05/23/02                         | 07/31/02     | Confirmed   | 324                                                                                            |
| Smith, Lavenski R.                                                | AR    | Eighth   | 107 <sup>th</sup> | 05/22/01   | —                    | —                                | 08/03/01     | Returned    | 419                                                                                            |
|                                                                   |       |          |                   | 09/04/01   | 05/23/02             | 06/27/02                         | 07/15/02     | Confirmed   |                                                                                                |
| Smith, Milan D., Jr.                                              | CA    | Ninth    | 109 <sup>th</sup> | 02/14/06   | 04/25/06             | 05/04/06                         | 05/16/06     | Confirmed   | 91                                                                                             |
| <i>Smith, N. Randy</i> <sup>c, f</sup>                            | ID    | Ninth    | 109 <sup>th</sup> | 12/16/05   | 03/01/06             | 05/04/06                         | 08/03/06     | Returned    | 358                                                                                            |
|                                                                   |       |          |                   | 09/05/06   | —                    | 09/21/06                         | 09/29/06     | Returned    |                                                                                                |
|                                                                   |       |          |                   | 11/15/06   | —                    | —                                | 12/09/06     | Returned    |                                                                                                |
| <i>Steele, William H.</i>                                         | AL    | Eleventh | 107 <sup>th</sup> | 10/09/01   | —                    | —                                | 11/20/02     | Returned    | 407                                                                                            |
| Sutton, Jeffrey S.                                                | OH    | Sixth    | 107 <sup>th</sup> | 05/09/01   | —                    | —                                | 08/03/01     | Returned    | 720                                                                                            |
|                                                                   |       |          |                   | 09/04/01   | —                    | —                                | 11/20/02     | Returned    |                                                                                                |
|                                                                   |       |          | 108 <sup>th</sup> | 01/07/03   | 01/29/03             | 02/13/03                         | 04/29/03     | Confirmed   |                                                                                                |

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i>                                                      | State | Circuit | Congress          | Date       |                      |                                  |              | Disposition         | Days<br>Elapsed,<br>Initial<br>Nomination<br>to Disposition<br>of Most<br>Recent<br>Nomination |
|------------------------------------------------------------------------------------------------------------------------|-------|---------|-------------------|------------|----------------------|----------------------------------|--------------|---------------------|------------------------------------------------------------------------------------------------|
|                                                                                                                        |       |         |                   | Nomination | Hearing <sup>a</sup> | Committee<br>Action <sup>b</sup> | Final Action |                     |                                                                                                |
| Sykes, Diane S.                                                                                                        | WI    | Seventh | 108 <sup>th</sup> | 11/14/03   | 02/11/04             | 03/11/04                         | 06/24/04     | Confirmed           | 223                                                                                            |
| Tymkovich, Timothy M.                                                                                                  | CO    | Tenth   | 107 <sup>th</sup> | 05/25/01   | —                    | —                                | 08/03/01     | Returned            | 676                                                                                            |
|                                                                                                                        |       |         |                   | 09/04/01   | —                    | —                                | 11/20/02     | Returned            |                                                                                                |
|                                                                                                                        |       |         | 108 <sup>th</sup> | 01/07/03   | 02/12/03             | 03/06/03                         | 04/01/03     | Confirmed           |                                                                                                |
| Van Antwerpen, Franklin S.                                                                                             | PA    | Third   | 108 <sup>th</sup> | 11/21/03   | 01/28/04             | 03/04/04                         | 05/20/04     | Confirmed           | 181                                                                                            |
| <i>Wallace, Michael B.</i>                                                                                             | MS    | Fifth   | 109 <sup>th</sup> | 02/08/06   | —                    | —                                | 08/03/06     | Returned            | 304                                                                                            |
|                                                                                                                        |       |         |                   | 09/05/06   | 09/26/06             | —                                | 09/29/06     | Returned            |                                                                                                |
|                                                                                                                        |       |         |                   | 11/15/06   | —                    | —                                | 12/09/06     | Returned            |                                                                                                |
| Wesley, Richard C.                                                                                                     | NY    | Second  | 108 <sup>th</sup> | 03/05/03   | 05/22/03             | 06/05/03                         | 06/11/03     | Confirmed           | 98                                                                                             |
| Days elapsed, initial nomination to disposition of most recent nomination, <b>confirmed</b> nominees (51 nominees)     |       |         |                   |            |                      |                                  |              | Mean <sup>g</sup>   | 366.0                                                                                          |
|                                                                                                                        |       |         |                   |            |                      |                                  |              | Median <sup>h</sup> | 216                                                                                            |
| Days elapsed, initial nomination to disposition of most recent nomination, nominees <b>not confirmed</b> (17 nominees) |       |         |                   |            |                      |                                  |              | Mean <sup>g</sup>   | 710.4                                                                                          |
|                                                                                                                        |       |         |                   |            |                      |                                  |              | Median <sup>h</sup> | 407                                                                                            |

**Notes:**

- a. Hearing date listed is the first date the nomination received a hearing by the Senate Judiciary Committee.
- b. Unless otherwise noted, date of committee action is the date the motion to report favorably carried.
- c. Resubmitted in the 110<sup>th</sup> Congress on Jan. 9, 2007. As of Jan. 19, 2007, four nominees had been resubmitted in the 110<sup>th</sup> Congress.
- d. On September 5, 2002, motion to report Priscilla Owen favorably failed; a motion to report without recommendation failed, and a motion to report unfavorably also failed. Sen. Jon Kyl, “Judge Priscilla Owen,” remarks in the Senate, *Congressional Record*, daily edition, vol. 148, pp. S8253-S8255.
- e. On March 14, 2002, motion to report Charles Pickering Sr. favorably failed; a motion to report without recommendation failed, and a motion to report unfavorably also failed. Sen. Trent Lott, “Nomination of Charles Pickering,” remarks in the Senate, *Congressional Record*, daily edition, vol. 148, pp. S1915-S1917.

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- f. N. Randy Smith's nomination of Jan. 9, 2007, was withdrawn by President Bush on Jan. 16, 2007, and renominated to a different seat on the Ninth Circuit Court of Appeals on that same day.
- g. The "Mean" is the sum of the number of elapsed days for all of the nominations in question divided by the number of those nominations.
- h. The "Median" is the elapsed time for the nomination that is the "middle case," with an equal number of the nominations having longer elapsed times than that nomination and an equal number of nominations having shorter elapsed times. If there are an even number of nominations, the median is the arithmetic mean of the elapsed times for the two nominations in the middle of the distribution.

## 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                         | State | Circuit | Date               |          |                               |                           | Days from Nomination Date To: |                  |              |
|-----|-----------------------------------------|-------|---------|--------------------|----------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                                         |       |         | Received By Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup> | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 1   | Boyle, Terrence W. <sup>d</sup>         | NC    | Fourth  | 05/09/01           | —        | —                             | Returned<br>08/03/01      | —                             | —                | 86           |
| 2   | Clement, Edith B. <sup>d</sup>          | LA    | Fifth   | 05/09/01           | —        | —                             | Returned<br>08/03/01      | —                             | —                | 86           |
| 3   | Cook, Deborah L. <sup>d</sup>           | OH    | Sixth   | 05/09/01           | —        | —                             | Returned<br>08/03/01      | —                             | —                | 86           |
| 4   | Estrada, Miguel A. <sup>d</sup>         | VA    | DC      | 05/09/01           | —        | —                             | Returned<br>08/03/01      | —                             | —                | 86           |
| 5   | Gregory, Roger L. <sup>e</sup>          | VA    | Fourth  | 05/09/01           | 07/11/01 | 07/19/01                      | 07/20/01<br>93-1 vote     | 63                            | 71               | 72           |
| 6   | McConnell, Michael W. <sup>d</sup>      | UT    | Tenth   | 05/09/01           | —        | —                             | Returned<br>08/03/01      | —                             | —                | 86           |
| 7   | Owen, Priscilla R. <sup>d</sup>         | TX    | Fifth   | 05/09/01           | —        | —                             | Returned<br>08/03/01      | —                             | —                | 86           |
| 8   | Parker, Barrington D., Jr. <sup>d</sup> | CT    | Second  | 05/09/01           | —        | —                             | Returned<br>08/03/01      | —                             | —                | 86           |
| 9   | Roberts, John G., Jr. <sup>d</sup>      | MD    | DC      | 05/09/01           | —        | —                             | Returned<br>08/03/01      | —                             | —                | 86           |

| No. | Name of Nominee                         | State | Circuit | Date               |          |                               |                           | Days from Nomination Date To: |                  |              |
|-----|-----------------------------------------|-------|---------|--------------------|----------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                                         |       |         | Received By Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing <sup>C</sup>          | Committee Action | Final Action |
| 10  | Shedd, Dennis W. <sup>d</sup>           | SC    | Fourth  | 05/09/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 86           |
| 11  | Sutton, Jeffrey S. <sup>d</sup>         | OH    | Sixth   | 05/09/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 86           |
| 12  | Prost, Sharon <sup>d</sup>              | DC    | Federal | 05/21/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 74           |
| 13  | Smith, Lavenski R. <sup>d</sup>         | AR    | Eighth  | 05/22/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 73           |
| 14  | Riley, William J.                       | NE    | Eighth  | 05/23/01           | 07/24/01 | 08/02/01                      | 08/02/01<br>97-0 vote     | 62                            | 71               | 71           |
| 15  | Pickering, Charles W., Sr. <sup>d</sup> | MS    | Fifth   | 05/25/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 70           |
| 16  | Tymkovich, Timothy M. <sup>d</sup>      | CO    | Tenth   | 05/25/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 70           |
| 17  | Hartz, Harris L. <sup>d</sup>           | NM    | Tenth   | 06/21/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 43           |
| 18  | Clifton, Richard R. <sup>d</sup>        | HI    | Ninth   | 06/22/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 42           |
| 19  | Kuhl, Carolyn B. <sup>d</sup>           | CA    | Ninth   | 06/22/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 42           |

| No. | Name of Nominee                   | State | Circuit | Date               |          |                               |                                  | Days from Nomination Date To: |                  |              |
|-----|-----------------------------------|-------|---------|--------------------|----------|-------------------------------|----------------------------------|-------------------------------|------------------|--------------|
|     |                                   |       |         | Received By Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup>        | Hearing <sup>C</sup>          | Committee Action | Final Action |
| 20  | Melloy, Michael J. <sup>d</sup>   | IA    | Eighth  | 07/10/01           | —        | —                             | Returned 08/03/01                | —                             | —                | 24           |
| 21  | Howard, Jeffrey R. <sup>d</sup>   | NH    | First   | 08/02/01           | —        | —                             | Returned 08/03/01                | —                             | —                | 1            |
| 22  | O'Brien, Terrence L. <sup>d</sup> | WY    | Tenth   | 08/02/01           | —        | —                             | Returned 08/03/01                | —                             | —                | 1            |
| 23  | Boyle, Terrence W. <sup>e</sup>   | NC    | Fourth  | 09/04/01           | —        | —                             | Returned 11/20/02                | —                             |                  | 442          |
| 24  | Clement, Edith B. <sup>e</sup>    | LA    | Fifth   | 09/04/01           | 10/04/01 | 11/01/01                      | 11/13/01<br>99-0 vote            | 30                            | 58               | 70           |
| 25  | Clifton, Richard R. <sup>e</sup>  | HI    | Ninth   | 09/04/01           | 05/09/02 | 05/16/02                      | Cloture<br>97-1 vote<br>07/18/02 | 247                           | 254              | 317          |
|     |                                   |       |         |                    |          |                               | 07/18/02<br>98-0 vote            |                               |                  |              |
| 26  | Cook, Deborah L. <sup>e</sup>     | OH    | Sixth   | 09/04/01           | —        | —                             | Returned 11/20/02                | —                             | —                | 442          |
| 27  | Estrada, Miguel A. <sup>e</sup>   | VA    | DC      | 09/04/01           | 09/26/02 | —                             | Returned 11/20/02                | 387                           | —                | 442          |
| 28  | Hartz, Harris L. <sup>e</sup>     | NM    | Tenth   | 09/04/01           | 10/25/01 | 11/29/01                      | 12/06/01<br>99-0 vote            | 51                            | 86               | 93           |
| 29  | Howard, Jeffrey R. <sup>e</sup>   | NH    | First   | 09/04/01           | 04/11/02 | 04/18/02                      | 04/23/02<br>99-0 vote            | 219                           | 226              | 231          |

| No. | Name of Nominee                         | State | Circuit | Date               |                       |                                |                           | Days from Nomination Date To: |                  |              |
|-----|-----------------------------------------|-------|---------|--------------------|-----------------------|--------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                                         |       |         | Received By Senate | Hearing               | Committee Action <sup>a</sup>  | Final Action <sup>B</sup> | Hearing <sup>C</sup>          | Committee Action | Final Action |
| 30  | Kuhl, Carolyn B. <sup>e</sup>           | CA    | Ninth   | 09/04/01           | —                     | —                              | Returned 11/20/02         | —                             | —                | 442          |
| 31  | McConnell, Michael W. <sup>e</sup>      | UT    | Tenth   | 09/04/01           | 09/18/02              | 11/14/02                       | 11/15/02                  | 379                           | 436              | 437          |
| 32  | Melloy, Michael J. <sup>e</sup>         | IA    | Eighth  | 09/04/01           | 01/24/02              | 02/07/02                       | 02/11/02<br>91-0 vote     | 142                           | 156              | 160          |
| 33  | O'Brien, Terrence L. <sup>e</sup>       | WY    | Tenth   | 09/04/01           | 03/19/02              | 04/11/02                       | 04/15/02<br>98-0 vote     | 196                           | 219              | 223          |
| 34  | Owen, Priscilla R. <sup>e</sup>         | TX    | Fifth   | 09/04/01           | 07/23/02              | Defeated 09/05/02 <sup>f</sup> | Returned 11/20/02         | 322                           | 366              | 442          |
| 35  | Parker, Barrington D. <sup>e</sup>      | CT    | Second  | 09/04/01           | 09/13/01              | 10/04/01                       | 10/11/01<br>100-0 vote    | 9                             | 30               | 37           |
| 36  | Pickering, Charles W., Sr. <sup>e</sup> | MS    | Fifth   | 09/04/01           | 10/18/01              | Defeated 03/14/02 <sup>g</sup> | Returned 11/20/02         | 44                            | 191              | 442          |
|     |                                         |       |         |                    | 02/07/02              |                                |                           |                               |                  |              |
| 37  | Prost, Sharon <sup>e</sup>              | DC    | Federal | 09/04/01           | 08/27/01 <sup>h</sup> | 09/06/01                       | 09/21/01<br>97-0 vote     | <sup>i</sup>                  | 2                | 17           |
| 38  | Roberts, John G., Jr. <sup>e</sup>      | MD    | DC      | 09/04/01           | —                     | —                              | Returned 11/20/02         | —                             | —                | 442          |
| 39  | Shedd, Dennis W. <sup>e</sup>           | SC    | Fourth  | 09/04/01           | 06/27/02              | 11/14/02                       | Cloture vitiated 11/18/02 | 296                           | 436              | 441          |
|     |                                         |       |         |                    |                       |                                | 11/19/02<br>55-44 vote    |                               |                  |              |

| No. | Name of Nominee                    | State | Circuit  | Date               |          |                               |                                  | Days from Nomination Date To: |                  |              |
|-----|------------------------------------|-------|----------|--------------------|----------|-------------------------------|----------------------------------|-------------------------------|------------------|--------------|
|     |                                    |       |          | Received By Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup>        | Hearing <sup>C</sup>          | Committee Action | Final Action |
| 40  | Smith, Lavenski R. <sup>e</sup>    | AR    | Eighth   | 09/04/01           | 05/23/02 | 06/27/02                      | Cloture<br>94-3 vote<br>07/15/02 | 261                           | 296              | 314          |
|     |                                    |       |          |                    |          |                               | 07/15/02                         |                               |                  |              |
| 33  | Sutton, Jeffrey S. <sup>e</sup>    | OH    | Sixth    | 09/04/01           | —        | —                             | Returned<br>11/20/02             | —                             | —                | 442          |
| 34  | Tymkovich, Timothy M. <sup>e</sup> | CO    | Tenth    | 09/04/01           | —        | —                             | Returned<br>11/20/02             | —                             | —                | 442          |
| 43  | Smith, D. Brooks                   | PA    | Third    | 09/10/01           | 02/26/02 | 05/23/02                      | 07/31/02<br>64-35 vote           | 169                           | 255              | 324          |
| 44  | Gibbons, Julia S.                  | TN    | Sixth    | 10/09/01           | 04/25/02 | 05/02/02                      | Cloture<br>89-0 vote<br>07/26/02 | 198                           | 205              | 293          |
|     |                                    |       |          |                    |          |                               | 07/29/02<br>95-0 vote            |                               |                  |              |
| 45  | Steele, William H.                 | AL    | Eleventh | 10/09/01           | —        | —                             | Returned<br>11/20/02             | —                             | —                | 407          |
| 46  | McKeague, David W.                 | MI    | Sixth    | 11/08/01           | —        | —                             | Returned<br>11/20/02             | —                             | —                | 377          |
| 47  | Neilson, Susan B.                  | MI    | Sixth    | 11/08/01           | —        | —                             | Returned<br>11/20/02             | —                             | —                | 377          |

| No.                                                  | Name of Nominee     | State | Circuit | Date               |          |                               |                            | Days from Nomination Date To: |                  |              |       |  |
|------------------------------------------------------|---------------------|-------|---------|--------------------|----------|-------------------------------|----------------------------|-------------------------------|------------------|--------------|-------|--|
|                                                      |                     |       |         | Received By Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup>  | Hearing <sup>c</sup>          | Committee Action | Final Action |       |  |
| 48                                                   | Saad, Henry W.      | MI    | Sixth   | 11/08/01           | —        | —                             | Returned 11/20/02          | —                             | —                | 377          |       |  |
| 49                                                   | Rogers, John M.     | KY    | Sixth   | 12/19/01           | 06/13/02 | 07/11/02                      | 11/14/02                   | 176                           | 204              | 330          |       |  |
| 50                                                   | Raggi, Reena        | NY    | Second  | 05/01/02           | 08/01/02 | 09/05/02                      | 09/20/02<br>85-0 vote      | 92                            | 127              | 142          |       |  |
| 51                                                   | Bybee, Jay S.       | NV    | Ninth   | 05/22/02           | —        | —                             | Returned 11/20/02          | —                             | —                | 182          |       |  |
| 52                                                   | Griffin, Richard A. | MI    | Sixth   | 06/26/02           | —        | —                             | Returned 11/20/02          | —                             | —                | 147          |       |  |
| Number of days elapsed from date received in Senate: |                     |       |         |                    |          |                               | Mean <sup>j</sup>          | 176.0 <sup>k</sup>            | 194.2            | 210.1        | 204.1 |  |
|                                                      |                     |       |         |                    |          |                               | Median <sup>l</sup>        | 176.0 <sup>k</sup>            | 204.0            | 223.0        | 86.0  |  |
|                                                      |                     |       |         |                    |          |                               | 17 confirmed nominations   |                               |                  |              |       |  |
|                                                      |                     |       |         |                    |          |                               | 35 unconfirmed nominations |                               |                  |              |       |  |

