

Trump Flips Eleventh Circuit, Critical in Election Law Cases

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President Trump flipped the U.S. Court of Appeals for the Eleventh Circuit to a majority of Republican-appointed judges late last year. Judge Robert J. Luck was confirmed 64 to 31 and sworn in on November 19, 2019. Judge Barbara Lagoa was confirmed 80 to 15 and sworn in on December 6, 2019. Both judges are from Miami, Florida.

The Eleventh Circuit is comprised of three states that tend to see significant election-related litigation. In 2018, three major statewide races in Florida were the subject of recounts and attendant federal and state-court lawsuits. Similarly, in Georgia, the gubernatorial election spawned a federal voting rights lawsuit that may yet make its way to the Eleventh Circuit. And perhaps the most significant Voting Rights Act case to reach the Supreme Court in the last decade, *Shelby County v. Holder*, 570 U.S. 529 (2013), arose from Alabama.

Although the party of the appointing president is no guarantee as to how a particular judge will vote in any given case, the change in control following the appointments of Judge Luck and Judge Lagoa is potentially significant. In the aggregate, Republican-appointed judges have tended to be more solicitous of state efforts to discourage voter fraud and curb irregularities in federal elections. In addition, Republican-appointed judges have tended to be more likely to view partisan gerrymandering as a “political question” that lacks “judicially discernible and manageable” standards, *see Rucho v. Common Cause*, 139 S. Ct. 2484, 2502 (2019) (per Roberts, C.J.), which for now at least may favor the Republican-controlled legislatures in Florida, Georgia, and Alabama.

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Practice Areas

Election Law & Government Ethics
Issues and Appeals

As of this writing, President Trump has appointed 187 judges to the federal judiciary. The Eleventh Circuit is the third court of appeals he has flipped to a majority of Republican-appointed judges.