

Federalist Society-Affiliated Judges On The Fifth Circuit Continue To Make Extreme Rulings In Pivotal Cases– Pandering To Leonard Leo’s Extreme Agenda

SUMMARY: Since August 2023, Federalist Society-backed judges on the U.S. Court of Appeals for the Fifth Circuit have made extreme rulings in pivotal cases. These rulings fit a pattern of the Fifth Circuit siding in favor of the far-right Federalist Society agenda, including restricting access to abortion, suppressing the votes of racial minorities, and allowing dangerous weapons to proliferate without restriction. These rulings include

- *State of Texas v. Becerra*: In January 2024, three Federalist Society judges on the Fifth Circuit [ruled](#) that Texas hospitals and doctors are not obligated to perform emergency abortions
- *Petteway v. Galveston County*: In December 2023, ten Federalist Society judges on the Fifth Circuit [halted](#) an order to reverse racially discriminatory redistricting lines, allowing Republican officials to eliminate Texas’ only minority-majority district for the 2024 election.
- *Garland v. Vanderstock*: In October 2023, three Federalist Society-affiliated judges on the Fifth Circuit [ruled](#) that ghost gun distributors could continue selling gun-building kits.
- *Alliance for Hippocratic Medicine v. FDA*: In August 2023, three Federalist Society-affiliated judges on the Fifth Circuit [imposed](#) restrictions on the abortion pill mifepristone.

Federalist Society-Affiliated Judges On The Fifth Circuit Ruled That Texas Hospitals And Doctors Are Not Obligated To Perform Emergency Abortions

January 2024: The U.S. Court Of Appeals For The Fifth Circuit Ruled That Texas Hospitals And Doctors Are Not Obligated To Perform Emergency Abortions. “A federal appeals court on Tuesday ruled that Texas hospitals and doctors are not obligated to perform abortions under a long-standing national emergency-care law, dealing a blow to the White House’s strategy to ensure access to the procedure after the Supreme Court overturned the constitutional right to abortion in 2022. The federal law ‘does not mandate any specific type of medical treatment, let alone abortion,’ the U.S. Court of Appeals for the 5th Circuit concluded, faulting the Biden administration’s interpretation of the Emergency Medical Treatment and Labor Act, or EMTALA. The law ‘does not govern the practice of medicine,’ the court added.” [Washington Post, [1/2/24](#)]

- **The Fifth Circuit Ruling Was Decided By A Three-Judge Panel.** “The three-judge panel also faulted the Biden administration’s process of issuing its emergency-care guidance, saying that federal officials did not go through the proper rulemaking process when the administration instructed health-care providers that they were protected by EMTALA if they believed an abortion to be medically necessary.” [Washington Post, [1/2/24](#)]

- **All Three Judges On The Fifth Circuit’s Panel Were Appointed By Republican Presidents.** “Biden officials and legal observers said they expected Tuesday’s decision, noting that all three judges on the 5th Circuit’s panel were appointed by Republican presidents. Judge Leslie H. Southwick is a George W. Bush appointee, and Judges Kurt D. Engelhardt and Cory T. Wilson are Trump appointees.” [Washington Post, [1/2/24](#)]

Kurt Damian Engelhardt, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership And Is A Contributor For The Group:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Engelhardt, Kurt Damian	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

Cory Todd Wilson, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership And Is A Contributor For The Group:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Wilson, Cory Todd	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

Judge Leslie Southwick Is A Federalist Society Contributor. According to the Federalist Society’s website, Leslie Southwick, a judge on the U.S. Court of Appeals for the 5th Circuit, is a contributor to the organization. [Federalist Society, accessed [1/3/24](#)]

An En Banc Panel Of Federalist Society-Affiliated Judges On The Fifth Circuit Halted A Ruling That Ordered Texas Officials To Reverse A Racially Discriminatory Redistricting Plan That Eliminated The State’s Only Minority-Majority District

In November 2021, Galveston County, Texas Public Officials Adopted A Redistricting Plan That Eliminated Texas’ Single Majority-Minority District. “Galveston County officials adopted the map at the center of the dispute for the county’s commissioners in Nov. 2021. Under the map, the county’s lone majority-minority district became the district with the lowest percentage of Black and Latino residents.” [ScotusBLOG, [12/12/23](#)]