**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>-106th 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.

- 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. 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.
- e. This was the nominee’s second nomination to the judgeship. See the earlier nomination in the 107<sup>th</sup> Congress.
- f. 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).
- g. 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).
- h. 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.
- i. 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. Calculation of this time average excluded the times between hearing date and Senate receipt for the September 2001 nomination of Sharon Prost, since her hearing date preceded her nomination date. (See preceding table note “i” regarding the Prost nomination.)
- 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 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                 | State | Circuit | Date               |          |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|---------------------------------|-------|---------|--------------------|----------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                                 |       |         | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup>         | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 1   | Boyle, Terrence W. <sup>d</sup> | NC    | Fourth  | 01/07/03           | —        | —                             | Returned<br>12/08/04 <sup>e</sup> | —                             | —                | 701          |
| 2   | Bybee, Jay S. <sup>d</sup>      | NV    | Ninth   | 01/07/03           | 02/05/03 | 02/27/03                      | 03/13/03<br>74-19 vote            | 29                            | 51               | 65           |
| 3   | Cook, Deborah L. <sup>d</sup>   | OH    | Sixth   | 01/07/03           | 01/29/03 | 02/27/03                      | 05/05/03<br>66-25 vote            | 22                            | 51               | 118          |
| 4   | Estrada, Miguel A. <sup>d</sup> | VA    | DC      | 01/07/03           | —        | 01/30/03                      | Cloture<br>55-44 vote<br>03/06/03 | —                             | 23               | 240          |
|     |                                 |       |         |                    |          |                               | Cloture<br>55-42 vote<br>03/13/03 |                               |                  |              |
|     |                                 |       |         |                    |          |                               | Cloture<br>55-45 vote<br>03/18/03 |                               |                  |              |
|     |                                 |       |         |                    |          |                               | Cloture<br>55-44 vote<br>04/02/03 |                               |                  |              |
|     |                                 |       |         |                    |          |                               | Cloture<br>52-39 vote<br>05/05/03 |                               |                  |              |

| No. | Name of Nominee                  | State | Circuit | Date               |          |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|----------------------------------|-------|---------|--------------------|----------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                                  |       |         | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup>         | Hearing <sup>c</sup>          | Committee Action | Final Action |
|     |                                  |       |         |                    |          |                               | Cloture<br>54-43 vote<br>05/08/03 |                               |                  |              |
|     |                                  |       |         |                    |          |                               | Cloture<br>55-43 vote<br>07/30/03 |                               |                  |              |
|     |                                  |       |         |                    |          |                               | Withdrawn<br>09/04/03             |                               |                  |              |
| 5   | Griffin, Richard A. <sup>d</sup> | MI    | Sixth   | 01/07/03           | 06/16/04 | 07/20/04                      | Cloture<br>54-44 vote<br>07/22/04 | 526                           | 560              | 701          |
|     |                                  |       |         |                    |          |                               | Returned<br>12/08/04 <sup>e</sup> |                               |                  |              |
| 6   | Kuhl, Carolyn A. <sup>d</sup>    | CA    | Ninth   | 01/07/03           | 04/01/03 | 05/08/03                      | Cloture<br>vitiating<br>07/31/03  | 84                            | 121              | 701          |
|     |                                  |       |         |                    |          |                               | Cloture<br>53-43 vote<br>11/14/03 |                               |                  |              |
|     |                                  |       |         |                    |          |                               | Returned<br>12/08/04              |                               |                  |              |

| No. | Name of Nominee                 | State | Circuit | Date               |          |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|---------------------------------|-------|---------|--------------------|----------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                                 |       |         | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup>         | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 7   | McKeague, David W. <sup>d</sup> | MI    | Sixth   | 01/07/03           | 06/16/04 | 07/20/04                      | Cloture<br>53-44 vote<br>07/22/04 | 526                           | 560              | 701          |
|     |                                 |       |         |                    |          |                               | Returned<br>12/08/04 <sup>e</sup> |                               |                  |              |
| 8   | Neilson, Susan B. <sup>d</sup>  | MI    | Sixth   | 01/07/03           | 09/08/04 | 10/04/04                      | Returned<br>12/08/04 <sup>e</sup> | 610                           | 636              | 701          |
| 9   | Owen, Priscilla R. <sup>d</sup> | TX    | Fifth   | 01/07/03           | 03/13/03 | 03/27/03                      | Cloture<br>52-45 vote<br>05/01/03 | 65                            | 79               | 701          |
|     |                                 |       |         |                    |          |                               | Cloture<br>52-45 vote<br>05/08/03 |                               |                  |              |
|     |                                 |       |         |                    |          |                               | Cloture<br>53-43 vote<br>07/29/03 |                               |                  |              |
|     |                                 |       |         |                    |          |                               | Cloture<br>53-42 vote<br>11/14/03 |                               |                  |              |
|     |                                 |       |         |                    |          |                               | Returned<br>12/08/04 <sup>e</sup> |                               |                  |              |

| No. | Name of Nominee                         | State | Circuit | Date               |          |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|-----------------------------------------|-------|---------|--------------------|----------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                                         |       |         | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup>         | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 10  | Pickering, Charles W., Sr. <sup>d</sup> | MS    | Fifth   | 01/07/03           | —        | 10/02/03                      | Cloture<br>54-43 vote<br>10/30/03 | —                             | 268              | 701          |
|     |                                         |       |         |                    |          |                               | Returned<br>12/08/04              |                               |                  |              |
| 11  | Roberts, John G., Jr. <sup>d</sup>      | MD    | DC      | 01/07/03           | 01/29/03 | 02/27/03                      | Recommit <sup>f</sup><br>04/30/03 | 22                            | 51               | 121          |
|     |                                         |       |         |                    | 04/30/03 | 05/08/03                      | 05/08/03                          |                               |                  |              |
| 12  | Saad, Henry W. <sup>d</sup>             | MI    | Sixth   | 01/07/03           | 07/30/03 | 06/17/04                      | Cloture<br>52-46 vote<br>07/22/04 | 204                           | 527              | 701          |
|     |                                         |       |         |                    |          |                               | Returned<br>12/08/04 <sup>e</sup> |                               |                  |              |
| 13  | Sutton, Jeffrey S. <sup>d</sup>         | OH    | Sixth   | 01/07/03           | 01/29/03 | 02/13/03                      | 04/29/03<br>52-41 vote            | 22                            | 37               | 112          |
| 14  | Tymkovich, Timothy M. <sup>d</sup>      | CO    | Tenth   | 01/07/03           | 02/12/03 | 03/06/03                      | 04/01/03<br>58-41 vote            | 36                            | 58               | 84           |
| 15  | Prado, Edward C.                        | TX    | Fifth   | 02/06/03           | 03/27/03 | 04/03/03                      | 05/01/03<br>97-0 vote             | 49                            | 56               | 84           |
| 16  | Callahan, Consuelo M.                   | CA    | Ninth   | 02/12/03           | 05/07/03 | 05/08/03                      | 05/22/03<br>99-0 vote             | 84                            | 85               | 99           |
| 17  | Colloton, Steven M.                     | IA    | Eighth  | 02/12/03           | 07/22/03 | 07/31/03                      | 09/04/03<br>94-1 vote             | 160                           | 169              | 204          |

| No. | Name of Nominee        | State | Circuit  | Date               |          |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|------------------------|-------|----------|--------------------|----------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                        |       |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup>         | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 18  | Chertoff, Michael      | NJ    | Third    | 03/05/03           | 05/07/03 | 05/22/03                      | 06/09/03<br>88-1 vote             | 63                            | 78               | 96           |
| 19  | Wesley, Richard C.     | NY    | Second   | 03/05/03           | 05/22/03 | 06/05/03                      | 06/11/03<br>96-0 vote             | 78                            | 92               | 98           |
| 20  | Pryor, William H., Jr. | AL    | Eleventh | 04/09/03           | 06/11/03 | 07/23/03                      | Cloture<br>53-44 vote<br>07/31/03 | 63                            | 105              | 609          |
|     |                        |       |          |                    |          |                               | Cloture<br>51-43 vote<br>11/06/03 |                               |                  |              |
|     |                        |       |          |                    |          |                               | Returned<br>12/08/04              |                               |                  |              |
| 21  | Bea, Carlos T.         | CA    | Ninth    | 04/11/03           | 09/03/03 | 09/25/03                      | 09/29/03<br>86-0 vote             | 145                           | 167              | 171          |
| 22  | Allen, Claude A.       | VA    | Fourth   | 04/28/03           | 10/28/03 | —                             | Returned<br>12/09/03              | 183                           | —                | 225          |
| 23  | Duncan, Allyson K.     | NC    | Fourth   | 04/28/03           | 06/25/03 | 07/10/03                      | 07/17/03<br>93-0 vote             | 58                            | 73               | 80           |
| 24  | Fisher, D. Michael     | PA    | Third    | 05/01/03           | 10/15/03 | 11/06/03                      | 12/09/03                          | 167                           | 189              | 222          |
| 25  | Myers, William G., III | ID    | Ninth    | 05/15/03           | 02/05/04 | 04/01/04                      | Cloture<br>53-44 vote<br>07/20/04 | 266                           | 322              | 573          |
|     |                        |       |          |                    |          |                               | Returned<br>12/08/04 <sup>e</sup> |                               |                  |              |

| No. | Name of Nominee                            | State | Circuit | Date               |          |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|--------------------------------------------|-------|---------|--------------------|----------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                                            |       |         | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup>         | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 26  | Brown, Janice R.                           | CA    | DC      | 07/25/03           | 10/22/03 | 11/06/03                      | Cloture<br>53-43 vote<br>11/14/03 | 89                            | 104              | 502          |
|     |                                            |       |         |                    |          |                               | Returned<br>12/08/04 <sup>e</sup> |                               |                  |              |
| 27  | Kavanaugh, Brett M.                        | MD    | DC      | 07/25/03           | 04/27/04 | —                             | Returned<br>12/08/04 <sup>e</sup> | 277                           | —                | 502          |
| 28  | Gruender, Raymond W.                       | MO    | Eighth  | 09/29/03           | 01/22/04 | 03/04/04                      | 05/20/04<br>97-1 vote             | 115                           | 157              | 234          |
| 29  | Haynes, William J., II                     | VA    | Fourth  | 09/29/03           | 11/19/03 | 03/11/04                      | Returned<br>12/08/04 <sup>e</sup> | 51                            | 164              | 436          |
| 30  | Sykes, Diane S.                            | WI    | Seventh | 11/14/03           | 02/11/04 | 03/11/04                      | 06/24/04<br>70-27 vote            | 89                            | 118              | 223          |
| 31  | Van Antwerpen, Franklin S.                 | PA    | Third   | 11/21/03           | 01/28/04 | 03/04/04                      | 05/20/04<br>96-0 vote             | 68                            | 104              | 181          |
| 32  | Hall, Peter W.                             | VT    | Second  | 12/09/03           | 03/10/04 | 04/01/04                      | 06/24/04                          | 92                            | 114              | 198          |
| 33  | Allen, Claude A. <sup>g</sup>              | VA    | Fourth  | 01/20/04           | —        | —                             | Returned<br>12/08/04              | —                             | —                | 323          |
| 34  | Pickering, Charles W., Sr. <sup>h, i</sup> | MS    | Fifth   | 02/06/04           | —        | —                             | Returned<br>12/08/04              | —                             | —                | 306          |
| 35  | Benton, William D.                         | MO    | Eighth  | 02/12/04           | 04/08/04 | 04/29/04                      | 06/24/04                          | 56                            | 77               | 133          |

| No.                                                  | Name of Nominee                       | State | Circuit  | Date               |          |                               |                                | Days from Nomination Date To: |                  |              |
|------------------------------------------------------|---------------------------------------|-------|----------|--------------------|----------|-------------------------------|--------------------------------|-------------------------------|------------------|--------------|
|                                                      |                                       |       |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup>      | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 36                                                   | Pryor, William H., Jr. <sup>g,j</sup> | AL    | Eleventh | 03/12/04           | —        | —                             | Returned 12/08/04 <sup>e</sup> | —                             | —                | 271          |
| 37                                                   | Griffith, Thomas B.                   | UT    | DC       | 05/10/04           | 11/16/04 | —                             | Returned 12/08/04 <sup>e</sup> | 190                           | —                | 212          |
| Number of days elapsed from date received in Senate: |                                       |       |          |                    |          |                               | Mean <sup>k</sup>              | 144.8                         | 173.2            | 140.2        |
|                                                      |                                       |       |          |                    |          |                               | Median <sup>l</sup>            | 84.0                          | 104.5            | 119.5        |
|                                                      |                                       |       |          |                    |          |                               | 18 confirmed nominations       |                               |                  |              |
|                                                      |                                       |       |          |                    |          |                               | 19 unconfirmed nominations     |                               |                  |              |

- 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 - December 9, 2006)

| No. | Name of Nominee                     | State | Circuit | Date               |              |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|-------------------------------------|-------|---------|--------------------|--------------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                                     |       |         | Received by Senate | Hearing      | Committee Action <sup>a</sup> | Final Action <sup>b</sup>         | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 1   | Boyle, Terrence W. <sup>d</sup>     | NC    | Fourth  | 02/14/05           | 03/03/05     | 06/16/05                      | Returned<br>08/03/06              | 17                            | 122              | 535          |
| 2   | Brown, Janice R. <sup>d</sup>       | CA    | DC      | 02/14/05           | <sup>e</sup> | 04/21/05                      | Cloture<br>65-32 vote<br>06/07/05 | —                             | 66               | 114          |
|     |                                     |       |         |                    |              |                               | 06/08/05<br>56-43 vote            |                               |                  |              |
| 3   | Griffin, Richard A. <sup>d</sup>    | MI    | Sixth   | 02/14/05           | <sup>e</sup> | 05/26/05                      | 06/09/05<br>95-0 vote             | —                             | 101              | 115          |
| 4   | Griffith, Thomas B. <sup>d</sup>    | UT    | DC      | 02/14/05           | 03/08/05     | 04/14/05                      | 06/14/05<br>73-24 vote            | 22                            | 59               | 120          |
| 5   | Haynes, William J., II <sup>d</sup> | VA    | Fourth  | 02/14/05           | 07/11/06     | —                             | Returned<br>08/03/06              | 512                           | —                | 535          |
| 6   | Kavanaugh, Brett M. <sup>d</sup>    | MD    | DC      | 02/14/05           | <sup>e</sup> | —                             | Returned<br>12/22/05              | —                             | —                | 310          |
| 7   | McKeague, David W. <sup>d</sup>     | MI    | Sixth   | 02/14/05           | <sup>e</sup> | 05/26/05                      | 06/09/05<br>96-0 vote             | —                             | 101              | 115          |
| 8   | Myers, William G., III <sup>d</sup> | ID    | Ninth   | 02/14/05           | 03/01/05     | 03/17/05                      | Returned<br>08/03/06              | 15                            | 31               | 535          |
| 9   | Neilson, Susan B. <sup>d</sup>      | MI    | Sixth   | 02/14/05           | <sup>e</sup> | 10/20/05                      | 10/27/05<br>97-0 vote             | —                             | 248              | 255          |

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| No. | Name of Nominee                     | State | Circuit  | Date               |              |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|-------------------------------------|-------|----------|--------------------|--------------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                                     |       |          | Received by Senate | Hearing      | Committee Action <sup>a</sup> | Final Action <sup>b</sup>         | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 10  | Owen, Priscilla R. <sup>d</sup>     | TX    | Fifth    | 02/14/05           | <sup>e</sup> | 04/21/05                      | Cloture<br>81-18 vote<br>05/24/05 | —                             | 66               | 100          |
|     |                                     |       |          |                    |              |                               | 05/25/05<br>55-43 vote            |                               |                  |              |
| 11  | Pryor, William H., Jr. <sup>d</sup> | AL    | Eleventh | 02/14/05           | <sup>e</sup> | 05/12/05                      | Cloture<br>67-32 vote<br>06/08/05 | —                             | 87               | 115          |
|     |                                     |       |          |                    |              |                               | 06/09/05<br>53-45 vote            |                               |                  |              |
| 12  | Saad, Henry W.                      | MI    | Sixth    | 02/14/05           | <sup>e</sup> | —                             | Withdrawn<br>03/27/06             | —                             | —                | 406          |
| 13  | Payne, James H.                     | OK    | Tenth    | 09/29/05           | —            | —                             | Withdrawn<br>03/07/06             | —                             | —                | 159          |
| 14  | Smith, N. Randy                     | ID    | Ninth    | 12/16/05           | 03/01/06     | 05/04/06                      | Returned<br>08/03/06              | 75                            | 139              | 230          |
| 15  | Chagares, Michael A.                | NJ    | Third    | 01/25/06           | 03/14/06     | 03/30/06                      | 04/04/06<br>98-0 vote             | 48                            | 64               | 69           |
| 16  | Kavanaugh, Brett M. <sup>f</sup>    | MD    | DC       | 01/25/06           | 05/09/06     | 05/11/06                      | Cloture<br>67-30 vote<br>05/26/06 | 104                           | 106              | 121          |
|     |                                     |       |          |                    |              |                               | 05/26/06<br>57-36 vote            |                               |                  |              |
| 17  | Ikuta, Sandra S.                    | CA    | Ninth    | 02/08/06           | 05/02/06     | 05/25/06                      | 06/19/06<br>81-0 vote             | 83                            | 106              | 131          |

| No. | Name of Nominee                   | State | Circuit | Date               |          |                               |                                  | Days from Nomination Date To: |                  |              |
|-----|-----------------------------------|-------|---------|--------------------|----------|-------------------------------|----------------------------------|-------------------------------|------------------|--------------|
|     |                                   |       |         | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup>        | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 18  | Wallace, Michael B.               | MS    | Fifth   | 02/08/06           | —        | —                             | Returned<br>08/03/06             | —                             | —                | 176          |
| 19  | Smith, Milan D., Jr.              | CA    | Ninth   | 02/14/06           | 04/25/06 | 05/04/06                      | 05/16/06<br>93-0 vote            | 70                            | 79               | 91           |
| 20  | Holmes, Jerome A.                 | OK    | Tenth   | 05/04/06           | 06/15/06 | 07/13/06                      | 07/25/06<br>67-30 vote           | 42                            | 70               | 82           |
| 21  | Gorsuch, Neil M.                  | CO    | Tenth   | 05/10/06           | 06/21/06 | 07/13/06                      | 07/20/06                         | 42                            | 64               | 71           |
| 22  | Moore, Kimberly A.                | VA    | Federal | 05/18/06           | 06/28/06 | 07/27/06                      | 09/05/06<br>92-0 vote            | 41                            | 70               | 110          |
| 23  | Shepherd, Bobby E.                | AR    | Eighth  | 05/18/06           | 06/28/06 | 07/13/06                      | 07/20/06                         | 41                            | 56               | 63           |
| 24  | Jordan, Kent A.                   | DE    | Third   | 06/28/06           | 09/06/06 | 09/26/06                      | Cloture<br>93-0 vote<br>12/08/06 | 70                            | 90               | 163          |
|     |                                   |       |         |                    |          |                               | 12/08/06<br>91-0 vote            |                               |                  |              |
| 25  | Kethledge, Raymond                | MI    | Sixth   | 06/28/06           | —        | —                             | Returned<br>12/09/06             | —                             | —                | 164          |
| 26  | Livingston, Debra A. <sup>g</sup> | NY    | Second  | 06/28/06           | —        | —                             | Returned<br>12/09/06             | —                             | —                | 164          |
| 27  | Murphy, Stephen J.                | MI    | Sixth   | 06/28/06           | —        | —                             | Returned<br>12/09/06             | —                             | —                | 164          |
| 28  | Keisler, Peter D.                 | MD    | DC      | 06/29/06           | 08/01/06 | —                             | Returned<br>09/29/06             | 33                            | —                | 164          |
| 29  | Boyle, Terrence W. <sup>f</sup>   | NC    | Fourth  | 09/05/06           | —        | —                             | Returned<br>09/29/06             | —                             | —                | 92           |

