



The 9th Circuit Court Must Be Split!

Congress must free 56 million people from the judicial tyranny of liberal federal judges on the 9th Circuit Court in California.

The 9th Circuit Court of Appeals in San Francisco, California, is the largest and most overturned federal court in the U.S.

The court oversees cases for the states of California, Arizona, Alaska, Hawaii, Idaho, Montana, Nevada, and Oregon, as well as Guam and the Northern Marianas Islands. It makes rulings that affect more than 56 million people and covers an area of 1.3 million square miles. Forty-eight unelected judges have the power to make rulings that impact one out of six Americans! [1]

The 9th Circuit Court is also the most liberal court in the United States and between 1990 and 1996, the U.S. Supreme Court struck down 73% of the 9th Circuit's rulings, while other circuit courts averaged only 46% reversals. In 1997, for example, the Supreme Court overturned 27 out of 28 of the 9th Circuit Court decisions. [2]

Liberalism Out Of Control

The backlash against the 9th Circuit Court is long overdue. Critics of the court made efforts in 1997 to split the 9th into two separate court systems but these efforts failed.

The court's three-judge panel ruling in September, 2003, that the California recall election was unconstitutional because of punch card ballot machines, has helped renew efforts to break up this renegade court. The three judges who called for a six-month delay in the election are all well-known liberals who have little respect for the rule of law. They issue rulings based upon their liberal ideologies, not upon the Constitution. They include Judge Harry Pregerson, a Jimmy Carter appointee and two Clinton appointees: Sidney R. Thomas and Richard A. Paez.

The 9th Circuit Court is inhabited by numerous other ideological liberals whose views are so extreme as to

invite a backlash against them. One of the most notorious judges is Stephen Reinhardt, a member of the three-judge panel that declared the Pledge of Allegiance to be "unconstitutional" in 2002 because it contains the words "under God" in it. Reinhardt has been described as the country's "most audacious liberal judge" and "one of the most overturned judges in history."

Reinhardt's political views are not difficult to discern. His wife is Ramona Ripston, current head of the powerful Los Angeles branch of the American Civil Liberties Union (ACLU). Ripston was a co-founder of the National Association for the Repeal of Abortion Laws (NARAL) in 1969, which has since been renamed NARAL Pro-Choice America. (Reinhardt is Ripston's fifth husband.)

Ripston also served as a leader of the leftist People for the American Way and was appointed in 1998 to serve on the California state Commission on Judicial Performance. This agency oversees complaints about judicial misconduct. Her term expires on February 28, 2005. [3]

In addition to Judge Reinhardt's decision on the Pledge of Allegiance, he has also ruled that:

- * A Mexican doctor who killed a Drug Enforcement Administration (DEA) agent should not have been forcibly returned to the U.S. to face prosecution.
- * Arizona had no right to mandate English as the official language of the government because the legislation was allegedly "overbroad" and thus violated the First Amendment.
- * The use of police dogs to track down criminals or drugs violates the Fourth Amendment's protection against unreasonable search and seizures.

Reinhardt has also expressed the view that abortion and assisted suicide are fundamental rights. [4] In 1997, *The Weekly Standard* published an expose on Reinhardt, entitled, "The Judge The Supreme Court Loves To Overturn." Author Matthew Rees, notes that Reinhardt is one of the most prolific judges on the court and will participate in an average of 500 cases each year. Reinhardt has been described as ruthless and a bully who has little sympathy for his opposition. One of his fellow 9th Circuit Judges, Stephen Trott said that Reinhardt is "pushing the envelope harder now" than in the past and issuing ever more absurd rulings based upon his extreme liberal views. [5]

Judge Reinhardt is symptomatic of what is drastically wrong with the 9th Circuit Court of Appeals and why Congress must do something soon to restrain the irresponsible use of judicial power by this liberal court.

Liberals Reject The Rule Of Law

Judge Reinhardt and his liberal allies on the 9th Circuit claim that judges should use what he calls, "an expansive approach to jurisprudence." [6] This is also called the "Living Document" theory of legal interpretation. This belief allows judges to reject the clear reading of the Constitution or laws under dispute so they can impose their own political ideologies to their rulings. These expansive approaches to interpretation allow judges to act as kings who issue edicts without any lawful authority.

Judge Robert Bork has written extensively on judicial tyranny and explains how liberal judges routinely ignore the Constitution in their rulings. He writes of the U.S. Supreme Court's abuse of power in his essay, "Our Judicial Oligarchy." He notes that these Justices "... are our masters in a way that no President, Congressman, governor, or other elected official is. They order our lives and we have no recourse, no means of resisting, no means of altering their ukases. They are indeed our robed masters." [7]

What Must Be Done?

First, Congress must split up the 9th Circuit Court of Appeals into three separate court systems.

Senators John Ensign (R-NV) Larry Craig (R-ID) have proposed passage of "**Ninth Circuit Judgeship and Reorganization Act of 2004**," which will split up the 9th by creating two additional federal court systems in the western states. The legislation will place the following states and territories in the 9th: California, Guam, Hawaii, and the Northern Marianas Islands. A 12th Circuit Court will include Arizona, Nevada, Idaho, and/or Montana. The states of Alaska, Oregon, and/or Washington will be in the 13th Circuit Court.

In addition, this bill will provide for the appointment of five additional federal judges on the 9th Circuit to lessen their work load. The Senate Judiciary Committee's Administrative Oversight and the Courts Subcommittee held a hearing on April 7, 2004, to debate passage of this im-

portant piece of legislation.

TVC urges support of this bill. The judicial tyranny exercised by the liberal 9th Circuit must be broken.

Second, Congress has authority under the U.S. Constitution, Article II, Section 2, to restrict the appellate jurisdiction of all federal courts, including the U.S. Supreme Court. This means that Congress can determine what cases are allowed to be heard by these courts. Congress, by a simple vote, can prohibit federal courts from hearing cases on abortion, pornography, homosexuality, etc. Congress can also abolish federal courts under Article III, Section 1 of the Constitution.

Third, Congress has authority under Article III, Section 2, to impeach judges who fail to serve under "good behavior." Congress should strongly consider beginning impeachment proceedings against the most arrogant and tyrannical judges. A judge like Stephen Reinhardt, for example, routinely ignores the law and imposes his own leftist views in his opinions. He is operating as a tyrant, not as one who should be interpreting the laws. His impeachment might send a strong message to other renegade judges.

Congress Must Act Now!

Our U.S. legislators have a responsibility to protect us from tyrannical judges. The 9th Circuit Court poses a clear and present danger to our liberties and must be split as soon as possible to restrict its ability to operate as our robed masters.

For more information on judicial tyranny, read TVC's report, "Judges: Our Robed Masters," available for downloading from our web site: <http://www.traditionalvalues.org>.

[1] Andrew Peyton Thomas, "Split Decision," *National Review*, NROnline, September 16, 2003.

[2] "Crapo and Craig Introduce Senate Legislation To Split 9th Circuit," *Washington Times*, March, 8, 2003, eLibrary online article.

[3] "ACLU's Ripston Joins CA Commission on Judicial Performance," ACLU LA press release, July 20, 1998.

[4] Greg Hoadley, "'Pledge Judge' No Stranger To Controversy," *ReclaimingAmerica.org*, July 3, 2002 online edition.

[5] Matthew Rees, "The Judge The Supreme Court Loves To Overturn," *The Weekly Standard*, May 5, 1997, online issue.

[6] *Ibid.*

[7] Robert Bork, "Our Judicial Oligarchy," *First Things*, November, 1996, pgs. 21-24.