



## Fourth Circuit Vacancies; President Obama Will Have 4 of 15 Judicial Positions to Fill

2/1/09: The [US Fourth Circuit Court of Appeals](#) hears appeals from federal district courts in [West Virginia](#), [Virginia](#), [Maryland](#), [North Carolina](#), and [South Carolina](#). The [Fourth Circuit](#) has 15 judges when all of the judicial positions are occupied. However, 4 of the 15 judge positions are currently vacant. That means that [President Obama](#) will be able to appoint those 4 judges.

Appointments to these federal judicial positions require the confirmation by the [US Senate](#). The [Democrats](#) control at this time 58 votes in the [Senate](#), through 56 Democrats and 2 Independents (Joe Lieberman, CT; Bernie Sanders VT) who caucus with the [Democrats](#). If Al Franken eventually is declared the winner in Minnesota, which is expected, the democrats will have 59 votes. [President Obama](#) only needs 51 votes to confirm one of his judicial nominations. If the [Republicans](#) chose to filibuster any of [President Obama's](#) nominations, the [Democrats](#) need 60 votes for cloture to cut off the filibuster and force a vote (cloture requires a three-fifths vote of the voting Senators). If the [Democrats](#) will be starting with 59 votes, they will likely frequently be able to "peel off" a Republican or two to break the filibuster.

Federal court of appeals nominations are usually made from lawyers with significant prior judicial experience. So the pool of lawyers to be considered will likely be the current federal district judges, and, less likely, current state court judges.



Given Presidential history since 1980, the substantial majority of federal judges are appointees of Republican Presidents (20 years of Republican presidency versus 8 years of Democrat presidency).

Of the current 11 judges on the [Fourth Circuit](#), 6 were Republican appointees and 5 were Democratic appointees (although Judge Gregory was a "hybrid" having originally been

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appointed by [President Clinton](#) and then re-appointed by [President George W. Bush](#)). You can view a [chart on Wikipedia](#) that sets out the lineup of current judges and the Presidents who appointed them

Assuming [President Obama](#) fills all 4 current vacancies, then we will have a realignment on the [Fourth Circuit](#) to: 9 Democrat appointees, and 6 Republican appointees.



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