

# Our Federal Courts Need More Openly LGBTQ Judges

During the Biden administration, the Senate has confirmed 11 openly LGBTQ judges to lifetime seats on the federal bench. These confirmations have been important and historic, but more progress is needed to ensure that our federal courts both reflect and represent the vast and rich diversity of our nation.

Cases throughout the country on LGBTQ issues — including the rights of trans children to play sports, to access lifesaving health care, and to learn in safe and welcoming schools with inclusive curricula — have powerfully demonstrated the need for more federal judges who understand what’s at stake when these topics are litigated in federal court. Recent Supreme Court cases like *303 Creative v. Elenis* have likewise illustrated the importance of federal judges who know that these cases are about the ability of queer people to live with dignity in a country that protects their right to openly live their lives authentically and proudly.

Our country needs more openly LGBTQ judges who understand the real consequences that their decisions carry. But throughout history, queer judges have been vastly underrepresented on our nation’s federal courts.

- An openly transgender or non-binary person has **never** been nominated or confirmed to serve as a lifetime federal judge.
- An openly LGBTQ person has **never** served as a lifetime judge on nine of our 13 federal circuit courts (nearly 70 percent): the First, Third, Fifth, Sixth, Seventh, Eighth, Tenth, Eleventh, and D.C. Circuits.
- An openly LGBTQ person has **never** served as a lifetime judge on 77 of our 94 federal district courts (more than 80 percent).
- An openly LGBTQ person has **never** served as a lifetime judge anywhere within the Eighth Circuit (which covers Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota).
- An openly LGBTQ person has **never** served as a lifetime district court judge in 39 states (they have only ever served in California, Colorado, Florida, Illinois, Michigan, New York, Oregon, Pennsylvania, Rhode Island, Texas, and Virginia, in addition to D.C. and Puerto Rico).



## Openly LGBTQ lifetime judges throughout U.S. history

In January 1994, President Clinton nominated Deborah Batts to the U.S. District Court for the Southern District of New York. Five months later, at a Pride celebration, she was sworn in as the first openly LGBTQ federal judge in our nation's history. Judge Batts remained the only openly queer federal judge for 17 years until President Obama in 2011 nominated the first openly gay man to ever become an Article III judge — J. Paul Oetken. President Obama went on to appoint 10 more openly LGBTQ people to our federal courts.

Now, President Biden has tied that record. The Senate confirmed 11 openly LGBTQ judicial nominees during President Obama's eight years in office. As of March 2024, the Senate

has already confirmed 11 of President Biden's openly LGBTQ judicial nominees during his first term in office. The 2021 confirmation of Judge Beth Robinson is particularly notable, as she became the first openly queer woman to be confirmed to any federal appellate court in the nation.

Not only do these judges bring their important lived experiences to the bench, but they also bring crucial professional expertise. Nearly all of the LGBTQ judges nominated by President Biden have civil rights experience, and many specifically have advocated for the rights of queer people. Judge Robinson was integral to Vermont becoming the first state to allow same-sex partners to enter into civil unions, eventually becoming the first state to legalize marriage equality through legislation. Judge Nicole Berner, confirmed to the Fourth Circuit,



## Openly LGBTQ lifetime judges confirmed during the Clinton administration

- **Deborah Batts, U.S. District Court for the Southern District of New York** (deceased): First openly LGBTQ person to serve as a lifetime judge in our nation's history