- **The New Map Split Up Black And Latino Voters So That White Residents Comprised At Least 62 Percent Of Each Of Galveston County’s Four Precincts.** “The map split up Black and Latino communities so white voters could make up at least 62% of the electorate in each of the four precincts.” [The Texas Tribune, [10/13/23](#)]
- **The Map Was Subsequently Challenged In Court By Both The Biden Administration And Local Civil Rights Groups.** “Both the Biden administration and two groups of local civil rights leaders and civil rights groups went to federal court to challenge the map.” [ScotusBLOG, [12/12/23](#)]

A U.S. District Court Judge Ruled On October 13, 2023 That The New Galveston County Maps Were Racially Discriminatory And In Violation Of The Voting Rights Act. “A U.S. District Judge ruled [On October 13, 2023] that Galveston County violated the federal Voting Rights Act in 2021 when it drew new districts for its commissioners court. Judge Jeffrey V. Brown, appointed by former President Donald Trump, ruled the county’s 2021 commissioners court precinct map ‘denies Black and Latino voters the equal opportunity to participate in the political process and the opportunity to elect a representative of their choice to the commissioners court.’ As a result, the county has been ordered to redraw the map by Oct. 20.” [The Texas Tribune, [10/13/23](#)]

- **The District Court Judge Also Ruled That The Galveston County Maps Be Redrawn By October 20, 2023.** “Judge Jeffrey V. Brown, appointed by former President Donald Trump, ruled the county’s 2021 commissioners court precinct map ‘denies Black and Latino voters the equal opportunity to participate in the political process and the opportunity to elect a representative of their choice to the commissioners court.’ As a result, the county has been ordered to redraw the map by Oct. 20.” [The Texas Tribune, [10/13/23](#)]

The Fifth Circuit Court Of Appeals Initially Affirmed The District Court Ruling In A Three-Judge Panel, But Later Decided That The Case Would Be Reheard En Banc. “The 5th Circuit initially upheld Brown’s decision, but the full 5th Circuit later put Brown’s orders until it can rehear the case next year.” [ScotusBLOG, [12/12/23](#)]

- **The Fifth Circuit Also Placed A Hold On The District Court Judge’s Order To Redraw The Maps Until The En Banc Hearing.** “As the 5th Circuit was deciding to rehear the case en banc, it maintained a pause of the district court’s decision requiring Galveston County to redraw its districts for 2024. As a result of this extended pause, the plaintiffs asked the U.S. Supreme Court to step in and unpaue the district court’s order.” [Democracy Docket, [12/7/23](#)]
- **In A Dissenting Opinion, Judge Stephen Higginson Noted, “The Majority’s Stay Order Offers No Rebuttal—Factual Or Legal—Of The District Court’s 150-Page Opinion.”** “In a dissenting opinion, Judge Stephen Higginson — a Democratic appointee who was joined by three other judges — noted that ‘the majority’s stay order offers no rebuttal—factual or legal—of the district court’s 150-page opinion entered with firsthand benefit of an evidentiary hearing that lasted 10 days.’” [Democracy Docket, [12/7/23](#)]
- **Fifth Circuit Judges Richman, Jones, Smith, Barksdale, Elrod, Willett, Ho, Duncan, Engelhardt, Oldham, and Wilson Formed The Majority That Ruled In Favor Of Pausing The Redistricting Order.** “Richman, Chief Judge, and Jones, Smith, Barksdale, Elrod, Willett, Ho, Duncan, Engelhardt, Oldham, and Wilson, Circuit Judges, voted to grant a stay pending appeal.” [United States Court of Appeals for the Fifth Circuit via Democracy Docket, [12/7/23](#)]

Priscilla Richman, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership And Is A Federalist Society Contributor:

Judge	Court	Federalist Society Contributor	Federalist Society Member
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Priscilla Richman	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes
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Fifth Circuit Judge Edith Jones Disclosed One Free Federalist Society Trip In 2021 And Is Currently Listed As A Federalist Society Contributor:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Edith Hollan Jones	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Senate Questionnaire Unavailable

Jerry Edwin Smith, Judge In The U.S Court Of Appeals For The Fifth Circuit Nominated By President Ronald Reagan, Is A Federalist Society Contributor:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Jerry Edwin Smith	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Senate Questionnaire Unavailable