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| No. | Name of Nominee                     | State | Circuit | Date               |          |                               |                           | Days from Nomination Date To: |                  |              |
|-----|-------------------------------------|-------|---------|--------------------|----------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                                     |       |         | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup> | Hearing <sup>c</sup>          | Committee Action | Final Action |
| 30  | Haynes, William J., II <sup>f</sup> | VA    | Fourth  | 09/05/06           | —        | —                             | Returned<br>09/29/06      | —                             | —                | 24           |
| 31  | Myers, William G., III <sup>f</sup> | ID    | Ninth   | 09/05/06           | —        | —                             | Returned<br>09/29/06      | —                             | —                | 24           |
| 32  | Smith, N. Randy <sup>f</sup>        | ID    | Ninth   | 09/05/06           | —        | 09/21/06                      | Returned<br>09/29/06      | —                             | 16               | 24           |
| 33  | Wallace, Michael B. <sup>f</sup>    | MS    | Ninth   | 09/05/06           | 09/26/06 | —                             | Returned<br>09/29/06      | 21                            | —                | 24           |
| 34  | Hardiman, Thomas M. <sup>g</sup>    | PA    | Third   | 09/13/06           | 11/14/06 | —                             | Returned<br>12/09/06      | 62                            | —                | 87           |
| 35  | Boyle, Terrence W. <sup>f</sup>     | NC    | Fourth  | 11/15/06           |          | —                             | Returned<br>12/09/06      | —                             | —                | 24           |
| 36  | Haynes, William J. <sup>f</sup>     | VA    | Fourth  | 11/15/06           |          | —                             | Returned<br>12/09/06      | —                             | —                | 24           |
| 37  | Keisler, Peter D. <sup>f, g</sup>   | MD    | DC      | 11/15/06           |          | —                             | Returned<br>12/09/06      | —                             | —                | 24           |
| 38  | Myers, William G., III <sup>f</sup> | ID    | Ninth   | 11/15/06           |          | —                             | Returned<br>12/09/06      | —                             | —                | 24           |
| 39  | Smith, N. Randy <sup>f, g, h</sup>  | ID    | Ninth   | 11/15/06           |          |                               | Returned<br>12/09/06      | —                             | —                | 24           |
| 40  | Wallace, Michael B. <sup>f</sup>    | MS    | Fifth   | 11/15/06           |          |                               | Returned<br>12/09/06      | —                             | —                | 24           |

| No.                                                  | Name of Nominee | State | Circuit | Date                       |         |                               |                           | Days from Nomination Date To: |                  |              |       |
|------------------------------------------------------|-----------------|-------|---------|----------------------------|---------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|-------|
|                                                      |                 |       |         | Received by Senate         | Hearing | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing <sup>c</sup>          | Committee Action | Final Action |       |
| Number of days elapsed from date received in Senate: |                 |       |         |                            |         |                               | Mean <sup>i</sup>         | 76.4                          | 87.1             | 114.7        | 159.2 |
|                                                      |                 |       |         |                            |         |                               | Median <sup>j</sup>       | 42                            | 74.5             | 114.5        | 89.5  |
|                                                      |                 |       |         | 16 confirmed nominations   |         |                               |                           |                               |                  |              |       |
|                                                      |                 |       |         | 24 unconfirmed nominations |         |                               |                           |                               |                  |              |       |

- 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(s) in 109<sup>th</sup> Congress.
- g. Resubmitted in the 110<sup>th</sup> Congress on Jan. 9, 2007. As of Jan. 19, 2007, four nominees had been resubmitted in the 110<sup>th</sup> Congress.
- h. N. Randy Smith’s nomination of Jan. 9, 2007 was withdrawn by President Bush on Jan. 16, 2007 and renominated to a different seat on the Ninth Circuit Court of Appeals on that same day.
- 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. 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 the U.S. District Courts, 107th-109th Congresses (January 20, 2001-December 9, 2006)

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|-------------------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|-------------|---------------------------------------------------------------------------------------|
|                                                                   |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                       |
| Adams, John R.                                                    | N.OH                  | 107 <sup>th</sup> | 10/10/02   | —        | —                                | 11/20/02     | Returned    | 123                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 01/29/03 | 02/06/03                         | 02/10/03     | Confirmed   |                                                                                       |
| Africk, Lance M.                                                  | E.LA                  | 107 <sup>th</sup> | 01/23/02   | 03/29/02 | 04/11/02                         | 04/17/02     | Confirmed   | 84                                                                                    |
| Altonaga, Cecilia M.                                              | S.FL                  | 108 <sup>th</sup> | 01/15/03   | 04/01/03 | 04/10/03                         | 05/06/03     | Confirmed   | 111                                                                                   |
| Alvarez, Micaela                                                  | S.TX                  | 108 <sup>th</sup> | 06/16/04   | 09/08/04 | 09/30/04                         | 11/21/04     | Confirmed   | 158                                                                                   |
| Anderson, Percy                                                   | C.CA                  | 107 <sup>th</sup> | 01/23/02   | 04/11/02 | 04/18/02                         | 04/25/02     | Confirmed   | 92                                                                                    |
| Armijo, M. Christina                                              | NM                    | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 96                                                                                    |
|                                                                   |                       |                   | 09/04/01   | 10/18/01 | 11/01/01                         | 11/06/01     | Confirmed   |                                                                                       |
| Autrey, Henry E.                                                  | E.MO                  | 107 <sup>th</sup> | 03/21/02   | 05/24/02 | 06/13/02                         | 08/01/02     | Confirmed   | 133                                                                                   |
| <i>Bailey, John P. <sup>c</sup></i>                               | N.WV                  | 109 <sup>th</sup> | 06/28/06   | —        | —                                | 12/09/06     | Returned    | 164                                                                                   |
| <i>Baker, Valerie L. <sup>c</sup></i>                             | C.CA                  | 109 <sup>th</sup> | 05/04/06   | 08/01/06 | 09/21/06                         | 12/09/06     | Returned    | 219                                                                                   |
| Barrett, Michael R.                                               | S.OH                  | 109 <sup>th</sup> | 12/16/05   | 03/29/06 | 04/27/06                         | 05/01/06     | Confirmed   | 136                                                                                   |
| Bates, John D.                                                    | DC                    | 107 <sup>th</sup> | 06/20/01   | —        | —                                | 08/03/01     | Returned    | 174                                                                                   |
|                                                                   |                       |                   | 09/04/01   | 10/25/01 | 11/29/01                         | 12/11/01     | Confirmed   |                                                                                       |
| Batten, Timothy C., Sr.                                           | N.GA                  | 109 <sup>th</sup> | 09/28/05   | 02/07/06 | 02/16/06                         | 03/06/06     | Confirmed   | 159                                                                                   |
| Baylson, Michael M.                                               | E.PA                  | 107 <sup>th</sup> | 01/23/02   | 04/11/02 | 04/18/02                         | 04/30/02     | Confirmed   | 97                                                                                    |
| Beistline, Ralph R.                                               | AK                    | 107 <sup>th</sup> | 11/08/01   | 02/26/02 | 03/07/02                         | 03/12/02     | Confirmed   | 124                                                                                   |
| Benitez, Roger T.                                                 | S.CA                  | 108 <sup>th</sup> | 05/01/03   | 02/25/04 | 04/01/04                         | 06/17/04     | Confirmed   | 413                                                                                   |
| Bennett, Richard D.                                               | MD                    | 108 <sup>th</sup> | 01/29/03   | 03/27/03 | 04/03/03                         | 04/09/03     | Confirmed   | 70                                                                                    |
| Besosa, Francisco A.                                              | PR                    | 109 <sup>th</sup> | 05/16/06   | 08/01/06 | 09/21/06                         | 09/25/06     | Confirmed   | 132                                                                                   |
| Bianco, Joseph F.                                                 | E.NY                  | 109 <sup>th</sup> | 07/28/05   | 11/01/05 | 11/17/05                         | 12/21/05     | Confirmed   | 146                                                                                   |
| Blackburn, Robert E.                                              | DC                    | 107 <sup>th</sup> | 09/10/01   | 01/24/02 | 02/07/02                         | 02/26/02     | Confirmed   | 169                                                                                   |

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|-------------------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|-------------|---------------------------------------------------------------------------------------|
|                                                                   |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                       |
| Bowdre, Karon O.                                                  | N.AL                  | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 96                                                                                    |
|                                                                   |                       |                   | 09/04/01   | 10/18/01 | 11/01/01                         | 11/06/01     | Confirmed   |                                                                                       |
| Boyko, Christopher A.                                             | N.OH                  | 108 <sup>th</sup> | 07/22/04   | 09/22/04 | 10/04/04                         | 11/21/04     | Confirmed   | 122                                                                                   |
| Boyle, Jane J.                                                    | N.TX                  | 108 <sup>th</sup> | 11/24/03   | 03/10/04 | 04/01/04                         | 06/17/04     | Confirmed   | 206                                                                                   |
| Brack, Robert C.                                                  | NM                    | 108 <sup>th</sup> | 04/28/03   | 06/25/03 | 07/10/03                         | 07/14/03     | Confirmed   | 77                                                                                    |
| Breen, J. Daniel                                                  | W.TN                  | 107 <sup>th</sup> | 10/10/02   | —        | —                                | 11/20/02     | Returned    | 154                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 02/12/03 | 03/06/03                         | 03/13/03     | Confirmed   |                                                                                       |
| Browning, James O.                                                | NM                    | 108 <sup>th</sup> | 04/28/03   | 07/09/03 | 07/24/03                         | 07/31/03     | Confirmed   | 94                                                                                    |
| <i>Bryant, Vanessa L.<sup>c</sup></i>                             | CT                    | 109 <sup>th</sup> | 01/25/06   | 09/26/06 | —                                | 12/09/06     | Returned    | 318                                                                                   |
| Bumb, Renee M.                                                    | NJ                    | 109 <sup>th</sup> | 01/25/06   | 04/25/06 | 05/04/06                         | 06/06/06     | Confirmed   | 132                                                                                   |
| Bunning, David L.                                                 | E.KY                  | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 196                                                                                   |
|                                                                   |                       |                   | 09/04/01   | 12/10/01 | 02/07/02                         | 02/14/02     | Confirmed   |                                                                                       |
| Burgess, Timothy M.                                               | AK                    | 109 <sup>th</sup> | 07/28/05   | 11/01/05 | 11/17/05                         | 12/21/05     | Confirmed   | 146                                                                                   |
| Burns, Larry A.                                                   | S.CA                  | 108 <sup>th</sup> | 05/01/03   | 07/30/03 | 09/04/03                         | 09/24/03     | Confirmed   | 146                                                                                   |
| Bury, David C.                                                    | AZ                    | 107 <sup>th</sup> | 09/10/01   | 02/26/02 | 03/07/02                         | 03/15/02     | Confirmed   | 186                                                                                   |
| Caldwell, Karen K.                                                | E.KY                  | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 82                                                                                    |
|                                                                   |                       |                   | 09/04/01   | 10/04/01 | 10/18/01                         | 10/23/01     | Confirmed   |                                                                                       |
| Camp, Laurie S.                                                   | NE                    | 107 <sup>th</sup> | 06/19/01   | —        | —                                | 08/03/01     | Returned    | 126                                                                                   |
|                                                                   |                       | 107 <sup>th</sup> | 09/04/01   | 10/04/01 | 10/18/01                         | 10/23/01     | Confirmed   |                                                                                       |
| Campbell, David G.                                                | AZ                    | 108 <sup>th</sup> | 03/13/03   | 04/30/03 | 06/12/03                         | 07/08/03     | Confirmed   | 117                                                                                   |
| Cardone, Kathleen                                                 | W.TX                  | 108 <sup>th</sup> | 05/01/03   | 07/09/03 | 07/17/03                         | 07/28/03     | Confirmed   | 88                                                                                    |
| Carney, Cormac J.                                                 | C.CA                  | 107 <sup>th</sup> | 10/10/02   | —        | —                                | 11/20/02     | Returned    | 179                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 03/12/03 | 03/20/03                         | 04/07/03     | Confirmed   |                                                                                       |
| Cassell, Paul G.                                                  | UT                    | 107 <sup>th</sup> | 06/19/01   | —        | —                                | 08/03/01     | Returned    | 328                                                                                   |
|                                                                   |                       |                   | 09/04/01   | 03/19/02 | 05/02/02                         | 05/13/02     | Confirmed   |                                                                                       |
| Castel, P. Kevin                                                  | S.NY                  | 108 <sup>th</sup> | 03/05/03   | 07/22/03 | 07/31/03                         | 09/17/03     | Confirmed   | 196                                                                                   |
| Cebull, Richard F.                                                | MT                    | 107 <sup>th</sup> | 05/17/01   | 07/11/01 | 07/19/01                         | 07/20/01     | Confirmed   | 64                                                                                    |
| Cercone, David S.                                                 | W.PA                  | 107 <sup>th</sup> | 03/21/02   | 06/13/02 | 06/20/02                         | 08/01/02     | Confirmed   | 133                                                                                   |

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|-------------------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|-------------|---------------------------------------------------------------------------------------|
|                                                                   |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                       |
| Chesler, Stanley R.                                               | NJ                    | 107 <sup>th</sup> | 01/23/02   | 09/26/02 | 10/08/02                         | 11/14/02     | Confirmed   | 295                                                                                   |
| Clark, Ronald H.                                                  | E.TX                  | 107 <sup>th</sup> | 01/23/02   | 08/01/02 | 09/19/02                         | 10/02/02     | Confirmed   | 252                                                                                   |
| Cogan, Brian M.                                                   | E.NY                  | 109 <sup>th</sup> | 01/25/06   | 03/29/06 | 04/27/06                         | 05/04/06     | Confirmed   | 99                                                                                    |
| Cohn, James I.                                                    | S.FL                  | 108 <sup>th</sup> | 05/01/03   | 07/09/03 | 07/17/03                         | 07/31/03     | Confirmed   | 91                                                                                    |
| Collyer, Rosemary M.                                              | DC                    | 107 <sup>th</sup> | 08/01/02   | 10/07/02 | 10/08/02                         | 11/14/02     | Confirmed   | 105                                                                                   |
| Conner, Christopher C.                                            | M.PA                  | 107 <sup>th</sup> | 02/28/02   | 05/09/02 | 05/16/02                         | 07/26/02     | Confirmed   | 148                                                                                   |
| Conrad, Glen E.                                                   | W.VA                  | 108 <sup>th</sup> | 04/28/03   | 07/30/03 | 09/04/03                         | 09/22/03     | Confirmed   | 147                                                                                   |
| Conrad, Robert J., Jr.                                            | W.NC                  | 108 <sup>th</sup> | 04/28/03   | —        | —                                | 12/08/04     | Returned    | 731                                                                                   |
|                                                                   |                       | 109 <sup>th</sup> | 02/14/05   | 03/03/05 | 04/14/05                         | 04/28/05     | Confirmed   |                                                                                       |
| Conti, Joy F.                                                     | W.PA                  | 107 <sup>th</sup> | 01/23/02   | 05/09/02 | 05/16/02                         | 07/29/02     | Confirmed   | 187                                                                                   |
| Coogler, L. Scott                                                 | N.AL                  | 108 <sup>th</sup> | 03/27/03   | 05/07/03 | 05/15/03                         | 05/22/03     | Confirmed   | 56                                                                                    |
| Cooke, Marcia G.                                                  | S.FL                  | 108 <sup>th</sup> | 11/25/03   | 03/10/04 | 04/01/04                         | 05/18/04     | Confirmed   | 175                                                                                   |
| Corrigan, Timothy J.                                              | M.FL                  | 107 <sup>th</sup> | 05/22/02   | 07/23/02 | 07/31/02                         | 09/12/02     | Confirmed   | 113                                                                                   |
| Covington, Virginia M. H.                                         | M.FL                  | 108 <sup>th</sup> | 04/20/04   | 06/16/04 | 07/20/04                         | 09/07/04     | Confirmed   | 140                                                                                   |
| Cox, Sean F.                                                      | E.MI                  | 108 <sup>th</sup> | 09/10/04   | —        | —                                | 12/08/04     | Returned    | 636                                                                                   |
|                                                                   |                       | 109 <sup>th</sup> | 02/14/05   | 05/02/06 | 05/11/06                         | 06/08/06     | Confirmed   |                                                                                       |
| Crane, Randy                                                      | S.TX                  | 107 <sup>th</sup> | 09/21/01   | 02/26/02 | 03/03/02                         | 03/18/02     | Confirmed   | 178                                                                                   |
| Crone, Marcia A.                                                  | E.TX                  | 108 <sup>th</sup> | 05/01/03   | 09/03/03 | 09/25/03                         | 09/30/03     | Confirmed   | 152                                                                                   |
| Crotty, Paul A.                                                   | S.NY                  | 108 <sup>th</sup> | 09/07/04   | 11/16/04 | —                                | 12/08/04     | Returned    | 216                                                                                   |
|                                                                   |                       | 109 <sup>th</sup> | 02/14/05   | —        | 03/17/05                         | 04/11/05     | Confirmed   |                                                                                       |
| Davis, Legrome D.                                                 | E.PA                  | 107 <sup>th</sup> | 01/23/02   | 03/19/02 | 04/11/02                         | 04/18/02     | Confirmed   | 85                                                                                    |
| Davis, Leonard E.                                                 | E.TX                  | 107 <sup>th</sup> | 01/23/02   | 04/25/02 | 05/02/02                         | 05/09/02     | Confirmed   | 106                                                                                   |
| Delgado-Colon, Aida M.                                            | PR                    | 109 <sup>th</sup> | 10/25/05   | 02/07/06 | 02/16/06                         | 03/06/06     | Confirmed   | 132                                                                                   |
| Der-Yeghiayan, Samuel                                             | N.IL                  | 108 <sup>th</sup> | 03/05/03   | 06/25/03 | 07/10/03                         | 07/14/03     | Confirmed   | 131                                                                                   |
| Dever, James C., III                                              | E.NC                  | 107 <sup>th</sup> | 05/22/02   | —        | —                                | 11/20/02     | Returned    | 1,072                                                                                 |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | —        | —                                | 12/08/04     | Returned    |                                                                                       |
|                                                                   |                       | 109 <sup>th</sup> | 02/14/05   | 03/03/05 | 04/14/05                         | 04/28/05     | Confirmed   |                                                                                       |
| Diamond, Paul S.                                                  | E.PA                  | 108 <sup>th</sup> | 01/20/04   | 03/24/04 | 04/01/04                         | 06/16/04     | Confirmed   | 148                                                                                   |

