

# The Washington Post

Washington, DC

Sunday, March 24, 2002

Letter to the Editor

---

## Reversing Judge Smith

Leonard L. Fleisig's March 9 letter, "Judgment Call in the Senate," claimed that criticism of D. Brooks Smith's reversal rate is "unpersuasive. Conservative judges tend to have a higher reversal rate in liberal-leaning circuits."

The overwhelming majority of the judges who reversed Judge Smith's most controversial rulings, however, were conservative judges who were selected by Republican presidents. For example, this describes two of the three judges who unanimously reversed Judge Smith twice in the Chambers case. The 3rd Circuit explained that its second "mandamus" reversal was a "drastic remedy that a court should grant only in extraordinary circumstances in response to an act amounting to a judicial usurpation of power," and that Judge Smith "ignored both the letter and the spirit" of its prior reversal.

GLENN SUGAMELI

*Senior Legislative Counsel*

*Earthjustice*

*Washington*