



PRESS RELEASE
For Immediate Release

Contact: Kyle Barry, Director of Justice Programs
kyle.barry@afj.org; (202) 464-7365

REPUBLICAN OBSTRUCTION MAKES 2015 A TERRIBLE, HORRIBLE, VERY BAD YEAR FOR JUDICIAL CONFIRMATIONS ... AND FOR JUSTICE

This statement is available online at:

<http://www.afj.org/press-room/press-releases/republican-obstruction-makes-2015-a-terrible-horrible-very-bad-year-for-judicial-confirmations-and-for-justice>

WASHINGTON, D.C. December 17, 2015— The U.S. Senate will adjourn for the year leaving behind a record of near-unprecedented obstruction that has damaged the American judicial system, according to data compiled by Alliance for Justice. The year will end with the Republican-controlled Senate having confirmed only 11 judicial nominees in all of 2015, a number below that of any other Senate in over 50 years, including those dealing with presidencies from the opposite party.

Reacting to the Senate’s abdication of its duties, Alliance for Justice President Nan Aron said, “It is simply unconscionable that the Senate and its Republican leadership have deliberately and willfully abandoned their sworn constitutional duty to confirm judicial nominees, especially those that are uncontroversial and would fill vacancies considered ‘judicial emergencies.’ It is astonishing that the Senate has confirmed a paltry 11 new judges this year, the lowest number in modern history. This grotesque partisan game-playing is not only unfair to the nominees and the president, but is doing enormous damage to the administration of justice and faith in our democratic institutions.”

The complete text of AFJ’s findings are below. **A full copy of the report with additional charts and illustrations may be downloaded [here](#).**

AFJ year in review: 2015 was a terrible, horrible, very bad year for judicial confirmations

With the Senate controlled by a newly-elected Republican majority, 2015 turned out to be the single worst year for judicial confirmations in over half a century. Instead of keeping their promise to [follow “regular order”](#) and [“work to confirm consensus nominees,”](#) Senate Republicans [obstructed and delayed](#) the confirmation process at every opportunity. Only 11 judges were confirmed, the fewest in a single year since 1960. Only one court of appeals judge was confirmed, the worst since none were confirmed in 1953. And as confirmations dwindled, vacancies shot up. In 2015, vacancies rose from 43 to 66 (they’ll hit 70 by January 1), and officially-designated “judicial emergencies” went up nearly 160% from 12 to 31.

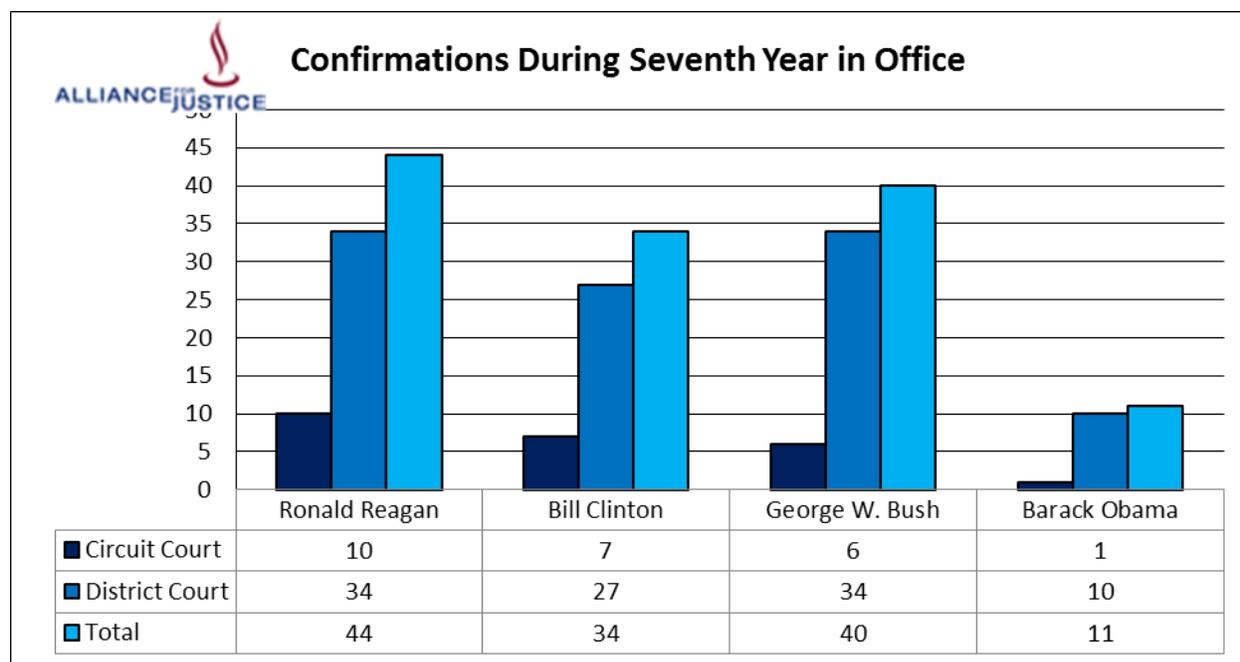
Senate Republicans could have improved this record if they followed the routine practice of confirming consensus nominees before adjourning. Fourteen district and circuit court nominees (including one nominee to the Court of International Trade) are [pending on the Senate’s Executive Calendar](#), and all of them cleared the Judiciary Committee unopposed via voice vote. Yet the Senate will leave town without confirming any of them. Instead, Senate Republicans