Jennifer Walker Elrod, Judge In The U.S Court Of Appeals For The Fifth Circuit Nominated By President George W. Bush, Was An Active Member Of The Harvard Federalist Society:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Jennifer Walker Elrod	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

Don R. Willett, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership, Is A Contributor For The Group, Has Taken Free Federalist Society Travel, And Was On Trump’s Supreme Court Shortlist, Which Leonard Leo “Wrote”:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Willett, Don R.	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

Fifth Circuit Judge James C. Ho Has Disclosed Federalist Society Membership, Reported Free Federalist Society Trips For Him And His Wife In 2021, And Is Currently Listed As A Federalist Society Contributor:

Judge	Court	Federalist Society Contributor	Federalist Society Member
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		Contributor	Member
Ho. James C.	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

Stuart Kyle Duncan, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Duncan, Stuart Kyle	Judge, U.S. Court of Appeals for the Fifth Circuit	No	Yes

Kurt Damian Engelhardt, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership And Is A Contributor For The Group:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Engelhardt, Kurt Damian	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

Andrew Stephen Oldham, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership And Is A Contributor For The Group:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Oldham, Andrew Stephen	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

Cory Todd Wilson, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership And Is A Contributor For The Group:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Wilson, Cory Todd	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

Federalist Society-Affiliated Judges On The Fifth Circuit Ruled That “Ghost Gun” Distributors Could Continue Selling Gun-Building Kits

October 2023: The Fifth Circuit Ruled That Ghost Gun Distributors Could Continue Selling Gun-Building Kits. “Everytown Law, the nation’s largest and most experienced team of litigators in the U.S. working full-time on advancing gun violence prevention in the courts, released the following statement in response to the Fifth Circuit Court of Appeals decision yesterday that upheld an injunction against the Bureau of Alcohol, Tobacco, Firearms and Explosives’ (ATF) enforcing its ghost guns rule against two ghost gun sellers. Yesterday’s

reckless and flawed decision by the Fifth Circuit allows these two ghost gun distributors to continue selling gun-building kits. The decision flies in the face of the Supreme Court's order, issued two months ago, that kept the rule in place pending litigation in the courts. 'Yet again, the Fifth Circuit has issued a flawed and dangerous decision attacking the ATF's life-saving regulations on ghost guns,' said Eric Tirschwell, Executive Director of Everytown Law." [Press Release, Everytown for Gun Safety, [10/4/23](#)]

- **The Fifth Circuit Judges Ruling In The Case Were Judges Willett, Engelhardt, And Oldham.** "Before Willett, Engelhardt, and Oldham, Circuit Judges." [United States Court of Appeals for the Fifth Circuit, [10/2/23](#)]

Don R. Willett, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership, Is A Contributor For The Group, And Has Taken Free Federalist Society Travel:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Willett, Don R.	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

- **2021: Fifth Circuit Judge Don R. Willett Disclosed Serving On The Board Of Advisors For The Federalist Society's Austin Lawyers Chapter:**

11. Board of Advisors

Federalist Society for Law and Public Policy Studies (Austin Lawyers Chapter)

[Don R. Willett AO 10 Financial Disclosure, 2021, United States Courts, [05/15/22](#)]

- **2021: Fifth Circuit Judge Don R. Willett Disclosed Travel Reimbursements For One Appearance At A Four-Day Federalist Society Event:**

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

NONE (*No reportable reimbursements.*)

	SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1.	George Mason University Foundation, Inc.	March 21-26, 2021	Naples, FL	Seminar	Travel
2.	George Mason University Foundation, Inc.	June 6-21, 2021	Beaver Creek, CO	Seminar	Travel
3.	George Mason University Foundation, Inc.	June 20-25, 2021	Bachelor Gulch, CO	Seminar	Travel
4.	Case Western Reserve University	September 8-10, 2021	Cleveland, OH	Speaker	Travel
5.	Brigham Young University	October 18-22, 2021	Provo, UT	Speaker	Travel
			[...]		
6.	Federalist Society for Law & Public Policy Studies	November 18-21, 2021	South Bend, IN	Speaker	Travel

[Don R. Willett AO 10 Financial Disclosure, 2021, United States Courts, [05/15/22](#)]

Kurt Damian Engelhardt, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership And Is A Contributor For The Group:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Engelhardt, Kurt Damian	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

Andrew Stephen Oldham, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership, Is A Contributor For The Group, And Disclosed Free Travel From The Federalist Society:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Oldham, Andrew Stephen	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

- **2021: Fifth Circuit Judge Andrew S. Oldham Disclosed Reimbursements For Three Federalist Society Events, Totaling 8 Days:**

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

NONE (No reportable reimbursements.)

	SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1.	Federalist Society	April 8 - 10, 2021	Oxford, MS	Conference	Transportation, lodging, meals
2.	Georgetown University	June 17 - 20, 2021	Sarasota, FL	Judicial Panel	Transportation, lodging, meals
3.	Federalist Society	Sept. 8 - 9, 2021	Raleigh, NC	Speaker	Transportation, lodging, meals
4.	Federalist Society	Nov. 10 - 12, 2021	Washington, DC	Convention	Transportation, meals
5.	Texas Tech Law School	Nov. 18 - 21, 2021	Lubbock, TX	Speaker	Transportation, lodging, meals

[Andrew S. Oldham AO 10 Financial Disclosure, 2021, United States Courts, [08/12/22](#)]

August 2023: Federalist Society-Affiliated Judges On The Fifth Circuit Court Of Appeals Judges—including Judges James Ho, Cory Wilson, And Jennifer Elrod—Imposed “Unprecedented” Restrictions On Abortion Pill Mifepristone

August 16, 2023: The U.S. 5th Circuit Court Of Appeals “Imposed Restrictions On The Abortion Pill Mifepristone” In An Order “Almost Certain To Be Appealed To The Supreme Court.” “A federal appeals court on Wednesday imposed restrictions on the abortion pill mifepristone, though the ruling will not have an immediate impact. The order by the U.S. 5th Circuit Court of Appeals is almost certain to be appealed to the Supreme Court. Justice Samuel

Alito in April preemptively paused any ruling from the appeals court pending a petition for the high court to take the case.” [CNBC, [08/16/23](#)]

- **The Panel Of 5th Circuit Judges Who Decided In Favor Of The Restrictions Included Trump Appointees Judges James Ho And Cory Wilson And George W. Bush Appointee Jennifer Elrod.** “A panel of three judges at the 5th Circuit heard arguments May 17 from lawyers representing the Food and Drug Administration, mifepristone distributor Danco Laboratories, and a group of anti-abortion doctors called the Alliance for Hippocratic Medicine. The judges were all appointed by Republican presidents. Judges James Ho and Cory Wilson were appointed by Donald Trump. Judge Jennifer Elrod was appointed by George W. Bush.” [CNBC, [08/16/23](#)]

The 5th Circuit Panel “Pushed Back Hard” On Food And Drug Administration (FDA) Arguments That Pulling Mifepristone From The Market Would Be “Unprecedented, Has No Basis In Science And Will Jeopardize Women’s Health.” “The FDA and Danco argued that the lawsuit seeking to pull mifepristone from the U.S. market is unprecedented, has no basis in science and will jeopardize women’s health. The panel of judges pushed back hard on those arguments. The judges questioned whether allowing women to receive mifepristone by mail without having to see a doctor would result in more patients seeking emergency care.” [CNBC, [08/16/23](#)]

James C. Ho, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership And Is A Contributor For The Group:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Ho, James C.	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

Jennifer Walker Elrod, Judge In The U.S Court Of Appeals For The Fifth Circuit Nominated By President George W. Bush, Was An Active Member Of The Harvard Federalist Society:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Jennifer Walker Elrod	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes

- **Judge Elrod Was “An Active Member Of The Harvard Federalist Society.”** “She graduated cum laude from Harvard Law School, where she was an active member of the Harvard Federalist Society, an Ames Moot Court finalist, and a Senior Editor of the Harvard Journal of Law & Public Policy.” [University of Houston Law Center, [02/19/19](#)]
- **Judge Elrod Was Nominated To The Fifth Circuit By President George W. Bush In 2007.** [Federal Judicial Center, accessed [07/13/23](#)]

Cory Todd Wilson, Judge In The U.S Court Of Appeals For The Fifth Circuit, Has Disclosed Federalist Society Membership And Is A Contributor For The Group:

Judge	Court	Federalist Society Contributor	Federalist Society Member
Wilson, Cory Todd	Judge, U.S. Court of Appeals for the Fifth Circuit	Yes	Yes