## Openly LGBTQ lifetime judges confirmed during the Obama administration

- **Pamela Chen, U.S. District Court for the Eastern District of New York**: First openly LGBTQ Asian American person to serve as a lifetime judge
- **Michael Walter Fitzgerald, U.S. District Court for the Central District of California**: First openly LGBTQ person to serve as a lifetime judge in California and anywhere within the Ninth Circuit
- **Darrin Gayles, U.S. District Court for the Southern District of Florida**: First openly LGBTQ Black person to serve as a lifetime judge in the nation and first openly LGBTQ lifetime judge anywhere within the Eleventh Circuit
- **Todd Hughes, U.S. Court of Appeals for the Federal Circuit**: First openly LGBTQ person to serve on any federal appellate court in the nation
- **Judith Levy, U.S. District Court for the Eastern District of Michigan**: First openly LGBTQ person to serve as a lifetime judge in Michigan and anywhere within the Sixth Circuit
- **Michael McShane, U.S. District Court for the District of Oregon**: First openly LGBTQ person to serve as a lifetime judge in Oregon
- **Alison Nathan, U.S. District Court for the Southern District of New York** (elevated by President Biden to the Second Circuit): Second openly LGBTQ woman to serve as a lifetime judge on this court
- **J. Paul Oetken, U.S. District Court for the Southern District of New York**: First openly LGBTQ man to serve as a lifetime judge in our nation's history
- **Robert Pittman, U.S. District Court for the Western District of Texas**: First openly LGBTQ person to serve as a lifetime judge in Texas and anywhere within the Fifth Circuit
- **Nitza Quiñones Alejandro, U.S. District Court for the Eastern District of Pennsylvania**: First openly LGBTQ Latina to serve as a lifetime judge and first openly LGBTQ lifetime judge on any court within the Third Circuit
- **Staci Yandle, U.S. District Court for the Southern District of Illinois**: First openly LGBTQ person to serve as a lifetime judge in Illinois and anywhere within the Seventh Circuit

## Openly LGBTQ lifetime judges confirmed during the Trump administration

- **Patrick Bumatay**, U.S. Court of Appeals for the Ninth Circuit (California): First openly LGBTQ person to serve as a lifetime judge on this court
- **Mary Rowland**, U.S. District Court for the Northern District of Illinois: First openly LGBTQ person to serve as a lifetime judge on this court

## Openly LGBTQ lifetime judges confirmed during the Biden administration

- **Nicole Berner**, U.S. Court of Appeals for the Fourth Circuit (Maryland): First openly LGBTQ person to serve as a lifetime judge on this court
- **Daniel Calabretta**, U.S. District Court for the Eastern District of California: First openly LGBTQ person to serve as a lifetime judge on this court
- **Melissa DuBose**, U.S. District Court for the District of Rhode Island: First openly LGBTQ person and first person of color to serve as a lifetime judge on this court
- **Gina Méndez-Miró**, U.S. District Court for the District of Puerto Rico: First openly LGBTQ person to serve as a lifetime judge on this court and anywhere within the First Circuit
- **Nina Morrison**, U.S. District Court for the Eastern District of New York: Second openly LGBTQ person to serve as a lifetime judge on this court
- **Alison Nathan**, U.S. Court of Appeals for the Second Circuit (New York): Second openly LGBTQ woman to serve on any federal appellate court in the nation
- **Casey Pitts**, U.S. District Court for the Northern District of California: First openly LGBTQ person (at the time of confirmation) to serve as a lifetime judge on this court
- **Ana Reyes**, U.S. District Court for the District of D.C.: First openly LGBTQ person and first Latina to serve as a lifetime judge on this court
- **Beth Robinson**, U.S. Court of Appeals for the Second Circuit (Vermont): First openly LGBTQ woman to serve on any federal appellate court in the nation
- **Charlotte Sweeney**, U.S. District Court for the District of Colorado: First openly LGBTQ woman to serve on any federal district court west of the Mississippi River, including any court within the Tenth Circuit
- **Jamar Walker**, U.S. District Court for the Eastern District of Virginia: First openly LGBTQ person to serve as a lifetime judge in Virginia and anywhere within the Fourth Circuit

**Note:** The numbers in this fact sheet only reflect lifetime federal judges who were openly LGBTQ during their time on the federal bench. Since serving on the court, [Judge Vaughn Walker](#) (confirmed during President George H.W. Bush's administration to the Northern District of California) and [Judge Martin Jenkins](#) (confirmed during President Bill Clinton's administration to the Northern District of California) have come out as LGBTQ.