[agreed](#) only to hold votes for five of those nominees *next year*, beginning with Third Circuit nominee L. Felipe Restrepo on January 11. Majority Leader Mitch McConnell has agreed to call votes for the remaining four nominees—district court nominees from Minnesota, New Jersey, and two from Iowa—at some point before President’s Day. After that, no promises.

The result is historic futility that only Senator McConnell fails to see. “I think I can safely say here,” [he proudly announced this week](#), that “at the end of the first year of this new majority, [Senate] dysfunction is over.”

I. Confirmations and Nominees Left Pending

Eleven total confirmations is dismal even when compared only to recent Senates working with opposition-party presidents. Presidents George W. Bush, Bill Clinton, and Ronald Reagan all worked with opposition Senates during their final two years in office. The Democratic Senate in 2007 confirmed 40 Bush nominees, including six courts of appeals judges. Seven courts of appeals judges were confirmed among 34 Clinton appointees in 1999. And the Democratic Senate confirmed four times as many Reagan nominees in 1987—44—as McConnell and Judiciary Chairman Chuck Grassley confirmed in 2015. Ten of those Reagan nominees were to the circuit courts.



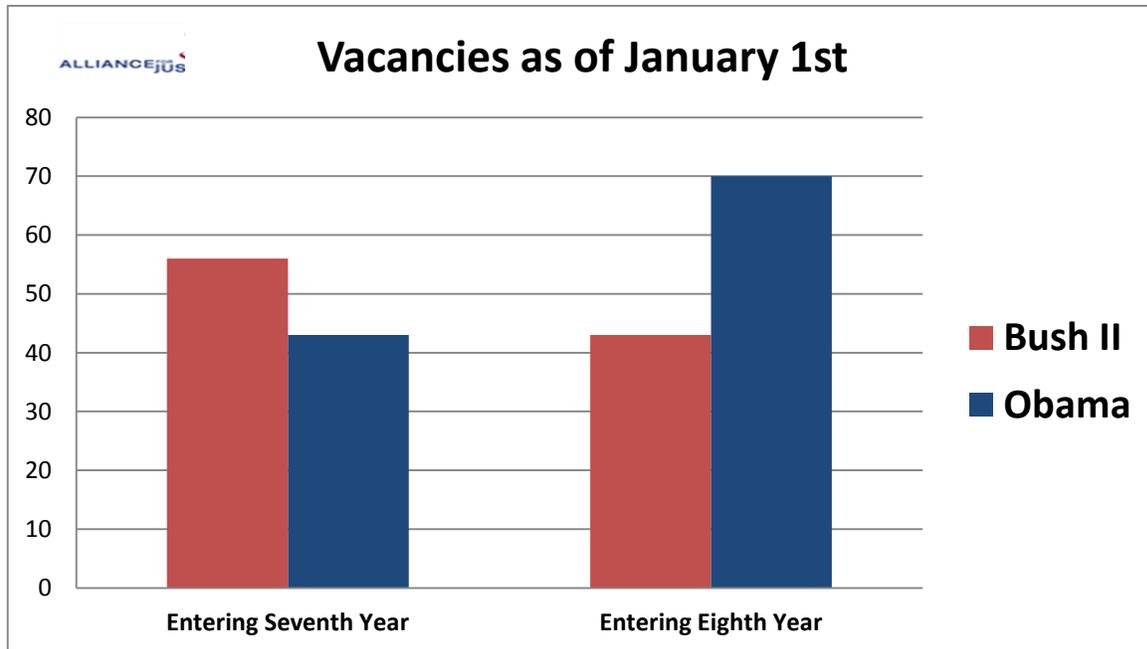
By ending the session without clearing consensus nominees, the Senate leaves pending a diverse set of nominees that includes four women and six people of color, including four African American and two Hispanic nominees. Nine of the 14 are nominated to fill judicial emergencies.

Fortunately, four of the five nominees that Republicans have agreed to vote on early next year will, if confirmed, fill judicial emergencies. They are Judge L. Felipe Restrepo to the Third Circuit, Wilhelmina Wright to the District of Minnesota, John Vasquez to the District of New Jersey, and Leonard Strand to the Northern District of Iowa. The fifth is Rebecca Ebinger to the Southern District of Iowa.

II. Rising Vacancies

