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The Neutral Assignment of Judges at the Court of Appeals

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Article Summary:

The article examines the method by which judges and cases are assigned at the U.S. Court of Appeals. The article begins with an examination of allegations made in 1963 that the old Fifth Circuit was deliberately putting certain judges on panels to influence the outcome in civil rights cases. Using unique primary materials, the article concludes that “panel packing” did in fact occur.

The next portion asks whether “panel packing” could occur today. The article describes the procedures used by each circuit in assigning cases and judges. No other source has this information. The article concludes that all circuits have enough discretion in the assignment process that, in certain circumstances, could be used to ensure non-random assignment of judges and cases. The article also uses two cases from the Fourth Circuit to illustrate the assignment process in practice.

Finally, the article discusses legal remedies for non-random assignment and concludes that the courts should put in place national standards designed to ensure random assignment. A bill introduced in 1999 in the Senate would mandate random assignment of cases at the federal court of appeals and district court. The potential for congressional intervention suggests even more the need for the courts to take action to solve these concerns.

The article also has a lengthy appendix that looks at the voting records of judges in the Fourth Circuit and contains a specific description of the assignment process in all of the circuits.

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