

Study Reveals Rising Trend of Politically Timed Retirements Among Federal Judges

Federal judges' decisions to retire from active service are becoming more politically influenced, according to a recent study by Northwestern University Pritzker School of Law's Clinical Assistant Professor, Xiao Wang. In an article published in the Minnesota Law Review, Wang states that judges are taking "senior status" politically strategically to a greater extent than ever before. A senior status is a form of semi-retirement for federal judges over 65 who have completed at least 15 years of service on the bench. This allows Presidents to appoint new full-time judges to fill the retiring judges' seats.

For years, it was widely believed that judges took senior status for non-partisan reasons such as to take a step back, address rising caseloads, or for financial considerations. However, Wang's analysis of every senior status decision since 1919 shows that this is no longer the case. Although most circuit and district judges did not go into semi-retirement for political reasons for many years, this changed during the administration of former Republican President George W. Bush, which began in 2001.

Under both Republican President George H.W. Bush and Democratic President Bill Clinton, a majority of judges taking senior status were appointed by Presidents of the opposite party. However, during George W. Bush's eight years in office, 72% of federal judges seeking senior status had been appointed by a Republican President. Over 57% of the 303 judges who took senior status under Democratic President Barack Obama were Democratic appointees. This trend reached its peak during former President Donald Trump's four years in office, when 81.4% of the 135 judges taking senior status were Republican appointees, allowing Trump to make almost a record 234 judicial appointments.

So far, during President Joe Biden's administration, 65% of judges taking senior status have been Democratic appointees. Biden's 97 confirmed judicial nominees now hold several of these seats. Wang suggests that this difference may be due to conservative groups like the Federalist Society prioritizing judicial nominations more than liberal groups. This is a trend that progressive groups like Demand Justice are now trying to change.

Wang concludes that the results suggest that Republican-appointed judges have acted in a significantly more politically strategic manner than their Democratic-appointed counterparts. He believes that Democrats did not pay much attention to judges for a long time, and now progressive groups are trying to change this trend.

In conclusion, the study highlights the increasingly political nature of federal judges' decisions to take senior status. This shift, according to Wang, is a result of changing political priorities and the increasing importance placed on judicial nominations by conservative and progressive groups.

REFERENCES:

Federal judges' retirements increasingly politically timed, study finds