

**MEMORANDUM**

March 9, 2016

**To:**



**From:**

Barry J. McMillion, Analyst in American National Government, 

**Subject:**

**U.S. Circuit and District Court Nominations for Which Senate Judiciary Committee Hearings Were Not Held (100th Congress—113th Congress)**

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This memorandum responds to your request for information and analysis related to unsuccessful U.S. circuit and district court nominations from the 100th to the 113th Congress that did not receive a hearing before the Senate Judiciary Committee.

Information in this memorandum is of general interest to Congress. As such, all or part of it may be provided in other CRS products. Your confidentiality as a requester will be preserved in any case. Please do not hesitate to contact me with any questions or if you require additional information.

### **Unsuccessful Nominations Without A Hearing**

For the purposes of this memorandum, an “unsuccessful nomination” is a nomination that was not ultimately approved by the Senate. So, for example, a nomination of any individual who was nominated more than once prior to Senate confirmation is **not** included in the data below (because he or she was ultimately approved by the Senate). Additionally, a nomination of any individual who was not approved by the Senate but nonetheless had a committee hearing is **not** included in the data below (because he or she had a committee hearing even if not approved by the Senate).

As requested, **Table 1** provides, by Congress, (1) the number of unsuccessful U.S. circuit court nominations that did not receive a hearing; (2) the number of unsuccessful U.S. district court nominations that did not receive a hearing; and (3) the combined total number of unsuccessful U.S. circuit and district court nominations that did not receive a hearing.

As requested, each unsuccessful nomination of an individual is counted for each Congress he or she was nominated (as long as he or she never received a committee hearing). So, for example, if an individual was nominated during both the 100th and 101st Congress (and didn’t receive a committee hearing in either), the individual’s nomination is included in the reported number for the 100th Congress, as well as for number for the 101st Congress.

### **Unsuccessful Nominations Without A Hearing, By Congress**

As shown by **Table 1**, the number of unsuccessful U.S. circuit court nominations that did not receive a committee hearing ranged from a low of 0 (during the 101st, 103rd, 108th, and 113th Congresses) to a high of 17 (during the 106th Congress).

The number of unsuccessful U.S. district court nominations that did not receive a committee hearing ranged from a low of 1 (during the 101st, 107th, and 111th Congresses) to a high of 43 (during the 102nd Congress).

The combined total number of unsuccessful nominations that did not receive a committee hearing ranged from a low of 1 (during the 101st Congress) to a high of 52 (during the 102nd Congress).

Some of the variation in the number of unsuccessful U.S. circuit and district court nominations that did not receive a hearing might be related to whether a Congress coincided with the final two years of a presidency (i.e., the number of such nominations tended to be greater during Congresses that coincided with a President's final two years in office).

**Table I. Unsuccessful U.S. Circuit and District Court Nominations That Did Not Receive a Committee Hearing**  
(100th Congress to 113th Congress)

Congress	Years	U.S. Circuit Court Nominations	U.S. District Court Nominations	Combined, Total Nominations
100	1987-1988	6	4	10
101	1989-1990	0	1	1
102	1991-1992	9	43	52
103	1993-1994	0	4	4
104	1995-1996	2	7	9
105	1997-1998	5	8	13
106	1999-2000	17	23	40
107	2001-2002	1 <sup>a</sup>	1	2
108	2003-2004	0	2	2
109	2005-2006	2	5	7
110	2007-2008	12	19	31
111	2009-2010	3	1	4
112	2011-2012	2	6	8
113	2013-2014	0	4	4

**Source:** Congressional Research Service

**Notes:** This table shows the number of unsuccessful U.S. circuit and district court nominations by Congress from the 100th Congress to the 113th Congress for which the nomination did not receive a committee hearing and was not ultimately approved by the Senate.

- a. Not included for the 107th Congress are 8 circuit court nominations made by President Clinton on January 3, 2001. Each of these nominations was ultimately returned by President George W. Bush on March 19, 2001.