

## **Judge Kavanaugh Is an Independent Legal Mind Who Has Ruled Across Ideological Lines**

- **Judges on the D.C. Circuit have agreed with Judge Kavanaugh's rulings in the overwhelming majority of matters across the board.**
  - **94%** of the matters Judge Kavanaugh heard were decided unanimously.<sup>[1]</sup>
  - In **97%** of the matters Judge Kavanaugh heard, he voted with the majority.
  - Judge Kavanaugh issued a dissenting opinion in only about **2.7%** of the matters he heard.
- **Judges on the D.C. Circuit have overwhelmingly agreed with Judge Kavanaugh's published majority opinions.**
  - Of Judge Kavanaugh's 193 published majority opinions, *his Democrat-appointed colleagues were as likely to join his opinions in full* as his Republican-appointed colleagues.
    - Democrat-appointed judges joined Judge Kavanaugh's published majority opinions **88.67%** of the time, while Republican-appointed judges joined Judge Kavanaugh's published majority opinions **88.94%** of the time.
- **Judge Kavanaugh broadly agreed with colleagues across the spectrum.**
  - Judge Kavanaugh was *as likely to join his Democrat-appointed colleagues' published majority opinions in full* as he was to join his Republican-appointed colleagues on panels.
    - He joined published majority opinions authored by Democrat-appointed colleagues **86.78%** of the time, while joining published majority opinions authored by Republican-appointed colleagues **88.98%** of the time.
- **Judge Kavanaugh and Chief Judge Merrick Garland have agreed with one another in the overwhelming majority of cases.**
  - Chief Judge Garland joined **96.43% (27 of 28)** of the published majority opinions authored by Judge Kavanaugh when the two sat together.
  - Judge Kavanaugh joined **93.55% (29 of 31)** of the published majority opinions authored by Chief Judge Garland when the two sat together.
  - Judge Kavanaugh and Chief Judge Garland have voted the same way in approximately **93%** of the matters that they have heard together.

**In at least 10 cases, Judge Kavanaugh has joined with a judge appointed by a Democratic President over the dissent of a judge appointed by a Republican President.**

1. *United States v. Nwoye*, 824 F.3d 1129 (D.C. Cir. 2016): Holding that a criminal defendant had received ineffective assistance of counsel when her lawyer failed to introduce evidence that she suffered from battered woman's syndrome.

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<sup>[1]</sup> "Matters" refer to published and unpublished decisions and orders, as drawn from Appendix 13(c) of Judge Kavanaugh's Senate Judiciary Questionnaire.

- **Judge Kavanaugh** authored the majority opinion, which **Judge Edwards** (appointed by President Carter) joined; **Judge Sentelle** (appointed by President Reagan) dissented.
2. *DuBerry v. District of Columbia*, 824 F.3d 1046 (D.C. Cir. 2016): Holding that retired D.C. correctional officers had stated a claim to carry a concealed weapon under a federal statute.
    - **Judge Rogers** (appointed by President Clinton) authored the majority opinion, which **Judge Kavanaugh** joined; Judge Henderson (appointed by President George H.W. Bush) dissented.
  3. *Ryskamp v. Commissioner of Internal Revenue*, 797 F.3d 1142 (D.C. Cir. 2015): Finding jurisdiction to review IRS denials of taxpayer hearing requests and upholding IRS's resolution of a taxpayer dispute.
    - **Judge Pillard** (appointed by President Obama) authored the majority opinion, which **Judge Kavanaugh** joined; **Judge Brown** (appointed by President George W. Bush) dissented.
  4. *American Civil Liberties Union v. DOJ*, 750 F.3d 927 (D.C. Cir. 2014): Concluding that docket information in cases where the defendant was acquitted or had the charges dismissed was exempt from disclosure under FOIA.
    - **Judge Tatel** (appointed by President Clinton) authored the majority opinion, which **Judge Kavanaugh** joined; **Judge Brown** (appointed by President George W. Bush) dissented.
  5. *Center for Biological Diversity v. EPA*, 722 F.3d 401 (D.C. Cir. 2013): Upholding environmental group's challenge to EPA rule regulating "biogenic emissions."
    - **Judge Tatel** (appointed by President Clinton) authored the majority opinion, which **Judge Kavanaugh** joined; **Judge Henderson** (appointed by President George H.W. Bush) dissented.
  6. *Honeywell International, Inc. v. EPA*, 705 F.3d 470 (D.C. Cir. 2013): Rejecting challenge to EPA's administration of cap-and-trade program regulating hydrochlorofluorocarbons.
    - **Judge Kavanaugh** authored the majority opinion, which **Judge Rogers** (appointed by President Clinton) joined; **Judge Brown** appointed by President George W. Bush) dissented.
  7. *Empresa Cubana v. Department of Treasury*, 638 F.3d 794 (D.C. Cir. 2011): Upholding statute barring renewal of certain Cuban trademarks.
    - **Judge Kavanaugh** authored the majority opinion, which **Judge Edwards** (appointed by President Carter) joined; **Judge Silberman** (appointed by President Reagan) dissented.
  8. *Adams v. Rice*, 531 F.3d 936 (D.C. Cir. 2008): Reversing the grant of summary judgment to the State Department in a disability discrimination case.
    - **Judge Tatel** (appointed by President Clinton) authored the majority opinion, which **Judge Kavanaugh** joined; **Judge Henderson** (appointed by President George H.W. Bush) dissented.
  9. *Transcontinental Gas Pipe Line Corp. v. FERC*, 518 F.3d 916 (D.C. Cir. 2008): Upholding FERC order allocating costs of pipeline expansion.

- **Judge Tatel** (appointed by President Clinton) authored the majority opinion, which **Judge Kavanaugh** joined; **Judge Brown** (appointed by President George W. Bush) dissented in part.

10. *Baker & Hostetler LLP v. Department of Commerce*, 473 F.3d 312 (D.C. Cir. 2006): Upholding challenge to agency's denial of FOIA request and fees request.

- **Judge Kavanaugh** authored the majority opinion, which **Judge Garland** (appointed by President Clinton) joined; **Judge Henderson** (appointed by President George H.W. Bush) dissented in part.