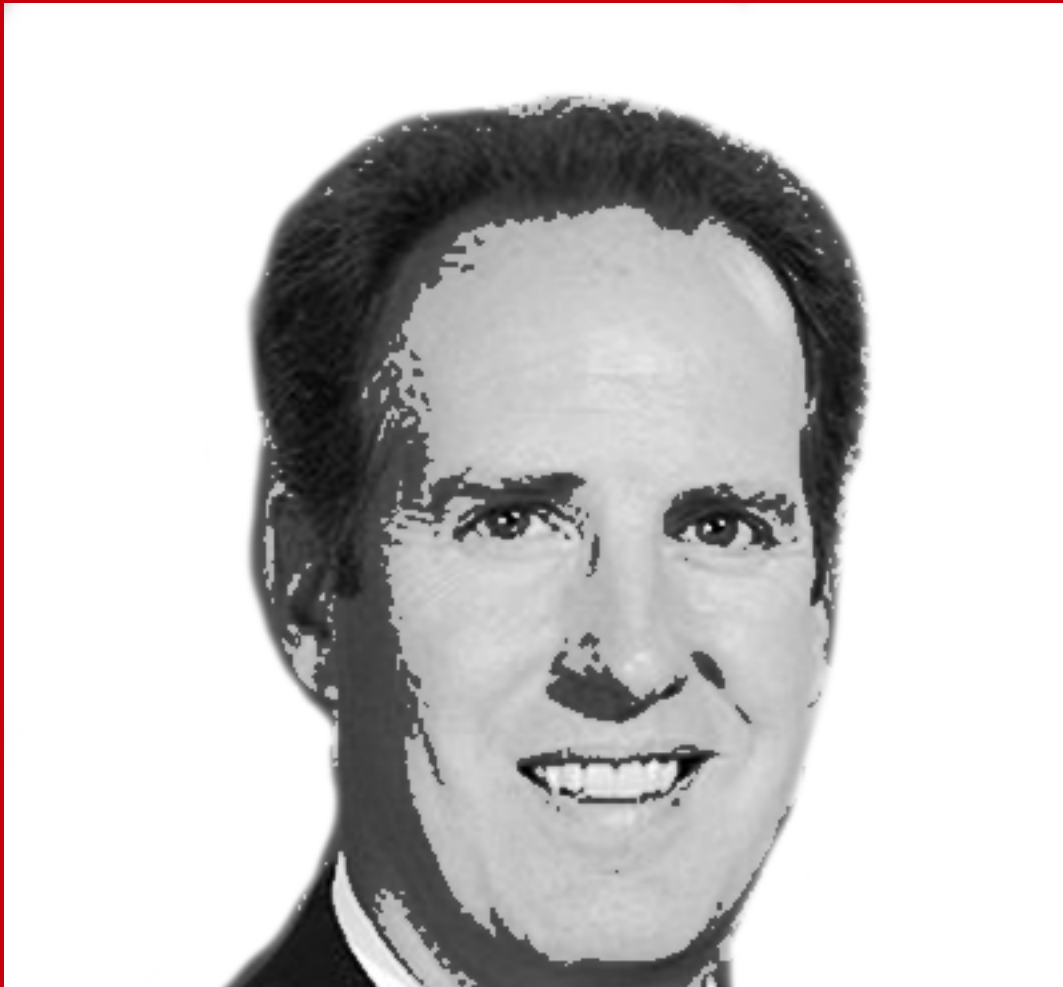


AFJ NOMINEE REPORT

# RICHARD SULLIVAN



U.S. Court of Appeals for the Second Circuit

# CONTENTS

**INTRODUCTION**,1

**BIOGRAPHY**,1

**CRIMINAL JUSTICE AND SENTENCING**,1

**CONCLUSION**,2

# INTRODUCTION

On May 7, 2018, President [Trump](#) [nominated](#) Richard Sullivan to the U.S. Court of Appeals for the Second Circuit. Sullivan was nominated to fill the [seat](#) of Judge Richard Wesley.

# BIOGRAPHY

Richard Sullivan [graduated](#) from the College of William & Mary in 1986 and Yale Law School in 1990. After law school, Sullivan worked as a law clerk to Judge David M. Ebel on the U.S. Court of Appeals for the Tenth Circuit. From 1991 to 1994, Sullivan worked as an associate at Wachtell, Lipton, Rosen & Katz LLP in New York. Sullivan was an assistant U.S. attorney for the Southern District of New York from 1994 to 2005, where he served as Chief of the International Narcotics Trafficking Unit.<sup>1</sup> Later, he became General Counsel and Managing Director of Marsh, Inc., a global risk and insurance firm.<sup>2</sup> He is a former adjunct professor at the Fordham University School of Law, and now teaches courses on “Judicial Interpretation and The Role of Courts” and Sentencing at Columbia Law School.<sup>3</sup>

In February 2007, President George W. Bush nominated Sullivan to become a U.S. District Judge for the Southern District of New York.<sup>4</sup> The U.S. Senate confirmed him [99-0](#) and he has served on the bench since August 2007.<sup>5</sup>

Sullivan was a member of the Federalist Society, a far-right group, from 1991 to 1994 and from 2005 to 2007.<sup>6</sup> According to his Senate Judiciary Questionnaire, Sullivan is no longer a member, but he has [spoken](#) at Federalist Society events 17 times since 2009, including 3 times in 2017.<sup>7</sup>