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|-------------------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|-------------|---------------------------------------------------------------------------------------|
|                                                                   |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                       |
| <i>Donohue, Mary O.</i> <sup>c</sup>                              | N.NY                  | 109 <sup>th</sup> | 06/28/06   | —        | —                                | 12/09/06     | Returned    | 164                                                                                   |
| Dorr, Richard E.                                                  | W.MO                  | 107 <sup>th</sup> | 03/21/02   | 05/24/02 | 06/13/02                         | 08/01/02     | Confirmed   | 133                                                                                   |
| Drell, Dee D.                                                     | W.LA                  | 108 <sup>th</sup> | 01/15/03   | 03/27/03 | 04/03/03                         | 04/09/03     | Confirmed   | 84                                                                                    |
| DuBose, Kristi K.                                                 | S.AL                  | 109 <sup>th</sup> | 09/28/05   | 11/15/05 | 11/17/05                         | 12/21/05     | Confirmed   | 84                                                                                    |
| Duffey, William S., Jr..                                          | N.GA                  | 108 <sup>th</sup> | 11/05/03   | 02/05/04 | 03/04/04                         | 06/16/04     | Confirmed   | 224                                                                                   |
| Eagan, Clair V.                                                   | N.OK                  | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 82                                                                                    |
|                                                                   |                       |                   | 09/04/01   | 10/04/01 | 10/18/01                         | 10/23/01     | Confirmed   |                                                                                       |
| Engelhardt, Kurt D.                                               | E.LA                  | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 131                                                                                   |
|                                                                   |                       |                   | 09/04/01   | 10/25/01 | 11/29/01                         | 12/11/01     | Confirmed   |                                                                                       |
| England, Morrison C., Jr.                                         | E.CA                  | 107 <sup>th</sup> | 03/21/02   | 06/13/02 | 06/20/02                         | 08/01/02     | Confirmed   | 133                                                                                   |
| Erickson, Ralph R.                                                | ND                    | 107 <sup>th</sup> | 09/12/02   | —        | —                                | 11/20/02     | Returned    | 181                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 02/05/03 | 02/27/03                         | 03/12/03     | Confirmed   |                                                                                       |
| <i>Farr, Thomas A.</i> <sup>c</sup>                               | E.NC                  | 109 <sup>th</sup> | 12/07/06   | —        | —                                | 12/09/06     | Returned    | 2                                                                                     |
| Feuerstein, Sandra J.                                             | E.NY                  | 107 <sup>th</sup> | 07/25/02   | —        | —                                | 11/20/02     | Returned    | 419                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 07/22/03 | 07/31/03                         | 09/17/03     | Confirmed   |                                                                                       |
| Figa, Phillip S.                                                  | CO                    | 108 <sup>th</sup> | 06/09/03   | 09/03/03 | 09/25/03                         | 10/02/03     | Confirmed   | 115                                                                                   |
| Filip, Mark R.                                                    | N.IL                  | 108 <sup>th</sup> | 04/28/03   | 10/28/03 | 11/06/03                         | 02/04/04     | Confirmed   | 282                                                                                   |
| Finch, Raymond L.                                                 | VI                    | 108 <sup>th</sup> | 02/21/04   | 09/08/04 | 09/30/04                         | 11/21/04     | Confirmed   | 274                                                                                   |
| Fischer, Dale S.                                                  | C.CA                  | 108 <sup>th</sup> | 05/01/03   | 10/15/03 | 10/23/03                         | 10/27/03     | Confirmed   | 179                                                                                   |
| <i>Fischer, Nora B.</i> <sup>c</sup>                              | W.PA                  | 109 <sup>th</sup> | 07/13/06   | 09/12/06 | 09/29/06                         | 12/09/06     | Returned    | 149                                                                                   |
| Flanagan, Louise W.                                               | E.NC                  | 108 <sup>th</sup> | 01/29/03   | 06/25/03 | 07/10/03                         | 07/17/03     | Confirmed   | 169                                                                                   |
| Floyd, Henry F.                                                   | SC                    | 108 <sup>th</sup> | 05/15/03   | 07/30/03 | 09/04/03                         | 09/22/03     | Confirmed   | 130                                                                                   |
| Friot, Stephen P.                                                 | W.OK                  | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 96                                                                                    |
|                                                                   |                       |                   | 09/04/01   | 10/18/01 | 11/01/01                         | 11/06/01     | Confirmed   |                                                                                       |
| <i>Frizzell, Gregory K.</i> <sup>c</sup>                          | N.OK                  | 109 <sup>th</sup> | 06/07/06   | 09/12/06 | 09/29/06                         | 12/09/06     | Returned    | 185                                                                                   |
| Frost, Gregory L.                                                 | S.OH                  | 107 <sup>th</sup> | 08/01/02   | —        | —                                | 11/20/02     | Returned    | 221                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 02/05/03 | 02/27/03                         | 03/10/03     | Confirmed   |                                                                                       |
| Fuller, Mark E.                                                   | M.AL                  | 107 <sup>th</sup> | 08/01/02   | 10/07/02 | 10/08/02                         | 11/14/02     | Confirmed   | 105                                                                                   |

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|-------------------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|-------------|---------------------------------------------------------------------------------------|
|                                                                   |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                       |
| Gardner, James K.                                                 | E.PA                  | 107 <sup>th</sup> | 04/22/02   | 08/01/02 | 09/05/02                         | 10/02/02     | Confirmed   | 163                                                                                   |
| Gelpi, Gustavo A.                                                 | PR                    | 109 <sup>th</sup> | 04/24/06   | 06/15/06 | 07/13/06                         | 07/20/06     | Confirmed   | 87                                                                                    |
| Gibson, Kim R.                                                    | W.PA                  | 108 <sup>th</sup> | 04/28/03   | 07/30/03 | 09/04/03                         | 09/23/03     | Confirmed   | 148                                                                                   |
| Godbey, David C.                                                  | N.TX                  | 107 <sup>th</sup> | 01/23/02   | 04/25/02 | 06/13/02                         | 08/01/02     | Confirmed   | 190                                                                                   |
| Golden, Thomas M.                                                 | E.PA                  | 109 <sup>th</sup> | 01/25/06   | 03/29/06 | 04/27/06                         | 05/04/06     | Confirmed   | 99                                                                                    |
| Gomez, Curtis V.                                                  | VI                    | 108 <sup>th</sup> | 11/25/03   | 04/08/04 | 04/29/04                         | 11/21/04     | Confirmed   | 362                                                                                   |
| Granade, Callie V.                                                | S.AL                  | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 153                                                                                   |
|                                                                   |                       |                   | 09/04/01   | 12/05/01 | 12/13/01                         | 02/04/02     | Confirmed   |                                                                                       |
| Greer, J. Ronnie                                                  | E.TN                  | 108 <sup>th</sup> | 04/09/03   | 05/22/03 | 06/05/03                         | 06/11/03     | Confirmed   | 63                                                                                    |
| Griesbach, William C.                                             | E.WI                  | 107 <sup>th</sup> | 01/23/02   | 04/11/02 | 04/18/02                         | 04/25/02     | Confirmed   | 92                                                                                    |
| Gritzner, James E.                                                | S.IA                  | 107 <sup>th</sup> | 07/10/01   | —        | —                                | 08/03/01     | Returned    | 219                                                                                   |
|                                                                   |                       |                   | 09/04/01   | 01/24/02 | 02/07/02                         | 02/14/02     | Confirmed   |                                                                                       |
| Guilford, Andrew J.                                               | C.CA                  | 109 <sup>th</sup> | 01/25/06   | 05/24/06 | 06/09/06                         | 06/22/06     | Confirmed   | 148                                                                                   |
| Guirola, Louis, Jr.                                               | S.MS                  | 108 <sup>th</sup> | 09/23/03   | 11/19/03 | 03/04/04                         | 03/12/04     | Confirmed   | 171                                                                                   |
| <i>Gutierrez, Philip S. <sup>c</sup></i>                          | C.CA                  | 109 <sup>th</sup> | 04/24/06   | 08/01/06 | 09/21/06                         | 12/09/06     | Returned    | 229                                                                                   |
| Haddon, Sam E.                                                    | MT                    | 107 <sup>th</sup> | 05/17/01   | 07/11/01 | 07/19/01                         | 07/20/01     | Confirmed   | 64                                                                                    |
| Hanen, Andrew S.                                                  | S.TX                  | 107 <sup>th</sup> | 01/23/02   | 04/25/02 | 05/02/02                         | 05/09/02     | Confirmed   | 106                                                                                   |
| Hardiman, Thomas M.                                               | W.PA                  | 108 <sup>th</sup> | 04/09/03   | 05/22/03 | 06/26/03                         | 10/22/03     | Confirmed   | 196                                                                                   |
| Harwell, Robert B.                                                | SC                    | 108 <sup>th</sup> | 01/20/04   | 04/08/04 | 04/29/04                         | 06/24/04     | Confirmed   | 156                                                                                   |
| Hayes, William Q.                                                 | S.CA                  | 108 <sup>th</sup> | 05/01/03   | 09/03/03 | 09/25/03                         | 10/02/03     | Confirmed   | 154                                                                                   |
| Heaton, Joe L.                                                    | W.OK                  | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 126                                                                                   |
|                                                                   |                       |                   | 09/04/01   | 11/07/01 | 11/29/01                         | 12/06/01     | Confirmed   |                                                                                       |
| Herrera, Judith C.                                                | NM                    | 108 <sup>th</sup> | 09/23/03   | 11/12/03 | 03/04/04                         | 06/03/04     | Confirmed   | 254                                                                                   |
| Hicks, Larry R.                                                   | NV                    | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 95                                                                                    |
|                                                                   |                       | 107 <sup>th</sup> | 09/04/01   | 10/18/01 | 11/01/01                         | 11/05/01     | Confirmed   |                                                                                       |
| Hicks, S. Maurice, Jr.                                            | W.LA                  | 107 <sup>th</sup> | 09/12/02   | —        | —                                | 11/20/02     | Returned    | 249                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 04/30/03 | 05/08/03                         | 05/19/03     | Confirmed   |                                                                                       |
| Hillman, Noel L.                                                  | NJ                    | 109 <sup>th</sup> | 01/25/06   | 04/25/06 | 05/04/06                         | 06/08/06     | Confirmed   | 134                                                                                   |

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|-------------------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|-------------|---------------------------------------------------------------------------------------|
|                                                                   |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                       |
| Holmes, J. Leon                                                   | E.AR                  | 108 <sup>th</sup> | 01/29/03   | 03/27/03 | 05/01/03 <sup>c</sup>            | 07/06/04     | Confirmed   | 524                                                                                   |
| <i>Holmes, Jerome A.</i>                                          | N.OK                  | 109 <sup>th</sup> | 02/14/06   | —        | —                                | 05/04/06     | Withdrawn   | 79                                                                                    |
| Holwell, Richard J.                                               | S.NY                  | 107 <sup>th</sup> | 08/01/02   | —        | —                                | 11/20/02     | Returned    | 412                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 07/22/03 | 07/31/03                         | 09/17/03     | Confirmed   |                                                                                       |
| Hopkins, Virginia E.                                              | N.AL                  | 108 <sup>th</sup> | 10/14/03   | 11/19/03 | 03/04/04                         | 06/15/04     | Confirmed   | 245                                                                                   |
| Houston, John A.                                                  | S.CA                  | 108 <sup>th</sup> | 05/01/03   | 09/03/03 | 09/25/03                         | 10/02/03     | Confirmed   | 154                                                                                   |
| Hovland, Daniel L.                                                | ND                    | 107 <sup>th</sup> | 06/26/02   | 09/26/02 | 10/08/02                         | 11/14/02     | Confirmed   | 141                                                                                   |
| <i>Howard, Marcia M. <sup>c</sup></i>                             | M.FL                  | 109 <sup>th</sup> | 06/06/06   | 09/06/06 | 09/29/06                         | 12/09/06     | Returned    | 186                                                                                   |
| Hudson, Henry E.                                                  | E.VA                  | 107 <sup>th</sup> | 01/23/02   | 05/23/02 | 06/13/02                         | 08/01/02     | Confirmed   | 190                                                                                   |
| Irizarry, Dora L.                                                 | E.NY                  | 108 <sup>th</sup> | 04/28/03   | 10/01/03 | 10/30/03                         | 06/24/04     | Confirmed   | 423                                                                                   |
| <i>Jarvey, John A. <sup>c</sup></i>                               | S.IA                  | 109 <sup>th</sup> | 06/28/06   | 09/06/06 | 09/26/06                         | 12/09/06     | Returned    | 164                                                                                   |
| Johnson, William P.                                               | NM                    | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 133                                                                                   |
|                                                                   |                       |                   | 09/04/01   | 10/25/01 | 11/29/01                         | 12/13/01     | Confirmed   |                                                                                       |
| Johnston, Thomas E.                                               | S.WV                  | 109 <sup>th</sup> | 09/28/05   | 02/07/06 | 02/16/06                         | 03/06/06     | Confirmed   | 159                                                                                   |
| Jones, John E., III                                               | M.PA                  | 107 <sup>th</sup> | 02/28/02   | 05/09/02 | 05/16/02                         | 07/29/02     | Confirmed   | 151                                                                                   |
| Jones, Robert C.                                                  | NV                    | 108 <sup>th</sup> | 06/09/03   | 09/03/03 | 09/25/03                         | 10/02/03     | Confirmed   | 115                                                                                   |
| <i>Jonker, Robert J.</i>                                          | W.MI                  | 109 <sup>th</sup> | 06/28/06   | 09/19/06 | 09/29/06                         | 12/09/06     | Returned    | 164                                                                                   |
| Jordan, Daniel P., III                                            | S.MS                  | 109 <sup>th</sup> | 04/24/06   | 06/15/06 | —                                | 07/20/06     | Confirmed   | 87                                                                                    |
| Jordan, Kent A.                                                   | DE                    | 107 <sup>th</sup> | 07/25/02   | 09/18/02 | 10/08/02                         | 11/14/02     | Confirmed   | 112                                                                                   |
| Jorgenson, Cindy K.                                               | AZ                    | 107 <sup>th</sup> | 09/10/01   | 01/24/02 | 02/07/02                         | 02/26/02     | Confirmed   | 169                                                                                   |
| Junell, Robert A.                                                 | W.TX                  | 107 <sup>th</sup> | 07/18/02   | —        | —                                | 11/20/02     | Returned    | 207                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 01/29/03 | 02/06/03                         | 02/10/03     | Confirmed   |                                                                                       |
| <i>Kapala, Frederick J. <sup>c</sup></i>                          | N.IL                  | 109 <sup>th</sup> | 12/05/06   | —        | —                                | 12/09/06     | Returned    | 4                                                                                     |
| Karas, Kenneth M.                                                 | S.NY                  | 108 <sup>th</sup> | 09/18/03   | 11/19/03 | 03/04/04                         | 06/03/04     | Confirmed   | 259                                                                                   |
| Kelly, Walter D., Jr.                                             | E.VA                  | 108 <sup>th</sup> | 10/31/03   | 03/10/04 | 04/01/04                         | 06/23/04     | Confirmed   | 236                                                                                   |
| Kendall, Virginia M.                                              | N.IL                  | 109 <sup>th</sup> | 09/28/05   | 11/15/05 | 11/17/05                         | 12/21/05     | Confirmed   | 84                                                                                    |
| Kinkeade, James E.                                                | N.TX                  | 107 <sup>th</sup> | 07/18/02   | 09/26/02 | 10/08/02                         | 11/14/02     | Confirmed   | 119                                                                                   |
| Klausner, Robert G.                                               | C.CA                  | 107 <sup>th</sup> | 07/18/02   | 10/07/02 | 10/08/02                         | 11/14/02     | Confirmed   | 119                                                                                   |

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|-------------------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|-------------|---------------------------------------------------------------------------------------|
|                                                                   |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                       |
| Kravitz, Mark R.                                                  | CT                    | 108 <sup>th</sup> | 03/27/03   | 05/22/03 | 06/05/03                         | 06/11/03     | Confirmed   | 76                                                                                    |
| Krieger, Marcia S.                                                | DC                    | 107 <sup>th</sup> | 09/10/01   | 12/05/01 | 12/13/01                         | 01/25/02     | Confirmed   | 137                                                                                   |
| Kugler, Robert B.                                                 | NJ                    | 107 <sup>th</sup> | 08/01/02   | 10/07/02 | 10/08/02                         | 11/14/02     | Confirmed   | 105                                                                                   |
| Lancaster, Joan E.                                                | MN                    | 107 <sup>th</sup> | 01/23/02   | 04/11/02 | 04/18/02                         | 04/25/02     | Confirmed   | 92                                                                                    |
| Land, Clay D.                                                     | M.GA                  | 107 <sup>th</sup> | 09/21/01   | 11/07/01 | 11/29/01                         | 12/13/01     | Confirmed   | 83                                                                                    |
| Larson, Stephen G.                                                | C.CA                  | 109 <sup>th</sup> | 12/15/05   | 02/15/06 | 03/02/06                         | 03/16/06     | Confirmed   | 91                                                                                    |
| Leighton, Ronald B.                                               | W.WA                  | 107 <sup>th</sup> | 01/23/02   | 10/07/02 | 10/08/02                         | 11/14/02     | Confirmed   | 295                                                                                   |
| Leon, Richard J.                                                  | DC                    | 107 <sup>th</sup> | 09/10/01   | 01/24/02 | 02/07/02                         | 02/14/02     | Confirmed   | 157                                                                                   |
| Linares, Jose L.                                                  | NJ                    | 107 <sup>th</sup> | 08/01/02   | 10/07/02 | 10/08/02                         | 11/14/02     | Confirmed   | 105                                                                                   |
| <i>Lioi, Sara E.</i> <sup>c</sup>                                 | N.OH                  | 109 <sup>th</sup> | 07/13/06   | 09/06/06 | 09/26/06                         | 12/09/06     | Returned    | 149                                                                                   |
| Ludington, Thomas L.                                              | E.MI                  | 107 <sup>th</sup> | 09/12/02   | —        | —                                | 11/20/02     | Returned    | 1,365                                                                                 |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | —        | —                                | 12/08/04     | Returned    |                                                                                       |
|                                                                   |                       | 109 <sup>th</sup> | 02/14/05   | 05/02/06 | 05/11/06                         | 06/08/06     | Confirmed   |                                                                                       |
| Ludlum, Alia M.                                                   | W.TX                  | 107 <sup>th</sup> | 07/11/02   | 09/18/02 | 10/08/02                         | 11/14/02     | Confirmed   | 126                                                                                   |
| Mahan, James C.                                                   | NV                    | 107 <sup>th</sup> | 09/10/01   | 12/05/01 | 12/13/01                         | 01/25/02     | Confirmed   | 137                                                                                   |
| <i>Maloney, Paul L.</i>                                           | W.MI                  | 109 <sup>th</sup> | 06/28/06   | 09/19/06 | 09/29/06                         | 12/09/06     | Returned    | 164                                                                                   |
| Marra, Kenneth A.                                                 | S.FL                  | 107 <sup>th</sup> | 01/23/02   | 06/13/02 | 06/20/02                         | 09/09/02     | Confirmed   | 229                                                                                   |
| Martinez, Jose E.                                                 | S.FL                  | 107 <sup>th</sup> | 01/23/02   | 07/23/02 | 07/31/02                         | 09/13/02     | Confirmed   | 233                                                                                   |
| Martinez, Philip R.                                               | W.TX                  | 107 <sup>th</sup> | 10/09/01   | 12/05/01 | 12/13/01                         | 02/05/02     | Confirmed   | 119                                                                                   |
| Martinez, Ricardo S.                                              | W.WA                  | 108 <sup>th</sup> | 10/14/03   | 01/22/04 | 03/04/04                         | 06/15/04     | Confirmed   | 245                                                                                   |
| Martini, William J.                                               | NJ                    | 107 <sup>th</sup> | 01/23/02   | 09/18/02 | 10/08/02                         | 11/14/02     | Confirmed   | 295                                                                                   |
| Martone, Frederick J.                                             | AZ                    | 107 <sup>th</sup> | 09/10/01   | 11/07/01 | 11/29/01                         | 12/13/01     | Confirmed   | 94                                                                                    |
| Mattice, Harry S., Jr.                                            | E.TN                  | 109 <sup>th</sup> | 07/28/05   | 09/29/05 | 10/20/05                         | 10/24/05     | Confirmed   | 88                                                                                    |
| <i>Mauskopf, Roslynn R.</i> <sup>c</sup>                          | E.NY                  | 109 <sup>th</sup> | 08/02/06   | —        | —                                | 12/09/06     | Returned    | 129                                                                                   |
| Mays, Samuel H., Jr.                                              | W.TN                  | 107 <sup>th</sup> | 01/23/02   | 04/25/02 | 05/02/02                         | 05/09/02     | Confirmed   | 106                                                                                   |
| McKnight, H. Brent                                                | W.NC                  | 108 <sup>th</sup> | 04/28/03   | 07/22/03 | 07/24/03                         | 07/31/03     | Confirmed   | 94                                                                                    |
| McVerry, Terrence F.                                              | W.PA                  | 107 <sup>th</sup> | 01/23/02   | 06/27/02 | 07/31/02                         | 09/03/02     | Confirmed   | 223                                                                                   |
| Miller, Gray H.                                                   | S.TX                  | 109 <sup>th</sup> | 01/25/06   | 03/14/06 | 03/30/06                         | 04/25/06     | Confirmed   | 90                                                                                    |