This near-total shutdown of confirmations in Obama’s seventh year is made worse by the high number of vacancies. Republican leaders [often justify](#) the confirmation shutdown by noting that Obama has more total confirmations (316) than did George W. Bush at this same point in his presidency (294). But confirmation totals can only be compared in light of how many vacancies there are to fill. During his entire presidency, George W. Bush had 377 total vacancies. In contrast, as of January 1 Obama will have already faced 386 vacancies with an entire year left in office.

In addition, while in 2007 Senate Democrats worked to reduce the number of vacancies from 56 to 43, 2015 saw a dramatic spike in vacancies for President Obama.



III. 2016

Now the question is what happens next year. Historically, confirmations have not stopped in the final year of a presidency. Presidents Bush, Clinton, and Reagan all worked with opposition-party Senates to confirm judges during their final years in office. In 2008, the Democratic Senate confirmed 28 Bush nominees. Senate Republicans actually confirmed more judges in Clinton’s final year than in his seventh. The 39 judges confirmed in 2000 accounted for 10 percent of Clinton’s total confirmations throughout his presidency. Forty-one judges were confirmed in Reagan’s eighth year, including Anthony Kennedy’s elevation to the Supreme Court.

Our justice system cannot afford another year like 2015. The good news is that the bipartisan agreement reached this week, while unnecessarily leaving nominees on the Senate Calendar at year’s end, ensures five judicial confirmation votes by Presidents’ Day in 2016—a number not reached this year until July. But this should be only the beginning. There are nine other consensus nominees awaiting a floor vote, along with 17 nominees in committee with more sure to come. McConnell himself [recently said](#) that the upcoming election “doesn’t mean you’re not supposed to do anything.” Surely “doing anything” should apply to filling longstanding judicial vacancies.

Alliance for Justice, www.afj.org believes that all Americans have the right to secure justice in the courts and to have their voices heard when government makes decisions that affect their lives. We are a national association of over 100 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society. Through our justice programs, we lead the progressive community in the fight for a fair judiciary, and through our advocacy programs, we help nonprofits and foundations to realize their advocacy potential.