# CRIMINAL JUSTICE AND SENTENCING

Since Sullivan is a former prosecutor, the most notable aspect of his record relates to criminal justice issues. Judge Sullivan is [known](#) for his “lengthy criminal sentences and . . . expansive interpretations of the securities laws” on the bench.<sup>8</sup> His reputation as a “pro-government judge” has reportedly “made him a favorite” among federal prosecutors.<sup>9</sup>

In [United States v. Newman](#), 773 F.3d 438 (2nd Cir. 2014), the Second Circuit reversed a Sullivan ruling on an insider trading conviction of two former hedge fund managers. The court called Sullivan’s instructions “erroneous.”<sup>10</sup> The ruling also suggested that prosecutors had strategically filed a superseding indictment in order to appear before Judge Sullivan due to his reputation for toughness on white-collar defendants.<sup>11</sup>

In another white-collar criminal case that was later overturned on appeal,

Judge Sullivan ordered a former fund manager to forfeit the entire \$7.2 million of his firm's profits from illegal trades, where the defendant himself made \$427,000 from the trades.<sup>12</sup>

[Reportedly](#), "Sullivan has imposed harsher sentences than his fellow district judges in insider-trading cases[.]"<sup>13</sup>

## CONCLUSION

The Senate Judiciary Committee should carefully examine Judge Sullivan's record before putting him in a lifetime seat on the U.S. Court of Appeals for the Second Circuit.

## ENDNOTES

- 1 See Sen. Comm. on the Judiciary, 115th Cong., Richard Sullivan Questionnaire for Judicial Nominees, 2, 63, 67, available at [https://www.afj.org/wp-content/uploads/2018/07/Richard\\_Sullivan\\_Senate\\_Questionnaire\\_PUBLIC\\_OCR.pdf](https://www.afj.org/wp-content/uploads/2018/07/Richard_Sullivan_Senate_Questionnaire_PUBLIC_OCR.pdf); see also Basil Katz, *Mexican Ex-Governor Tells U.S. Judge He Laundered Drug Money*, REUTERS (Aug. 2, 2012), <https://www.nytimes.com/2012/08/03/world/americas/former-mexican-governor-pleads-guilty.html>.
- 2 Marsh & McLennan Cos., *MMC Statement on U.S. Senate Confirmation of Marsh Inc. General Counsel as U.S. District Judge* (July 5, 2007), <http://phx.corporate-ir.net/phoenix.zhtml?c=113872&p=irol-newsArticle&ID=1234961&highlight=>.
- 3 Columbia Law School, Faculty: Richard Sullivan, Adjunct Professor, <https://www.law.columbia.edu/faculty/richard-sullivan>.
- 4 Confirmation Hearings on *Fed. Appointments Before the Sen. Comm. on the Judiciary*, 110th Cong. (2007), available at <https://www.gpo.gov/fdsys/pkg/CHRG-110shrg37658/html/CHRG-110shrg37658.htm>.
- 5 Sen. Comm. on the Judiciary, 115th Cong., Richard Sullivan Questionnaire for Judicial Nominees, 1, available at [https://www.afj.org/wp-content/uploads/2018/07/Richard\\_Sullivan\\_Senate\\_Questionnaire\\_PUBLIC\\_OCR.pdf](https://www.afj.org/wp-content/uploads/2018/07/Richard_Sullivan_Senate_Questionnaire_PUBLIC_OCR.pdf).
- 6 *Id.* at 1.
- 7 *Id.* at 8-26.
- 8 Charles Levinson, *Tough Judge Richard Sullivan's Rulings Are in the Spotlight*, THE WALL ST. JOURNAL (Apr. 30, 2014), available at <https://www.afj.org/wp-content/uploads/2018/07/Tough-Judge-Richard-Sullivans-Rulings-Are-in-the-Spotlight.pdf>.
- 9 *Id.*
- 10 Nate Raymond & Emily Flitter, *U.S. Court reverses fund managers' insider trading convictions*, REUTERS (Dec. 10, 2014), <https://www.reuters.com/article/us-usa-insidertrading-appeal/u-s-court-reverses-fund-managers-insider-trading-convictions-idUSKBN0JO1KO20141210>.
- 11 See *United States v. Newman*, 773 F.3d 438, 450 n. 5 (2nd Cir. 2014); see also James B. Stewart, *Delving Into Morass of Insider Trading*, N.Y. TIMES (Dec. 19, 2014), [https://www.nytimes.com/2014/12/20/business/the-insider-trading-morass.html?\\_r=0](https://www.nytimes.com/2014/12/20/business/the-insider-trading-morass.html?_r=0).
- 12 Charles Levinson, *Tough Judge Richard Sullivan's Rulings Are in the Spotlight*, THE WALL ST. JOURNAL (Apr. 30, 2014), available at <https://www.afj.org/wp-content/uploads/2018/07/Tough-Judge-Richard-Sullivans-Rulings-Are-in-the-Spotlight.pdf>.
- 13 Nate Raymond, *SAC's Steinberg seeks new judge for insider trading case*, REUTERS (Apr. 1, 2013), available at <https://www.reuters.com/article/us-sac-steinberg-judge/sacs-steinberg-seeks-new-judge-for-insider-trading-case-idUSBRE9300L920130401>.