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|-------------------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|-------------|---------------------------------------------------------------------------------------|
|                                                                   |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                       |
| Mills, Michael P.                                                 | N.MS                  | 107 <sup>th</sup> | 07/10/01   | —        | —                                | 08/03/01     | Returned    | 93                                                                                    |
|                                                                   |                       |                   | 09/04/01   | 09/13/01 | 10/04/01                         | 10/11/01     | Confirmed   |                                                                                       |
| Minaldi, Patricia H.                                              | W.LA                  | 108 <sup>th</sup> | 01/15/03   | 04/01/03 | 05/01/03                         | 05/06/03     | Confirmed   | 111                                                                                   |
| Montalvo, Frank                                                   | W.TX                  | 108 <sup>th</sup> | 05/01/03   | 07/09/03 | 07/17/03                         | 07/31/03     | Confirmed   | 91                                                                                    |
| Mosman, Michael W.                                                | OR                    | 108 <sup>th</sup> | 05/08/03   | 07/30/03 | 09/04/03                         | 09/25/03     | Confirmed   | 140                                                                                   |
| <i>Neff, Janet T.</i>                                             | W.MI                  | 109 <sup>th</sup> | 06/28/06   | 09/19/06 | 09/29/06                         | 12/09/06     | Returned    | 164                                                                                   |
| <i>O'Grady, Liam</i> <sup>c</sup>                                 | E.VA                  | 109 <sup>th</sup> | 08/02/06   | —        | —                                | 12/09/06     | Returned    | 129                                                                                   |
| <i>O'Neill, Lawrence J.</i> <sup>c</sup>                          | E.CA                  | 109 <sup>th</sup> | 08/02/06   | 09/12/06 | 09/21/06                         | 12/09/06     | Returned    | 129                                                                                   |
| <i>Osteen, William L., Jr.</i> <sup>c</sup>                       | M.NC                  | 109 <sup>th</sup> | 09/29/06   | —        | —                                | 12/09/06     | Returned    | 71                                                                                    |
| Otero, S. James                                                   | C.CA                  | 107 <sup>th</sup> | 07/18/02   | —        | —                                | 11/20/02     | Returned    | 207                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 01/29/03 | 02/06/03                         | 02/10/03     | Confirmed   |                                                                                       |
| <i>Ozerden, Halil S.</i> <sup>c</sup>                             | S.MS                  | 109 <sup>th</sup> | 09/05/06   | —        | —                                | 12/09/06     | Returned    | 95                                                                                    |
| Payne, James H.                                                   | N.E.W.OK              | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 82                                                                                    |
|                                                                   |                       |                   | 09/04/01   | 10/04/01 | 10/18/01                         | 10/23/01     | Confirmed   |                                                                                       |
| Phillips, Thomas W.                                               | E.TN                  | 107 <sup>th</sup> | 06/26/02   | 09/18/02 | 10/08/02                         | 11/14/02     | Confirmed   | 141                                                                                   |
| Pratter, Gene E.K.                                                | E.PA                  | 108 <sup>th</sup> | 11/03/03   | 01/22/04 | 03/04/04                         | 06/15/04     | Confirmed   | 225                                                                                   |
| Proctor, R. David                                                 | N.AL                  | 108 <sup>th</sup> | 05/01/03   | 07/22/03 | 07/31/03                         | 09/17/03     | Confirmed   | 139                                                                                   |
| Quarles, William D., Jr.                                          | MD                    | 107 <sup>th</sup> | 09/12/02   | —        | —                                | 11/20/02     | Returned    | 181                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 02/05/03 | 02/27/03                         | 03/12/03     | Confirmed   |                                                                                       |
| Reade, Linda R.                                                   | N.IA                  | 107 <sup>th</sup> | 06/26/02   | 09/26/02 | 10/08/02                         | 11/14/02     | Confirmed   | 141                                                                                   |
| Reeves, Danny C.                                                  | E.KY                  | 107 <sup>th</sup> | 08/02/01   | —        | —                                | 08/03/01     | Returned    | 126                                                                                   |
|                                                                   |                       |                   | 09/04/01   | 11/07/01 | 11/29/01                         | 12/06/01     | Confirmed   |                                                                                       |
| <i>Reidinger, Martin K.</i> <sup>c</sup>                          | W.NC                  | 109 <sup>th</sup> | 09/29/06   | —        | —                                | 12/09/06     | Returned    | 71                                                                                    |
| Robart, James L.                                                  | W.WA                  | 108 <sup>th</sup> | 12/09/03   | 02/11/04 | 03/11/04                         | 06/17/04     | Confirmed   | 191                                                                                   |
| Robinson, Julie A.                                                | KS                    | 107 <sup>th</sup> | 09/10/01   | 11/07/01 | 11/29/01                         | 12/11/01     | Confirmed   | 92                                                                                    |
| Robinson, Stephen C.                                              | S.NY                  | 108 <sup>th</sup> | 03/05/03   | 07/22/03 | 07/31/03                         | 09/17/03     | Confirmed   | 196                                                                                   |
| Rodgers, Margaret C.                                              | N.FL                  | 108 <sup>th</sup> | 07/14/03   | 09/17/03 | 10/02/03                         | 10/20/03     | Confirmed   | 98                                                                                    |
| Rodriguez, Xavier                                                 | W.TX                  | 108 <sup>th</sup> | 05/01/03   | 07/09/03 | 07/17/03                         | 07/31/03     | Confirmed   | 91                                                                                    |

| Name of Nominee<br>(Nominees Not Confirmed<br>In Italics) | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|-----------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|-------------|---------------------------------------------------------------------------------------|
|                                                           |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                       |
| <i>Rogan, James E.</i> <sup>c</sup>                       | C.CA                  | 109 <sup>th</sup> | 11/15/06   | —        | —                                | 12/09/06     | Returned    | 24                                                                                    |
| <i>Rohlfing, Frederick W., III</i>                        | HI                    | 107 <sup>th</sup> | 01/23/02   | —        | —                                | 11/20/02     | Returned    | 834                                                                                   |
|                                                           |                       | 108 <sup>th</sup> | 01/07/03   | —        | —                                | 05/06/04     | Withdrawn   |                                                                                       |
| Rose, Thomas M.                                           | S.OH                  | 107 <sup>th</sup> | 01/23/02   | 04/25/02 | 05/02/02                         | 05/09/02     | Confirmed   | 106                                                                                   |
| Royal, C. Ashley                                          | M.GA                  | 107 <sup>th</sup> | 10/09/01   | 12/05/01 | 12/13/01                         | 12/20/01     | Confirmed   | 72                                                                                    |
| Rufe, Cynthia M.                                          | E.PA                  | 107 <sup>th</sup> | 01/23/02   | 04/11/02 | 04/18/02                         | 04/30/02     | Confirmed   | 97                                                                                    |
| <i>Ryan, Daniel P.</i>                                    | E.MI                  | 108 <sup>th</sup> | 04/28/03   | —        | —                                | 12/08/04     | Returned    | 1,067                                                                                 |
|                                                           |                       | 109 <sup>th</sup> | 02/14/05   | —        | —                                | 03/30/06     | Withdrawn   |                                                                                       |
| Sabraw, Dana M.                                           | S.CA                  | 108 <sup>th</sup> | 05/01/03   | 07/30/03 | 09/04/03                         | 09/25/03     | Confirmed   | 147                                                                                   |
| Sanchez, Juan R.                                          | E.PA                  | 108 <sup>th</sup> | 11/25/03   | 02/11/04 | 03/11/04                         | 06/23/04     | Confirmed   | 211                                                                                   |
| Sandoval, Brian E.                                        | NV                    | 109 <sup>th</sup> | 03/01/05   | 09/29/05 | 10/20/05                         | 10/24/05     | Confirmed   | 237                                                                                   |
| Savage, Timothy J.                                        | E.PA                  | 107 <sup>th</sup> | 03/21/02   | 05/24/02 | 06/13/02                         | 08/01/02     | Confirmed   | 133                                                                                   |
| Saylor, F. Dennis, IV                                     | MA                    | 108 <sup>th</sup> | 07/30/03   | 11/12/03 | 03/04/04                         | 06/01/04     | Confirmed   | 307                                                                                   |
| Schiavelli, George P.                                     | C.CA                  | 108 <sup>th</sup> | 01/20/04   | 04/08/04 | 04/29/04                         | 06/24/04     | Confirmed   | 156                                                                                   |
| Schiltz, Patrick J.                                       | MN                    | 109 <sup>th</sup> | 12/14/05   | 03/01/06 | 03/30/06                         | 04/26/06     | Confirmed   | 133                                                                                   |
| Schneider, Michael H., Sr.                                | E.TX                  | 108 <sup>th</sup> | 05/17/04   | 07/07/04 | 07/20/04                         | 09/07/04     | Confirmed   | 113                                                                                   |
| <i>Schroeder, Thomas D.</i> <sup>c</sup>                  | M.NC                  | 109 <sup>th</sup> | 09/29/06   | —        | —                                | 12/09/06     | Returned    | 71                                                                                    |
| Schwab, Arthur J.                                         | W.PA                  | 107 <sup>th</sup> | 01/23/02   | 06/27/02 | 07/31/02                         | 09/13/02     | Confirmed   | 233                                                                                   |
| Seabright, J. Michael                                     | HI                    | 108 <sup>th</sup> | 09/15/04   | 11/16/04 | —                                | 12/08/04     | Returned    | 224                                                                                   |
|                                                           |                       | 109 <sup>th</sup> | 02/14/05   | —        | 03/17/05                         | 04/27/05     | Confirmed   |                                                                                       |
| Selna, James V.                                           | C.CA                  | 108 <sup>th</sup> | 01/29/03   | 03/12/03 | 03/20/03                         | 03/27/03     | Confirmed   | 57                                                                                    |
| <i>Settle, Benjamin H.</i> <sup>c</sup>                   | W.WA                  | 109 <sup>th</sup> | 11/15/06   | —        | —                                | 12/09/06     | Returned    | 24                                                                                    |
| Sharpe, Gary L.                                           | N.NY                  | 108 <sup>th</sup> | 04/28/03   | 10/15/03 | 10/23/03                         | 01/28/04     | Confirmed   | 275                                                                                   |
| Sheridan, Peter G.                                        | NJ                    | 108 <sup>th</sup> | 11/05/03   | —        | —                                | 12/08/04     | Returned    | 946                                                                                   |
|                                                           |                       | 109 <sup>th</sup> | 02/14/05   | 04/25/06 | 05/04/06                         | 06/08/06     | Confirmed   |                                                                                       |
| Simon, Philip P.                                          | N.IN                  | 108 <sup>th</sup> | 01/29/03   | 03/12/03 | 03/20/03                         | 03/27/03     | Confirmed   | 57                                                                                    |
| Smith, William E.                                         | RI                    | 107 <sup>th</sup> | 07/18/02   | 10/07/02 | 10/08/02                         | 11/14/02     | Confirmed   | 119                                                                                   |
| Smoak, John R.                                            | N.FL                  | 109 <sup>th</sup> | 06/08/05   | 09/29/05 | 10/20/05                         | 10/27/05     | Confirmed   | 141                                                                                   |

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i> | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|-------------------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|-------------|---------------------------------------------------------------------------------------|
|                                                                   |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |             |                                                                                       |
| <i>Southwick, Leslie</i>                                          | S.MS                  | 109 <sup>th</sup> | 06/06/06   | 09/19/06 | 09/29/06                         | 12/09/06     | Returned    | 186                                                                                   |
| Springmann, Theresa L.                                            | N.IN                  | 108 <sup>th</sup> | 01/29/03   | 03/12/03 | 03/20/03                         | 03/31/03     | Confirmed   | 61                                                                                    |
| St. Eve, Amy J.                                                   | N.IL                  | 107 <sup>th</sup> | 03/21/02   | 05/24/02 | 06/13/02                         | 08/01/02     | Confirmed   | 133                                                                                   |
| Starrett, Keith                                                   | S.MS                  | 108 <sup>th</sup> | 07/06/04   | 09/08/04 | 09/30/04                         | 11/21/04     | Confirmed   | 138                                                                                   |
| Steele, William H.                                                | S.AL                  | 108 <sup>th</sup> | 01/07/03   | 02/12/03 | 03/06/03                         | 03/13/03     | Confirmed   | 65                                                                                    |
| Stengel, Lawrence F.                                              | E.PA                  | 108 <sup>th</sup> | 11/06/03   | 02/05/04 | 03/11/04                         | 06/16/04     | Confirmed   | 223                                                                                   |
| Suko, Lonny R.                                                    | E.WA                  | 108 <sup>th</sup> | 04/28/03   | 06/25/03 | 07/10/03                         | 07/15/03     | Confirmed   | 78                                                                                    |
| Titus, Roger W.                                                   | MD                    | 108 <sup>th</sup> | 06/18/03   | 09/17/03 | 10/02/03                         | 11/05/03     | Confirmed   | 140                                                                                   |
| Townes, Sandra L.                                                 | E.NY                  | 108 <sup>th</sup> | 08/01/03   | 11/12/03 | 03/04/04                         | 06/03/04     | Confirmed   | 307                                                                                   |
| Tydingco-Gatewood, Frances M.                                     | GU                    | 109 <sup>th</sup> | 04/25/06   | 07/11/06 | 08/03/06                         | 08/03/06     | Confirmed   | 100                                                                                   |
| Van Tatenhove, Gregory F.                                         | E.KY                  | 109 <sup>th</sup> | 09/13/05   | 11/01/05 | 11/17/05                         | 12/21/05     | Confirmed   | 99                                                                                    |
| Varlan, Thomas A.                                                 | E.TN                  | 107 <sup>th</sup> | 10/10/02   | —        | —                                | 11/20/02     | Returned    | 154                                                                                   |
|                                                                   |                       | 108 <sup>th</sup> | 01/07/03   | 02/12/03 | 03/06/03                         | 03/13/03     | Confirmed   |                                                                                       |
| Vitaliano, Eric N.                                                | E.NY                  | 109 <sup>th</sup> | 10/06/05   | 11/01/05 | 11/17/05                         | 12/21/05     | Confirmed   | 76                                                                                    |
| Wake, Neil V.                                                     | AZ                    | 108 <sup>th</sup> | 10/22/03   | 01/22/04 | 03/04/04                         | 03/12/04     | Confirmed   | 142                                                                                   |
| Walter, John F.                                                   | C.CA                  | 107 <sup>th</sup> | 01/23/02   | 04/11/02 | 04/18/02                         | 04/25/02     | Confirmed   | 92                                                                                    |
| Walton, Reggie B.                                                 | DC                    | 107 <sup>th</sup> | 06/20/01   | —        | —                                | 08/03/01     | Returned    | 93                                                                                    |
|                                                                   |                       |                   | 09/04/01   | 08/22/01 | 09/06/01                         | 09/21/01     | Confirmed   |                                                                                       |
| Watkins, W. Keith                                                 | M.AL                  | 109 <sup>th</sup> | 09/28/05   | 11/15/05 | 11/17/05                         | 12/21/05     | Confirmed   | 84                                                                                    |
| Watson, Michael H.                                                | S.OH                  | 108 <sup>th</sup> | 04/06/04   | 06/04/04 | 07/08/04                         | 09/07/04     | Confirmed   | 154                                                                                   |
| White, Jeffrey S.                                                 | N.CA                  | 107 <sup>th</sup> | 07/25/02   | 09/18/02 | 10/08/02                         | 11/14/02     | Confirmed   | 112                                                                                   |
| White, Ronald A.                                                  | E.OK                  | 108 <sup>th</sup> | 05/15/03   | 09/03/03 | 09/25/03                         | 09/30/03     | Confirmed   | 138                                                                                   |
| Whitney, Frank D.                                                 | W.NC                  | 109 <sup>th</sup> | 02/14/06   | 05/24/06 | 06/15/06                         | 06/22/06     | Confirmed   | 128                                                                                   |
| Wigenton, Susan D.                                                | NJ                    | 109 <sup>th</sup> | 01/25/06   | 04/25/06 | 05/04/06                         | 05/26/06     | Confirmed   | 121                                                                                   |
| Wolfson, Freda L.                                                 | NJ                    | 107 <sup>th</sup> | 08/01/02   | 09/26/02 | 10/08/02                         | 11/14/02     | Confirmed   | 105                                                                                   |
| <i>Wood, Lisa G. <sup>c</sup></i>                                 | S.GA                  | 109 <sup>th</sup> | 06/12/06   | 09/12/06 | 09/29/06                         | 12/09/06     | Returned    | 180                                                                                   |
| Woodcock, John A.                                                 | ME                    | 108 <sup>th</sup> | 03/27/03   | 05/22/03 | 06/05/03                         | 06/12/03     | Confirmed   | 77                                                                                    |
| Wooten, Terry L.                                                  | SC                    | 107 <sup>th</sup> | 06/18/01   | —        | —                                | 08/03/01     | Returned    | 143                                                                                   |

| Name of Nominee<br><i>(Nominees Not Confirmed<br/>In Italics)</i>                                                      | District <sup>a</sup> | Congress          | Date       |          |                                  |              | Disposition         | Days Elapsed,<br>Initial Nomination<br>to Disposition of<br>Most Recent<br>Nomination |
|------------------------------------------------------------------------------------------------------------------------|-----------------------|-------------------|------------|----------|----------------------------------|--------------|---------------------|---------------------------------------------------------------------------------------|
|                                                                                                                        |                       |                   | Nomination | Hearing  | Committee<br>Action <sup>b</sup> | Final Action |                     |                                                                                       |
|                                                                                                                        |                       |                   | 09/04/01   | 08/27/01 | 11/08/01                         | 11/08/01     | Confirmed           |                                                                                       |
| <i>Wright, Otis D., II</i> <sup>c</sup>                                                                                | C.CA                  | 109 <sup>th</sup> | 09/05/06   | —        | —                                | 12/09/06     | Returned            | 95                                                                                    |
| <i>Wu, George H.</i> <sup>c</sup>                                                                                      | C.CA                  | 109 <sup>th</sup> | 09/05/06   | —        | —                                | 12/09/06     | Returned            | 95                                                                                    |
| Yeakel, Earl L., III                                                                                                   | W.TX                  | 108 <sup>th</sup> | 05/01/03   | 06/25/03 | 07/10/03                         | 07/28/03     | Confirmed           | 88                                                                                    |
| Zainey, Jay C.                                                                                                         | E.LA                  | 107 <sup>th</sup> | 10/10/01   | 01/24/02 | 02/07/02                         | 02/11/02     | Confirmed           | 124                                                                                   |
| Zouhary, Jack                                                                                                          | N.OH                  | 109 <sup>th</sup> | 12/14/05   | 02/15/06 | 03/02/06                         | 03/16/06     | Confirmed           | 92                                                                                    |
| Days elapsed, initial nomination to disposition of most recent nomination, <b>confirmed</b> nominees (206 nominees)    |                       |                   |            |          |                                  |              | Mean <sup>e</sup>   | 170.6                                                                                 |
|                                                                                                                        |                       |                   |            |          |                                  |              | Median <sup>f</sup> | 133.5                                                                                 |
| Days elapsed, initial nomination to disposition of most recent nomination, nominees <b>not confirmed</b> (31 nominees) |                       |                   |            |          |                                  |              | Mean <sup>e</sup>   | 184                                                                                   |
|                                                                                                                        |                       |                   |            |          |                                  |              | Median <sup>f</sup> | 149                                                                                   |

**Notes:**

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. Unless otherwise noted, date of committee action is the date the motion to report favorably carried.

c. Resubmitted in the 110<sup>th</sup> Congress on Jan. 9, 2007. As of Jan. 19, 2007, 24 nominees had been resubmitted in the 110<sup>th</sup> Congress.

d. Judge Holmes was reported out of committee without recommendation. See *Congressional Record*, daily edition, vol. 149, May 1, 2003, p. D436.

e. The “Mean” is the sum of the number of elapsed days for all of the nominations in question divided by the number of those nominations.

f. The “Median” is the elapsed time for the nomination that is the “middle case”, with an equal number of the nominations having longer elapsed times than that nomination and an equal number of nominations having shorter elapsed times. If there are an even number of nominations, the median is the arithmetic mean of the elapsed times for the two nominations in the middle of the distribution.

## 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<br>by Senate | Hearing  | Committee<br>Action <sup>a</sup> | Final<br>Action <sup>B</sup> | Hearing                       | Committee<br>Action | Final Action |
| 1   | Cebull, Richard F.                | MT       | 05/17/01              | 07/11/01 | 07/19/01                         | 07/20/01<br>93-0 vote        | 55                            | 63                  | 64           |
| 2   | Haddon, Sam F.                    | MT       | 05/17/01              | 07/11/01 | 07/19/01                         | 07/20/01<br>95-0 vote        | 55                            | 63                  | 64           |
| 3   | Wooten, Terry L. <sup>c</sup>     | SC       | 06/18/01              | —        | —                                | Returned<br>08/03/01         | —                             | —                   | 46           |
| 4   | Camp, Laurie S. <sup>c</sup>      | NE       | 06/19/01              | —        | —                                | Returned<br>08/03/01         | —                             | —                   | 45           |
| 5   | Cassell, Paul G. <sup>c</sup>     | UT       | 06/19/01              | —        | —                                | Returned<br>08/03/01         | —                             | —                   | 45           |
| 6   | Bates, John D. <sup>c</sup>       | DC       | 06/20/01              | —        | —                                | Returned<br>08/03/01         | —                             | —                   | 44           |
| 7   | Walton, Reggie B. <sup>c</sup>    | DC       | 06/20/01              | —        | —                                | Returned<br>08/03/01         | —                             | —                   | 44           |
| 8   | Gritzner, James E. <sup>c</sup>   | S.IA     | 07/10/01              | —        | —                                | Returned<br>08/03/01         | —                             | —                   | 24           |
| 9   | Mills, Michael P. <sup>c</sup>    | N.MS     | 07/10/01              | —        | —                                | Returned<br>08/03/01         | —                             | —                   | 24           |
| 10  | Armijo, M. Christina <sup>c</sup> | NM       | 08/02/01              | —        | —                                | Returned<br>08/03/01         | —                             | —                   | 1            |
| 11  | Bowdre, Karon O. <sup>c</sup>     | N.AL     | 08/02/01              | —        | —                                | Returned<br>08/03/01         | —                             | —                   | 1            |

| No. | Name of Nominee                   | District | Date               |          |                               |                           | Days from Nomination Date To: |                  |              |
|-----|-----------------------------------|----------|--------------------|----------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                                   |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing                       | Committee Action | Final Action |
| 12  | Bunning, David L. <sup>c</sup>    | E.KY     | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 13  | Caldwell, Karen K. <sup>c</sup>   | E.KY     | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 14  | Eagan, Clair V. <sup>c</sup>      | N.OK     | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 15  | Engelhardt, Kurt D. <sup>c</sup>  | E.LA     | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 16  | Friot, Stephen P. <sup>c</sup>    | W.OK     | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 17  | Granade, Callie V. <sup>c</sup>   | S.AL     | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 18  | Heaton, Joe L. <sup>c</sup>       | W.OK     | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 19  | Hicks, Larry R. <sup>c</sup>      | NV       | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 20  | Johnson, William P. <sup>c</sup>  | NM       | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 21  | Payne, James H. <sup>c</sup>      | N.E.W.OK | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 22  | Reeves, Danny C. <sup>c</sup>     | E.KY     | 08/02/01           | —        | —                             | Returned 08/03/01         | —                             | —                | 1            |
| 23  | Armijo, M. Christina <sup>d</sup> | NM       | 09/04/01           | 10/18/01 | 11/01/01                      | 11/06/01<br>100-0 vote    | 44                            | 58               | 63           |

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| No. | Name of Nominee                   | District | Date               |          |                               |                           | Days from Nomination Date To: |                  |              |
|-----|-----------------------------------|----------|--------------------|----------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                                   |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing                       | Committee Action | Final Action |
| 24  | Bates, John D. <sup>d</sup>       | DC       | 09/04/01           | 10/25/01 | 11/29/01                      | 12/11/01<br>97-0 vote     | 51                            | 86               | 98           |
| 25  | Bowdre, Karon O. <sup>d</sup>     | N.AL     | 09/04/01           | 10/18/01 | 11/01/01                      | 11/06/01<br>98-0 vote     | 44                            | 58               | 63           |
| 26  | Bunning, David L. <sup>d</sup>    | E.KY     | 09/04/01           | 12/10/01 | 02/07/02                      | 02/14/02                  | 97                            | 156              | 163          |
| 27  | Caldwell, Karen K. <sup>d</sup>   | E.KY     | 09/04/01           | 10/04/01 | 10/18/01                      | 10/23/01<br>100-0 vote    | 30                            | 44               | 49           |
| 28  | Camp, Laurie S. <sup>d</sup>      | NE       | 09/04/01           | 10/04/01 | 10/18/01                      | 10/23/01<br>100-0 vote    | 30                            | 44               | 49           |
| 29  | Cassell, Paul G. <sup>d</sup>     | UT       | 09/04/01           | 03/19/02 | 05/02/02                      | 05/13/02<br>67-20 vote    | 196                           | 240              | 251          |
| 30  | Eagan, Clair V. <sup>d</sup>      | N.OK     | 09/04/01           | 10/04/01 | 10/18/01                      | 10/23/01<br>99-0 vote     | 30                            | 44               | 49           |
| 31  | Engelhardt, Kurt. D. <sup>d</sup> | E.LA     | 09/04/01           | 10/25/01 | 11/29/01                      | 12/11/01                  | 51                            | 86               | 98           |
| 32  | Friot, Stephen P. <sup>d</sup>    | W.OK     | 09/04/01           | 10/18/01 | 11/01/01                      | 11/06/01<br>98-0 vote     | 44                            | 58               | 63           |
| 33  | Granade, Callie V. <sup>d</sup>   | S.AL     | 09/04/01           | 12/05/01 | 12/13/01                      | 02/04/02<br>75-0 vote     | 92                            | 100              | 153          |
| 34  | Gritzner, James E. <sup>d</sup>   | S.IA     | 09/04/01           | 01/24/02 | 02/07/02                      | 02/14/02                  | 142                           | 156              | 163          |
| 35  | Heaton, Joe L. <sup>d</sup>       | W.OK     | 09/04/01           | 11/07/01 | 11/29/01                      | 12/06/01                  | 64                            | 86               | 93           |
| 36  | Hicks, Larry R. <sup>d</sup>      | NV       | 09/04/01           | 10/18/01 | 11/01/01                      | 11/05/01<br>83-0 vote     | 44                            | 58               | 62           |
| 37  | Johnson, William P. <sup>d</sup>  | NM       | 09/04/01           | 10/25/01 | 11/29/01                      | 12/13/01                  | 51                            | 86               | 100          |

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| No. | Name of Nominee                | District | Date               |                       |                               |                           | Days from Nomination Date To: |                  |              |
|-----|--------------------------------|----------|--------------------|-----------------------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                                |          | Received by Senate | Hearing               | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing                       | Committee Action | Final Action |
| 38  | Mills, Michael P. <sup>d</sup> | N.MS     | 09/04/01           | 09/13/01              | 10/04/01                      | 10/11/01<br>98-0 vote     | 9                             | 30               | 37           |
| 39  | Payne James H. <sup>d</sup>    | N.E.W.OK | 09/04/01           | 10/04/01              | 10/18/01                      | 10/23/01<br>100-0 vote    | 30                            | 44               | 49           |
| 40  | Reeves, Danny C. <sup>d</sup>  | E.KY     | 09/04/01           | 11/07/01              | 11/29/01                      | 12/06/01                  | 64                            | 86               | 93           |
| 41  | Walton, Reggie B. <sup>d</sup> | DC       | 09/04/01           | 08/22/01 <sup>e</sup> | 09/06/01                      | 09/21/01<br>97-0 vote     | <sup>f</sup>                  | 2                | 17           |
| 42  | Wooten, Terry L. <sup>d</sup>  | SC       | 09/04/01           | 08/27/01 <sup>g</sup> | 11/08/01                      | 11/08/01<br>98-0 vote     | <sup>h</sup>                  | 65               | 65           |
| 43  | Blackburn, Robert E.           | DC       | 09/10/01           | 01/24/02              | 02/07/02                      | 02/26/02<br>98-0 vote     | 136                           | 150              | 169          |
| 44  | Bury, David C.                 | AZ       | 09/10/01           | 02/26/02              | 03/07/02                      | 03/15/02<br>90-0 vote     | 169                           | 178              | 186          |
| 45  | Jorgenson, Cindy K.            | AZ       | 09/10/01           | 01/24/02              | 02/07/02                      | 02/26/02<br>98-0 vote     | 136                           | 150              | 169          |
| 46  | Krieger, Marcia S.             | DC       | 09/10/01           | 12/05/01              | 12/13/01                      | 01/25/02<br>83-0 vote     | 86                            | 94               | 137          |
| 47  | Leon, Richard J.               | DC       | 09/10/01           | 01/24/02              | 02/07/02                      | 02/14/02                  | 136                           | 150              | 157          |
| 48  | Mahan, James C.                | NV       | 09/10/01           | 12/05/01              | 12/13/01                      | 01/25/02<br>81-0 vote     | 86                            | 94               | 137          |
| 49  | Martone, Frederick J.          | AZ       | 09/10/01           | 11/07/01              | 11/29/01                      | 12/13/01<br>97-0 vote     | 58                            | 80               | 94           |
| 50  | Robinson, Julie A.             | KS       | 09/10/01           | 11/07/01              | 11/29/01                      | 12/11/01                  | 58                            | 80               | 92           |

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| No. | Name of Nominee     | District | Date               |          |                               |                           | Days from Nomination Date To: |                  |              |
|-----|---------------------|----------|--------------------|----------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                     |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing                       | Committee Action | Final Action |
| 51  | Crane, Randy        | S.TX     | 09/21/01           | 02/26/02 | 03/03/02                      | 03/18/02<br>91-0 vote     | 158                           | 163              | 178          |
| 52  | Land, Clay D.       | M.GA     | 09/21/01           | 11/07/01 | 11/29/01                      | 12/13/01                  | 47                            | 69               | 83           |
| 53  | Martinez, Philip R. | W.TX     | 10/09/01           | 12/05/01 | 12/13/01                      | 02/05/02<br>93-0 vote     | 57                            | 65               | 119          |
| 54  | Royal, C. Ashley    | M.GA     | 10/09/01           | 12/05/01 | 12/13/01                      | 12/20/01                  | 57                            | 65               | 72           |
| 55  | Zainey, Jay C.      | E. LA    | 10/10/01           | 01/24/02 | 02/07/02                      | 02/11/02<br>92-0 vote     | 106                           | 120              | 124          |
| 56  | Beistline, Ralph R. | AK       | 11/08/01           | 02/26/02 | 03/07/02                      | 03/12/02<br>98-0 vote     | 110                           | 119              | 124          |
| 57  | Africk, Lance M.    | E.LA     | 01/23/02           | 03/29/02 | 04/11/02                      | 04/17/02<br>97-0 vote     | 65                            | 78               | 84           |
| 58  | Anderson, Percy     | C.CA     | 01/23/02           | 04/11/02 | 04/18/02                      | 04/25/02<br>99-0 vote     | 78                            | 85               | 92           |
| 59  | Baylson, Michael M. | E.PA     | 01/23/02           | 04/11/02 | 04/18/02                      | 04/30/02<br>98-0 vote     | 78                            | 85               | 97           |
| 60  | Chesler, Stanley R. | NJ       | 01/23/02           | 09/26/02 | 10/08/02                      | 11/14/02                  | 246                           | 258              | 295          |
| 61  | Clark, Ronald H.    | E.TX     | 01/23/02           | 08/01/02 | 09/19/02                      | 10/02/02                  | 190                           | 239              | 252          |
| 62  | Conti, Joy F.       | W.PA     | 01/23/02           | 05/09/02 | 05/16/02                      | 07/29/02<br>96-0 vote     | 106                           | 113              | 187          |
| 63  | Davis, Legrome D.   | E.PA     | 01/23/02           | 03/19/02 | 04/11/02                      | 04/18/02<br>94-0 vote     | 55                            | 78               | 85           |
| 64  | Davis, Leonard E.   | E.TX     | 01/23/02           | 04/25/02 | 05/02/02                      | 05/09/02<br>97-0 vote     | 92                            | 99               | 106          |

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| No. | Name of Nominee             | District | Date               |          |                               |                           | Days from Nomination Date To: |                  |              |
|-----|-----------------------------|----------|--------------------|----------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                             |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing                       | Committee Action | Final Action |
| 65  | Godbey, David C.            | N.TX     | 01/23/02           | 04/25/02 | 06/13/02                      | 08/01/02                  | 92                            | 141              | 190          |
| 66  | Griesbach, William C.       | E.WI     | 01/23/02           | 04/11/02 | 04/18/02                      | 04/25/02<br>97-0 vote     | 78                            | 85               | 92           |
| 67  | Hanen, Andrew S.            | S.TX     | 01/23/02           | 04/25/02 | 05/02/02                      | 05/09/02<br>97-0 vote     | 92                            | 99               | 106          |
| 68  | Hudson, Henry E.            | E.VA     | 01/23/02           | 05/23/02 | 06/13/02                      | 08/01/02                  | 120                           | 141              | 190          |
| 69  | Lancaster, Joan E.          | MN       | 01/23/02           | 04/11/02 | 04/18/02                      | 04/25/02<br>99-0 vote     | 78                            | 85               | 92           |
| 70  | Leighton, Ronald B.         | W.WA     | 01/23/02           | 10/07/02 | 10/08/02                      | 11/14/02                  | 257                           | 258              | 295          |
| 71  | Marra, Kenneth A.           | S.FL     | 01/23/02           | 06/13/02 | 06/20/02                      | 09/09/02<br>82-0 vote     | 141                           | 148              | 229          |
| 72  | Martinez, Jose E.           | S.FL     | 01/23/02           | 07/23/02 | 07/31/02                      | 09/13/02                  | 181                           | 189              | 233          |
| 73  | Martini, William J.         | NJ       | 01/23/02           | 09/18/02 | 10/08/02                      | 11/14/02                  | 238                           | 258              | 295          |
| 74  | Mays, Samuel H., Jr.        | W.TN     | 01/23/02           | 04/25/02 | 05/02/02                      | 05/09/02<br>97-0 vote     | 92                            | 99               | 106          |
| 75  | McVerry, Terrence F.        | W.PA     | 01/23/02           | 06/27/02 | 07/31/02                      | 09/03/02<br>88-0 vote     | 155                           | 189              | 223          |
| 76  | Rohlfing, Frederick W., III | HI       | 01/23/02           | —        | —                             | Returned<br>11/20/02      | —                             | —                | 301          |
| 77  | Rose, Thomas M.             | S.OH     | 01/23/02           | 04/25/02 | 05/02/02                      | 05/09/02<br>95-0 vote     | 92                            | 99               | 106          |
| 78  | Rufe, Cynthia M.            | E.PA     | 01/23/02           | 04/11/02 | 04/18/02                      | 04/30/02<br>98-0 vote     | 78                            | 85               | 97           |

| No. | Name of Nominee           | District | Date               |          |                               |                           | Days from Nomination Date To: |                  |              |
|-----|---------------------------|----------|--------------------|----------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                           |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing                       | Committee Action | Final Action |
| 79  | Schwab, Arthur J.         | W.PA     | 01/23/02           | 06/27/02 | 07/31/02                      | 09/13/02<br>92-0 vote     | 155                           | 189              | 233          |
| 80  | Walter, John F.           | C.CA     | 01/23/02           | 04/11/02 | 04/18/02                      | 04/25/02<br>99-0 vote     | 78                            | 85               | 92           |
| 81  | Conner, Christopher C.    | M.PA     | 02/28/02           | 05/09/02 | 05/16/02                      | 07/26/02                  | 70                            | 77               | 148          |
| 82  | Jones, John E., III       | M.PA     | 02/28/02           | 05/09/02 | 05/16/02                      | 07/29/02<br>96-0 vote     | 70                            | 77               | 151          |
| 83  | Autrey, Henry E.          | E.MO     | 03/21/02           | 05/24/02 | 06/13/02                      | 08/01/02<br>98-0 vote     | 64                            | 84               | 133          |
| 84  | Cercone, David S.         | W.PA     | 03/21/02           | 06/13/02 | 06/20/02                      | 08/01/02                  | 84                            | 91               | 133          |
| 85  | Dorr, Richard E.          | W.MO     | 03/21/02           | 05/24/02 | 06/13/02                      | 08/01/02                  | 64                            | 84               | 133          |
| 86  | England, Morrison C., Jr. | E.CA     | 03/21/02           | 06/13/02 | 06/20/02                      | 08/01/02                  | 84                            | 91               | 133          |
| 87  | Savage, Timothy J.        | E.PA     | 03/21/02           | 05/24/02 | 06/13/02                      | 08/01/02                  | 64                            | 84               | 133          |
| 88  | St. Eve, Amy J.           | N.IL     | 03/21/02           | 05/24/02 | 06/13/02                      | 08/01/02                  | 64                            | 84               | 133          |
| 89  | Gardner, James K.         | E.PA     | 04/22/02           | 08/01/02 | 09/05/02                      | 10/02/02                  | 101                           | 136              | 163          |
| 90  | Corrigan, Timothy J.      | M.FL     | 05/22/02           | 07/23/02 | 07/31/02                      | 09/12/02<br>88-0 vote     | 62                            | 70               | 113          |
| 91  | Dever, James C., III      | E.NC     | 05/22/02           | —        | —                             | Returned<br>11/20/02      | —                             | —                | 182          |
| 92  | Hovland, Daniel L.        | ND       | 06/26/02           | 09/26/02 | 10/08/02                      | 11/14/02                  | 92                            | 104              | 141          |
| 93  | Phillips, Thomas W.       | E.TN     | 06/26/02           | 09/18/02 | 10/08/02                      | 11/14/02                  | 84                            | 104              | 141          |
| 94  | Reade, Linda R.           | N.IA     | 06/26/02           | 09/26/02 | 10/08/02                      | 11/14/02                  | 92                            | 104              | 141          |

| No. | Name of Nominee       | District | Date               |          |                               |                           | Days from Nomination Date To: |                  |              |
|-----|-----------------------|----------|--------------------|----------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                       |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing                       | Committee Action | Final Action |
| 95  | Ludlum, Alia M.       | W.TX     | 07/11/02           | 09/18/02 | 10/08/02                      | 11/14/02                  | 69                            | 89               | 126          |
| 96  | Junell, Robert A.     | W.TX     | 07/18/02           | —        | —                             | Returned 11/20/02         | —                             | —                | 125          |
| 97  | Kinkeade, James E.    | N.TX     | 07/18/02           | 09/26/02 | 10/08/02                      | 11/14/02                  | 70                            | 82               | 119          |
| 98  | Klausner, Robert G.   | C.CA     | 07/18/02           | 10/07/02 | 10/08/02                      | 11/14/02                  | 81                            | 82               | 119          |
| 99  | Otero, S. James       | C.CA     | 07/18/02           | —        | —                             | Returned 11/20/02         | —                             | —                | 125          |
| 100 | Smith, William E.     | RI       | 07/18/02           | 10/07/02 | 10/08/02                      | 11/14/02                  | 81                            | 82               | 119          |
| 101 | Feuerstein, Sandra J. | E.NY     | 07/25/02           | —        | —                             | Returned 11/20/02         | —                             | —                | 118          |
| 102 | Jordan, Kent A.       | DE       | 07/25/02           | 09/18/02 | 10/08/02                      | 11/14/02                  | 55                            | 75               | 112          |
| 103 | White, Jeffrey S.     | N.CA     | 07/25/02           | 09/18/02 | 10/08/02                      | 11/14/02                  | 55                            | 75               | 112          |
| 104 | Collyer, Rosemary M.  | DC       | 08/01/02           | 10/07/02 | 10/08/02                      | 11/14/02                  | 67                            | 68               | 105          |
| 105 | Frost, Gregory L.     | S.OH     | 08/01/02           | —        | —                             | Returned 11/20/02         | —                             | —                | 111          |
| 106 | Fuller, Mark E.       | M.AL     | 08/01/02           | 10/07/02 | 10/08/02                      | 11/14/02                  | 67                            | 68               | 105          |
| 107 | Holwell, Richard J.   | S.NY     | 08/01/02           | —        | —                             | Returned 11/20/02         | —                             | —                | 111          |
| 108 | Kugler, Robert B.     | NJ       | 08/01/02           | 10/07/02 | 10/08/02                      | 11/14/02                  | 67                            | 68               | 105          |
| 109 | Linares, Jose L.      | NJ       | 08/01/02           | 10/07/02 | 10/08/02                      | 11/14/02                  | 67                            | 68               | 105          |
| 110 | Wolfson, Freda L.     | 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> | Final Action <sup>B</sup>  | Hearing                       | Committee Action | Final Action |      |  |  |  |  |
| 111                                                  | Erickson, Ralph R.       | ND       | 09/12/02           | —       | —                             | Returned 11/20/02          | —                             | —                | 69           |      |  |  |  |  |
| 112                                                  | Hicks, S. Maurice, Jr.   | W.LA     | 09/12/02           | —       | —                             | Returned 11/20/02          | —                             | —                | 69           |      |  |  |  |  |
| 113                                                  | Ludington, Thomas L.     | E.MI     | 09/12/02           | —       | —                             | Returned 11/20/02          | —                             | —                | 69           |      |  |  |  |  |
| 114                                                  | Quarles, William D., Jr. | MD       | 09/12/02           | —       | —                             | Returned 11/20/02          | —                             | —                | 69           |      |  |  |  |  |
| 115                                                  | Adams, John R.           | N.OH     | 10/10/02           | —       | —                             | Returned 11/20/02          | —                             | —                | 41           |      |  |  |  |  |
| 116                                                  | Breen, J. Daniel         | W.TN     | 10/10/02           | —       | —                             | Returned 11/20/02          | —                             | —                | 41           |      |  |  |  |  |
| 117                                                  | Carney, Cormac J.        | C.CA     | 10/10/02           | —       | —                             | Returned 11/20/02          | —                             | —                | 41           |      |  |  |  |  |
| 118                                                  | Varlan, Thomas A.        | E.TN     | 10/10/02           | —       | —                             | Returned 11/20/02          | —                             | —                | 41           |      |  |  |  |  |
| Number of days elapsed from date received in Senate: |                          |          |                    |         |                               | Mean <sup>i</sup>          | 88.8 <sup>j</sup>             | 102.3            | 127.1        | 51.4 |  |  |  |  |
|                                                      |                          |          |                    |         |                               | Median <sup>k</sup>        | 78.0 <sup>j</sup>             | 85.0             | 113.0        | 41.0 |  |  |  |  |
|                                                      |                          |          |                    |         |                               | 83 confirmed nominations   |                               |                  |              |      |  |  |  |  |
|                                                      |                          |          |                    |         |                               | 35 unconfirmed nominations |                               |                  |              |      |  |  |  |  |

- 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 Walton in expectation of his renomination to the district court. An earlier nomination of 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 Wooten in expectation of his renomination to the district court. An earlier nomination of 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 by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup>         | Hearing                       | Committee Action | Final Action |
| 1   | Adams, John R. <sup>c</sup>         | N.OH     | 01/07/03           | 01/29/03 | 02/06/03                      | 02/10/03<br>91-0 vote             | 22                            | 30               | 34           |
| 2   | Breen, J. Daniel <sup>c</sup>       | W.TN     | 01/07/03           | 02/12/03 | 03/06/03                      | 03/13/03<br>92-0 vote             | 36                            | 58               | 65           |
| 3   | Carney, Cormac J. <sup>c</sup>      | C.CA     | 01/07/03           | 03/12/03 | 03/20/03                      | 04/07/03<br>80-0 vote             | 64                            | 72               | 90           |
| 4   | Dever, James C., III <sup>c</sup>   | E.NC     | 01/07/03           | —        | —                             | Returned<br>12/08/04 <sup>d</sup> | —                             | —                | 701          |
| 5   | Erickson, Ralph R. <sup>c</sup>     | ND       | 01/07/03           | 02/05/03 | 02/27/03                      | 03/12/03                          | 29                            | 51               | 64           |
| 6   | Feuerstein, Sandra J. <sup>c</sup>  | E.NY     | 01/07/03           | 07/22/03 | 07/31/03                      | 09/17/03<br>93-0 vote             | 196                           | 205              | 253          |
| 7   | Frost, Gregory L. <sup>c</sup>      | S.OH     | 01/07/03           | 02/05/03 | 02/27/03                      | 03/10/03<br>91-0 vote             | 29                            | 51               | 62           |
| 8   | Hicks, S. Maurice, Jr. <sup>c</sup> | W.LA     | 01/07/03           | 04/30/03 | 05/08/03                      | 05/19/03<br>86-0 vote             | 113                           | 121              | 132          |
| 9   | Holwell, Richard J. <sup>c</sup>    | S.NY     | 01/07/03           | 07/22/03 | 07/31/03                      | 09/17/03                          | 196                           | 205              | 253          |
| 10  | Junell, Robert A. <sup>c</sup>      | W.TX     | 01/07/03           | 01/29/03 | 02/06/03                      | 02/10/03<br>91-0 vote             | 22                            | 30               | 34           |
| 11  | Ludington, Thomas L. <sup>c</sup>   | E.MI     | 01/07/03           | —        | —                             | Returned<br>12/08/04 <sup>d</sup> | —                             | —                | 701          |
| 12  | Otero, S. James <sup>c</sup>        | C.CA     | 01/07/03           | 01/29/03 | 02/06/03                      | 02/10/03<br>94-0 vote             | 22                            | 30               | 34           |

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| No. | Name of Nominee                          | District | Date               |          |                               |                           | Days from Nomination Date To: |                  |              |
|-----|------------------------------------------|----------|--------------------|----------|-------------------------------|---------------------------|-------------------------------|------------------|--------------|
|     |                                          |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing                       | Committee Action | Final Action |
| 13  | Quarles, William D., Jr. <sup>c</sup>    | MD       | 01/07/03           | 02/05/03 | 02/27/03                      | 03/12/03<br>91-0 vote     | 29                            | 51               | 64           |
| 14  | Rohlfing, Frederick W., III <sup>c</sup> | HI       | 01/07/03           | —        | —                             | Withdrawn<br>05/06/04     | —                             | —                | 485          |
| 15  | Steele, William H.                       | S.AL     | 01/07/03           | 02/12/03 | 03/06/03                      | 03/13/03                  | 36                            | 58               | 65           |
| 16  | Varlan, Thomas A. <sup>c</sup>           | E.TN     | 01/07/03           | 02/12/03 | 03/06/03                      | 03/13/03<br>97-0 vote     | 36                            | 58               | 65           |
| 17  | Altonaga, Cecilia M.                     | S.FL     | 01/15/03           | 04/01/03 | 04/10/03                      | 05/06/03<br>91-0 vote     | 76                            | 85               | 111          |
| 18  | Drell, Dee D.                            | W.LA     | 01/15/03           | 03/27/03 | 04/03/03                      | 04/09/03<br>99-0 vote     | 71                            | 78               | 84           |
| 19  | Minaldi, Patricia Head                   | W.LA     | 01/15/03           | 04/01/03 | 05/01/03                      | 05/06/03                  | 76                            | 106              | 111          |
| 20  | Bennett, Richard D.                      | MD       | 01/29/03           | 03/27/03 | 04/03/03                      | 04/09/03<br>99-0 vote     | 57                            | 64               | 70           |
| 21  | Flanagan, Louise W.                      | E.NC     | 01/29/03           | 06/25/03 | 07/10/03                      | 07/17/03                  | 147                           | 162              | 169          |
| 22  | Holmes, J. Leon                          | E.AR     | 01/29/03           | 03/27/03 | 05/01/03 <sup>e</sup>         | 07/06/04<br>51-46 vote    | 57                            | 92               | 524          |
| 23  | Selna, James V.                          | C.CA     | 01/29/03           | 03/12/03 | 03/20/03                      | 03/27/03<br>97-0 vote     | 42                            | 50               | 57           |
| 24  | Simon, Philip P.                         | N.IN     | 01/29/03           | 03/12/03 | 03/20/03                      | 03/27/03                  | 42                            | 50               | 57           |
| 25  | Springmann, Theresa Lazar                | N.IN     | 01/29/03           | 03/12/03 | 03/20/03                      | 03/31/03<br>93-0 vote     | 42                            | 50               | 61           |
| 26  | Castel, P. Kevin                         | S.NY     | 03/05/03           | 07/22/03 | 07/31/03                      | 09/17/03                  | 139                           | 148              | 196          |

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| No. | Name of Nominee        | District | Date               |          |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|------------------------|----------|--------------------|----------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                        |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup>         | Hearing                       | Committee Action | Final Action |
| 27  | Der-Yeghiayan, Samuel  | N.IL     | 03/05/03           | 06/25/03 | 07/10/03                      | 07/14/03<br>89-0 vote             | 112                           | 127              | 131          |
| 28  | Robinson, Stephen C.   | S.NY     | 03/05/03           | 07/22/03 | 07/31/03                      | 09/17/03                          | 139                           | 148              | 196          |
| 29  | Campbell, David G.     | AZ       | 03/13/03           | 04/30/03 | 06/12/03                      | 07/08/03<br>92-0 vote             | 48                            | 91               | 117          |
| 30  | Coogler, L. Scott      | N.AL     | 03/27/03           | 05/07/03 | 05/15/03                      | 05/22/03                          | 41                            | 49               | 56           |
| 31  | Kravitz, Mark R.       | CT       | 03/27/03           | 05/22/03 | 06/05/03                      | 06/11/03<br>97-0 vote             | 56                            | 70               | 76           |
| 32  | Woodcock, John A., Jr. | ME       | 03/27/03           | 05/22/03 | 06/05/03                      | 06/12/03                          | 56                            | 70               | 77           |
| 33  | Greer, J. Ronnie       | E.TN     | 04/09/03           | 05/22/03 | 06/05/03                      | 06/11/03<br>97-0 vote             | 43                            | 57               | 63           |
| 34  | Hardiman, Thomas M.    | W.PA     | 04/09/03           | 05/22/03 | 06/26/03                      | 10/22/03                          | 43                            | 78               | 196          |
| 35  | Brack, Robert C.       | NM       | 04/28/03           | 06/25/03 | 07/10/03                      | 07/14/03                          | 58                            | 73               | 77           |
| 36  | Browning, James O.     | NM       | 04/28/03           | 07/09/03 | 07/24/03                      | 07/31/03                          | 72                            | 87               | 94           |
| 37  | Conrad, Glen E.        | W.VA     | 04/28/03           | 07/30/03 | 09/04/03                      | 09/22/03<br>89-0 vote             | 93                            | 129              | 147          |
| 38  | Conrad, Robert J., Jr. | W.NC     | 04/28/03           | —        | —                             | Returned<br>12/08/04 <sup>d</sup> | —                             | —                | 590          |
| 39  | Filip, Mark R.         | N.IL     | 04/28/03           | 10/28/03 | 11/06/03                      | 02/04/04<br>96-0 vote             | 183                           | 192              | 282          |
| 40  | Gibson, Kim R.         | W.PA     | 04/28/03           | 07/30/03 | 09/04/03                      | 09/23/03<br>94-0 vote             | 93                            | 129              | 148          |
| 41  | Irizarry, Dora L.      | E.NY     | 04/28/03           | 10/01/03 | 10/30/03                      | 06/24/04                          | 156                           | 185              | 423          |

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| No. | Name of Nominee    | District | Date               |          |                               |                                | Days from Nomination Date To: |                  |              |
|-----|--------------------|----------|--------------------|----------|-------------------------------|--------------------------------|-------------------------------|------------------|--------------|
|     |                    |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup>      | Hearing                       | Committee Action | Final Action |
| 42  | McKnight, H. Brent | W.NC     | 04/28/03           | 07/22/03 | 07/24/03                      | 07/31/03                       | 85                            | 87               | 94           |
| 43  | Ryan, Daniel P.    | E.MI     | 04/28/03           | —        | —                             | Returned 12/08/04 <sup>d</sup> | —                             | —                | 590          |
| 44  | Sharpe, Gary L.    | N.NY     | 04/28/03           | 10/15/03 | 10/23/03                      | 01/28/04<br>95-0 vote          | 170                           | 178              | 275          |
| 45  | Suko, Lonny R.     | E.WA     | 04/28/03           | 06/25/03 | 07/10/03                      | 07/15/03<br>94-0 vote          | 58                            | 73               | 78           |
| 46  | Benitez, Roger T.  | S.CA     | 05/01/03           | 02/25/04 | 04/01/04                      | 06/17/04<br>98-1 vote          | 300                           | 336              | 413          |
| 47  | Burns, Larry A.    | S.CA     | 05/01/03           | 07/30/03 | 09/04/03                      | 09/24/03<br>91-0 vote          | 90                            | 126              | 146          |
| 48  | Cardone, Kathleen  | W.TX     | 05/01/03           | 07/09/03 | 07/17/03                      | 07/28/03                       | 69                            | 77               | 88           |
| 49  | Cohn, James I.     | S.FL     | 05/01/03           | 07/09/03 | 07/17/03                      | 07/31/03<br>96-0 vote          | 69                            | 77               | 91           |
| 50  | Crone, Marcia A.   | E.TX     | 05/01/03           | 09/03/03 | 09/25/03                      | 09/30/03<br>91-0 vote          | 125                           | 147              | 152          |
| 51  | Fischer, Dale S.   | C.CA     | 05/01/03           | 10/15/03 | 10/23/03                      | 10/27/03<br>86-0 vote          | 167                           | 175              | 179          |
| 52  | Hayes, William Q.  | S.CA     | 05/01/03           | 09/03/03 | 09/25/03                      | 10/02/03<br>98-0 vote          | 125                           | 147              | 154          |
| 53  | Houston, John A.   | S.CA     | 05/01/03           | 09/03/03 | 09/25/03                      | 10/02/03                       | 125                           | 147              | 154          |
| 54  | Montalvo, Frank    | W.TX     | 05/01/03           | 07/09/03 | 07/17/03                      | 07/31/03<br>95-0 vote          | 69                            | 77               | 91           |

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

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| No. | Name of Nominee         | District | Date               |          |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|-------------------------|----------|--------------------|----------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                         |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup>         | Hearing                       | Committee Action | Final Action |
| 68  | Karas, Kenneth M.       | S.NY     | 09/18/03           | 11/19/03 | 03/04/04                      | 06/03/04<br>95-0 vote             | 62                            | 168              | 259          |
| 69  | Guirola, Louis, Jr.     | S.MS     | 09/23/03           | 11/19/03 | 03/04/04                      | 03/12/04<br>92-0 vote             | 57                            | 163              | 171          |
| 70  | Herrera, Judith C.      | NM       | 09/23/03           | 11/12/03 | 03/04/04                      | 06/03/04<br>93-0 vote             | 50                            | 163              | 254          |
| 71  | Hopkins, Virginia E.    | N.AL     | 10/14/03           | 11/19/03 | 03/04/04                      | 06/15/04<br>98-0 vote             | 36                            | 142              | 245          |
| 72  | Martinez, Ricardo S.    | W.WA     | 10/14/03           | 01/22/04 | 03/04/04                      | 06/15/04<br>98-0 vote             | 100                           | 142              | 245          |
| 73  | Wake, Neil V.           | AZ       | 10/22/03           | 01/22/04 | 03/04/04                      | 03/12/04                          | 92                            | 134              | 142          |
| 74  | Kelly, Walter D., Jr.   | E.VA     | 10/31/03           | 03/10/04 | 04/01/04                      | 06/23/04<br>94-0 vote             | 131                           | 153              | 236          |
| 75  | Pratter, Gene E. K.     | E.PA     | 11/03/03           | 01/22/04 | 03/04/04                      | 06/15/04<br>98-0 vote             | 80                            | 122              | 225          |
| 76  | Duffey, William S., Jr. | N.GA     | 11/05/03           | 02/05/04 | 03/04/04                      | 06/16/04<br>97-0 vote             | 92                            | 120              | 224          |
| 77  | Sheridan, Peter G.      | NJ       | 11/05/03           | —        | —                             | Returned<br>12/08/04 <sup>d</sup> | —                             | —                | 399          |
| 78  | Stengel, Lawrence F.    | E.PA     | 11/06/03           | 02/05/04 | 03/11/04                      | 06/16/04<br>97-0 vote             | 91                            | 126              | 223          |
| 79  | Boyle, Jane J.          | N.TX     | 11/24/03           | 03/10/04 | 04/01/04                      | 06/17/04<br>99-0 vote             | 107                           | 129              | 206          |
| 80  | Cooke, Marcia G.        | S.FL     | 11/25/03           | 03/10/04 | 04/01/04                      | 05/18/04<br>96-0 vote             | 106                           | 128              | 175          |

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| No. | Name of Nominee            | District | Date               |          |                               |                                   | Days from Nomination Date To: |                  |              |
|-----|----------------------------|----------|--------------------|----------|-------------------------------|-----------------------------------|-------------------------------|------------------|--------------|
|     |                            |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup>         | Hearing                       | Committee Action | Final Action |
| 81  | Gomez, Curtis V.           | VI       | 11/25/03           | 04/08/04 | 04/29/04                      | 11/21/04                          | 135                           | 156              | 362          |
| 82  | Sanchez, Juan R.           | E.PA     | 11/25/03           | 02/11/04 | 03/11/04                      | 06/23/04<br>98-0 vote             | 78                            | 107              | 211          |
| 83  | Robart, James L.           | W.WA     | 12/09/03           | 02/11/04 | 03/11/04                      | 06/17/04<br>99-0 vote             | 64                            | 93               | 191          |
| 84  | Diamond, Paul S.           | E.PA     | 01/20/04           | 03/24/04 | 04/01/04                      | 06/16/04<br>97-0 vote             | 64                            | 72               | 148          |
| 85  | Harwell, Robert B.         | SC       | 01/20/04           | 04/08/04 | 04/29/04                      | 06/24/04                          | 79                            | 100              | 156          |
| 86  | Schiavelli, George P.      | C.CA     | 01/20/04           | 04/08/04 | 04/29/04                      | 06/24/04                          | 79                            | 100              | 156          |
| 87  | Finch, Raymond L.          | VI       | 02/02/04           | 09/08/04 | 09/30/04                      | 11/21/04                          | 200                           | 222              | 274          |
| 88  | Watson, Michael H.         | S.OH     | 04/06/04           | 06/04/04 | 07/08/04                      | 09/07/04                          | 59                            | 93               | 154          |
| 89  | Covington, Virginia M. H.  | M.FL     | 04/20/04           | 06/16/04 | 07/20/04                      | 09/07/04<br>91-0 vote             | 57                            | 91               | 140          |
| 90  | Schneider, Michael H., Sr. | E.TX     | 05/17/04           | 07/07/04 | 07/20/04                      | 09/07/04<br>92-1 vote             | 51                            | 64               | 113          |
| 91  | Alvarez, Micaela           | S.TX     | 06/16/04           | 09/08/04 | 09/30/04                      | 11/21/04                          | 84                            | 106              | 158          |
| 92  | Starrett, Keith            | S.MS     | 07/06/04           | 09/08/04 | 09/30/04                      | 11/21/04                          | 64                            | 86               | 138          |
| 93  | Boyko, Christopher A.      | N.OH     | 07/22/04           | 09/22/04 | 10/04/04                      | 11/21/04                          | 62                            | 74               | 122          |
| 94  | Crotty, Paul A.            | S.NY     | 09/07/04           | 11/16/04 | —                             | Returned<br>12/08/04 <sup>d</sup> | 70                            | —                | 92           |
| 95  | Cox, Sean F.               | E.MI     | 09/10/04           | —        | —                             | Returned<br>12/08/04 <sup>d</sup> | —                             | —                | 89           |

| No.                                                  | Name of Nominee       | District | Date               |          |                               |                                | Days from Nomination Date To: |                  |              |       |  |
|------------------------------------------------------|-----------------------|----------|--------------------|----------|-------------------------------|--------------------------------|-------------------------------|------------------|--------------|-------|--|
|                                                      |                       |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup>      | Hearing                       | Committee Action | Final Action |       |  |
| 96                                                   | Seabright, J. Michael | HI       | 09/15/04           | 11/16/04 | —                             | Returned 12/08/04 <sup>d</sup> | 62                            | —                | 84           |       |  |
| Number of days elapsed from date received in Senate: |                       |          |                    |          |                               | Mean <sup>f</sup>              | 84.7                          | 111.0            | 155.6        | 414.6 |  |
|                                                      |                       |          |                    |          |                               | Median <sup>g</sup>            | 76.0                          | 106.0            | 140.0        | 485.0 |  |
|                                                      |                       |          |                    |          |                               | 87 confirmed nominations       |                               |                  |              |       |  |
|                                                      |                       |          |                    |          |                               | 9 unconfirmed nominations      |                               |                  |              |       |  |

- 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-December 9, 2006)

| No. | Name of Nominee                     | District | Date               |              |                               |                           | Days from Nomination To: |                  |              |
|-----|-------------------------------------|----------|--------------------|--------------|-------------------------------|---------------------------|--------------------------|------------------|--------------|
|     |                                     |          | Received by Senate | Hearing      | Committee Action <sup>a</sup> | Final Action <sup>b</sup> | Hearing                  | Committee Action | Final Action |
| 1   | Conrad, Robert J., Jr. <sup>c</sup> | W.NC     | 02/14/05           | 03/03/05     | 04/14/05                      | 04/28/05                  | 17                       | 59               | 73           |
| 2   | Cox, Sean F. <sup>c</sup>           | E.MI     | 02/14/05           | 05/02/06     | 05/11/06                      | 06/08/06                  | 442                      | 451              | 479          |
| 3   | Crotty, Paul A. <sup>c</sup>        | S.NY     | 02/14/05           | <sup>d</sup> | 03/17/05                      | 04/11/05<br>95-0 vote     | —                        | 31               | 56           |
| 4   | Dever, James C., III <sup>c</sup>   | E.NC     | 02/14/05           | 03/03/05     | 04/14/05                      | 04/28/05                  | 17                       | 59               | 73           |
| 5   | Ludington, Thomas L. <sup>c</sup>   | E.MI     | 02/14/05           | 05/02/06     | 05/11/06                      | 06/08/06                  | 442                      | 451              | 479          |
| 6   | Ryan, Daniel P. <sup>c</sup>        | E.MI     | 02/14/05           | —            | —                             | Withdrawn<br>03/30/06     | —                        | —                | 409          |
| 7   | Seabright, J. Michael <sup>c</sup>  | HI       | 02/14/05           | <sup>d</sup> | 03/17/05                      | 04/27/05<br>98-0 vote     | —                        | 31               | 72           |
| 8   | Sheridan, Peter G. <sup>c</sup>     | NJ       | 02/14/05           | 04/25/06     | 05/04/06                      | 06/08/06<br>98-0 vote     | 435                      | 444              | 479          |
| 9   | Sandoval, Brian E.                  | NV       | 03/01/05           | 09/29/05     | 10/20/05                      | 10/24/05<br>89-0 vote     | 212                      | 233              | 237          |
| 10  | Smoak, John Richard                 | N.FL     | 06/08/05           | 09/29/05     | 10/20/05                      | 10/27/05<br>97-0 vote     | 113                      | 134              | 141          |
| 11  | Bianco, Joseph Frank                | E.NY     | 07/28/05           | 11/01/05     | 11/17/05                      | 12/21/05                  | 96                       | 112              | 146          |
| 12  | Burgess, Timothy M.                 | AK       | 07/28/05           | 11/01/05     | 11/17/05                      | 12/21/05                  | 96                       | 112              | 146          |
| 13  | Mattice, Harry Sandlin, Jr.         | E.TN     | 07/28/05           | 09/29/05     | 10/20/05                      | 10/24/05<br>91-0 vote     | 63                       | 84               | 88           |

| No. | Name of Nominee                 | District | Date               |          |                               |                           | Days from Nomination To: |                  |              |
|-----|---------------------------------|----------|--------------------|----------|-------------------------------|---------------------------|--------------------------|------------------|--------------|
|     |                                 |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup> | Hearing                  | Committee Action | Final Action |
| 14  | Van Tatenhove, Gregory F.       | E.KY     | 09/13/05           | 11/01/05 | 11/17/05                      | 12/21/05                  | 49                       | 65               | 99           |
| 15  | Batten, Timothy C., Sr.         | N.GA     | 09/28/05           | 02/07/06 | 02/16/06                      | 03/06/06<br>88-0 vote     | 132                      | 141              | 159          |
| 16  | DuBose, Kristi K.               | S.AL     | 09/28/05           | 11/15/05 | 11/17/05                      | 12/21/05                  | 48                       | 50               | 84           |
| 17  | Johnston, Thomas E.             | S.WV     | 09/28/05           | 02/07/06 | 02/16/06                      | 03/06/06<br>89-0 vote     | 132                      | 141              | 159          |
| 18  | Kendall, Virginia Mary          | N.IL     | 09/28/05           | 11/15/05 | 11/17/05                      | 12/21/05                  | 48                       | 50               | 84           |
| 19  | Watkins, W. Keith               | M.AL     | 09/28/05           | 11/15/05 | 11/17/05                      | 12/21/05                  | 48                       | 50               | 84           |
| 20  | Vitaliano, Eric N.              | E.NY     | 10/06/05           | 11/01/05 | 11/17/05                      | 12/21/05                  | 26                       | 42               | 76           |
| 21  | Delgado-Colon, Aida M.          | PR       | 10/25/05           | 02/07/06 | 02/16/06                      | 03/06/06                  | 105                      | 114              | 132          |
| 22  | Schiltz, Patrick J.             | MN       | 12/14/05           | 03/01/06 | 03/30/06                      | 04/26/06                  | 77                       | 106              | 133          |
| 23  | Zouhary, Jack                   | N.OH     | 12/14/05           | 02/15/06 | 03/02/06                      | 03/16/06<br>96-0 vote     | 63                       | 78               | 92           |
| 24  | Larson, Stephen G.              | C.CA     | 12/15/05           | 02/15/06 | 03/02/06                      | 03/16/06                  | 62                       | 77               | 91           |
| 25  | Barrett, Michael R.             | S.OH     | 12/16/05           | 03/29/06 | 4/27/06                       | 05/01/06<br>90-0 vote     | 103                      | 132              | 136          |
| 26  | Bryant, Vanessa L. <sup>e</sup> | CT       | 01/25/06           | 09/26/06 | —                             | Returned<br>12/09/06      | 244                      | —                | 318          |
| 27  | Bumb, Renee M.                  | NJ       | 01/25/06           | 04/25/06 | 05/04/06                      | 06/06/06<br>89-0 vote     | 90                       | 99               | 132          |
| 28  | Cogan, Brian M.                 | E.NY     | 01/25/06           | 03/29/06 | 04/27/06                      | 05/04/06<br>95-0 vote     | 63                       | 92               | 99           |

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| No. | Name of Nominee                   | District | Date               |          |                               |                           | Days from Nomination To: |                  |              |
|-----|-----------------------------------|----------|--------------------|----------|-------------------------------|---------------------------|--------------------------|------------------|--------------|
|     |                                   |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>b</sup> | Hearing                  | Committee Action | Final Action |
| 29  | Golden, Thomas M.                 | E.PA     | 01/25/06           | 03/29/06 | 04/27/06                      | 05/04/06<br>96-0 vote     | 63                       | 92               | 99           |
| 30  | Guilford, Andrew J.               | C.CA     | 01/25/06           | 05/24/06 | 06/09/06                      | 06/22/06<br>93-0 vote     | 119                      | 135              | 148          |
| 31  | Hillman, Noel L.                  | NJ       | 01/25/06           | 04/25/06 | 05/04/06                      | 06/08/06<br>98-0 vote     | 90                       | 99               | 134          |
| 32  | Miller, Gray H.                   | S.TX     | 01/25/06           | 03/14/06 | 03/30/06                      | 04/25/06<br>93-0 vote     | 48                       | 64               | 90           |
| 33  | Wigenton, Susan D.                | NJ       | 01/25/06           | 04/25/06 | 05/04/06                      | 05/26/06                  | 90                       | 99               | 121          |
| 34  | Holmes, Jerome A.                 | N.OK     | 02/14/06           | —        | —                             | Withdrawn<br>05/04/06     | —                        | —                | 79           |
| 35  | Whitney, Frank D.                 | W.NC     | 02/14/06           | 05/24/06 | 06/15/06                      | 06/22/06                  | 99                       | 121              | 128          |
| 36  | Gelpi, Gustavo A.                 | PR       | 04/24/06           | 06/15/06 | 07/13/06                      | 07/20/06                  | 52                       | 80               | 87           |
| 37  | Gutierrez, Philip S. <sup>e</sup> | C.CA     | 04/24/06           | 08/01/06 | 09/21/06                      | Returned<br>12/09/06      | 99                       | 150              | 229          |
| 38  | Jordan, Daniel P., III            | S.MS     | 04/24/06           | 06/15/06 | 07/13/06                      | 07/20/06                  | 52                       | 80               | 87           |
| 39  | Tydingco-Gatewood, Frances M.     | GU       | 04/25/06           | 07/11/06 | 08/03/06                      | 08/03/06                  | 77                       | 100              | 100          |
| 40  | Baker, Valerie L. <sup>e</sup>    | C.CA     | 05/04/06           | 08/01/06 | 09/21/06                      | Returned<br>12/09/06      | 89                       | 140              | 219          |
| 41  | Besosa, Francisco A.              | PR       | 05/16/06           | 08/01/06 | 09/21/06                      | 09/25/06<br>87-0 vote     | 77                       | 128              | 132          |
| 42  | Howard, Marcia M. <sup>e</sup>    | M.FL     | 06/06/06           | 09/06/06 | 09/29/06                      | Returned<br>12/09/06      | 92                       | 115              | 186          |

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| No. | Name of Nominee                   | District | Date               |          |                               |                           | Days from Nomination To: |                  |              |
|-----|-----------------------------------|----------|--------------------|----------|-------------------------------|---------------------------|--------------------------|------------------|--------------|
|     |                                   |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing                  | Committee Action | Final Action |
| 43  | Southwick, Leslie                 | S.MS     | 06/06/06           | 09/19/06 | 09/29/06                      | Returned 12/09/06         | 105                      | 115              | 186          |
| 44  | Frizzell, Gregory K. <sup>e</sup> | N.OK     | 06/07/06           | 09/12/06 | 09/29/06                      | Returned 12/09/06         | 97                       | 114              | 185          |
| 45  | Wood, Lisa G. <sup>e</sup>        | S.GA     | 06/12/06           | 09/12/06 | 09/29/06                      | Returned 12/09/06         | 92                       | 109              | 180          |
| 46  | Bailey, John P. <sup>e</sup>      | N.WV     | 06/28/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 164          |
| 47  | Donohue, Mary O. <sup>e</sup>     | N.NY     | 06/28/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 164          |
| 48  | Jarvey, John A. <sup>e</sup>      | S.IA     | 06/28/06           | 09/06/06 | 09/26/06                      | Returned 12/09/06         | 70                       | 90               | 164          |
| 49  | Jonker, Robert J.                 | W.MI     | 06/28/06           | 09/19/06 | 09/29/06                      | Returned 12/09/06         | 83                       | 93               | 164          |
| 50  | Maloney, Paul L.                  | W.MI     | 06/28/06           | 09/19/06 | 09/29/06                      | Returned 12/09/06         | 83                       | 93               | 164          |
| 51  | Neff, Janet T.                    | W.MI     | 06/28/06           | 09/19/06 | 09/29/06                      | Returned 12/09/06         | 83                       | 93               | 164          |
| 52  | Fischer, Nora B. <sup>e</sup>     | W.PA     | 07/13/06           | 09/12/06 | 09/29/06                      | Returned 12/09/06         | 61                       | 78               | 149          |
| 53  | Lioi, Sara E. <sup>e</sup>        | N.OH     | 07/13/06           | 09/06/06 | 09/26/06                      | Returned 12/09/06         | 55                       | 75               | 149          |
| 54  | Mauskopf, Roslynn R. <sup>e</sup> | E.NY     | 08/02/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 129          |

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| No. | Name of Nominee                      | District | Date               |          |                               |                           | Days from Nomination To: |                  |              |
|-----|--------------------------------------|----------|--------------------|----------|-------------------------------|---------------------------|--------------------------|------------------|--------------|
|     |                                      |          | Received by Senate | Hearing  | Committee Action <sup>a</sup> | Final Action <sup>B</sup> | Hearing                  | Committee Action | Final Action |
| 55  | O'Grady, Liam <sup>e</sup>           | E.VA     | 08/02/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 129          |
| 56  | O'Neill, Lawrence J. <sup>e</sup>    | E.CA     | 08/02/06           | 09/12/06 | 09/21/06                      | Returned 12/09/06         | 41                       | 50               | 129          |
| 57  | Ozerden, Halil S. <sup>e</sup>       | S.MS     | 09/05/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 95           |
| 58  | Wright, Otis D., II <sup>e</sup>     | C.CA     | 09/05/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 95           |
| 59  | Wu, George H. <sup>e</sup>           | C.CA     | 09/05/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 95           |
| 60  | Osteen, William L., Jr. <sup>e</sup> | M.NC     | 09/29/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 71           |
| 61  | Reidinger, Martin K. <sup>e</sup>    | W.NC     | 09/29/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 71           |
| 62  | Schroeder, Thomas D. <sup>e</sup>    | M.NC     | 09/29/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 71           |
| 63  | Rogan, James E. <sup>e</sup>         | C.CA     | 11/15/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 24           |
| 64  | Settle, Benjamin H. <sup>e</sup>     | W.WA     | 11/15/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 24           |
| 65  | Kapala, Frederick J. <sup>e</sup>    | N.IL     | 12/05/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 4            |
| 66  | Farr, Thomas A. <sup>e</sup>         | E.NC     | 12/07/06           | —        | —                             | Returned 12/09/06         | —                        | —                | 2            |

| No.                                                  | Name of Nominee | District | Date               |         |                               |                            | Days from Nomination To: |                  |              |       |  |  |  |  |
|------------------------------------------------------|-----------------|----------|--------------------|---------|-------------------------------|----------------------------|--------------------------|------------------|--------------|-------|--|--|--|--|
|                                                      |                 |          | Received by Senate | Hearing | Committee Action <sup>a</sup> | Final Action <sup>b</sup>  | Hearing                  | Committee Action | Final Action |       |  |  |  |  |
| Number of days elapsed from date received in Senate: |                 |          |                    |         |                               | Mean <sup>f</sup>          | 105.0                    | 117.4            | 143.2        | 140.4 |  |  |  |  |
|                                                      |                 |          |                    |         |                               | Median <sup>g</sup>        | 83.0                     | 99.0             | 110.5        | 149.0 |  |  |  |  |
|                                                      |                 |          |                    |         |                               | 36 confirmed nominations   |                          |                  |              |       |  |  |  |  |
|                                                      |                 |          |                    |         |                               | 30 unconfirmed nominations |                          |                  |              |       |  |  |  |  |

- 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.
- e. Resubmitted in the 110<sup>th</sup> Congress on Jan. 9, 2007. As of Jan. 19, 2007, 24 nominees had been resubmitted in the 110<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.