

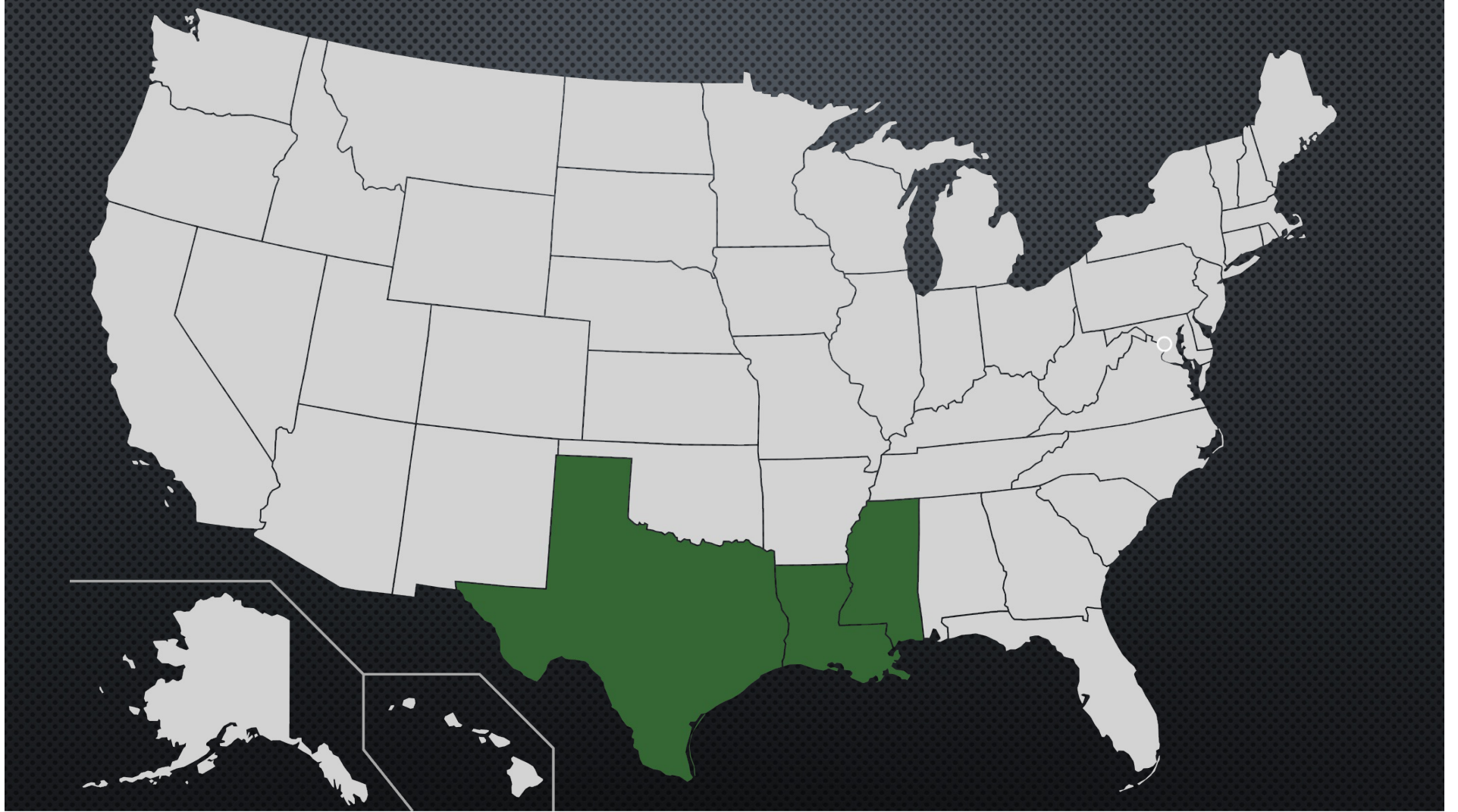
STATE OF THE FIFTH CIRCUIT ADDRESS



JOSH BLACKMAN

SOUTH TEXAS COLLEGE OF LAW HOUSTON

JUNE 15, 2022





17 ACTIVE JUDGES



2 ACTIVE REAGAN NOMINEES



Edith H. Jones
Texas
1985-Present



Jerry E. Smith
Texas
1987-Present

2 ACTIVE CLINTON NOMINEES



Carl E. Stewart
Louisiana
1994-Present



James L. Dennis
Louisiana
1995-Present

4 ACTIVE W. BUSH NOMINEES



Jennifer Walker Elrod
Texas
2005-Present



Priscilla Richman (CJ)
Texas
2007-Present



Leslie H. Southwick
Mississippi
2007-Present



Catharina Haynes
Texas
2008-Present

3 ACTIVE OBAMA NOMINEES



James E. Graves Jr.
Mississippi
2011-Present



Stephen A. Higginson
Louisiana
2011-Present



Gregg Costa
Texas
2014-2022

6 ACTIVE TRUMP NOMINEES



Don Willett
Texas
2018-Present



James C. Ho
Texas
2018-Present



Kyle Duncan
Louisiana
2018-Present



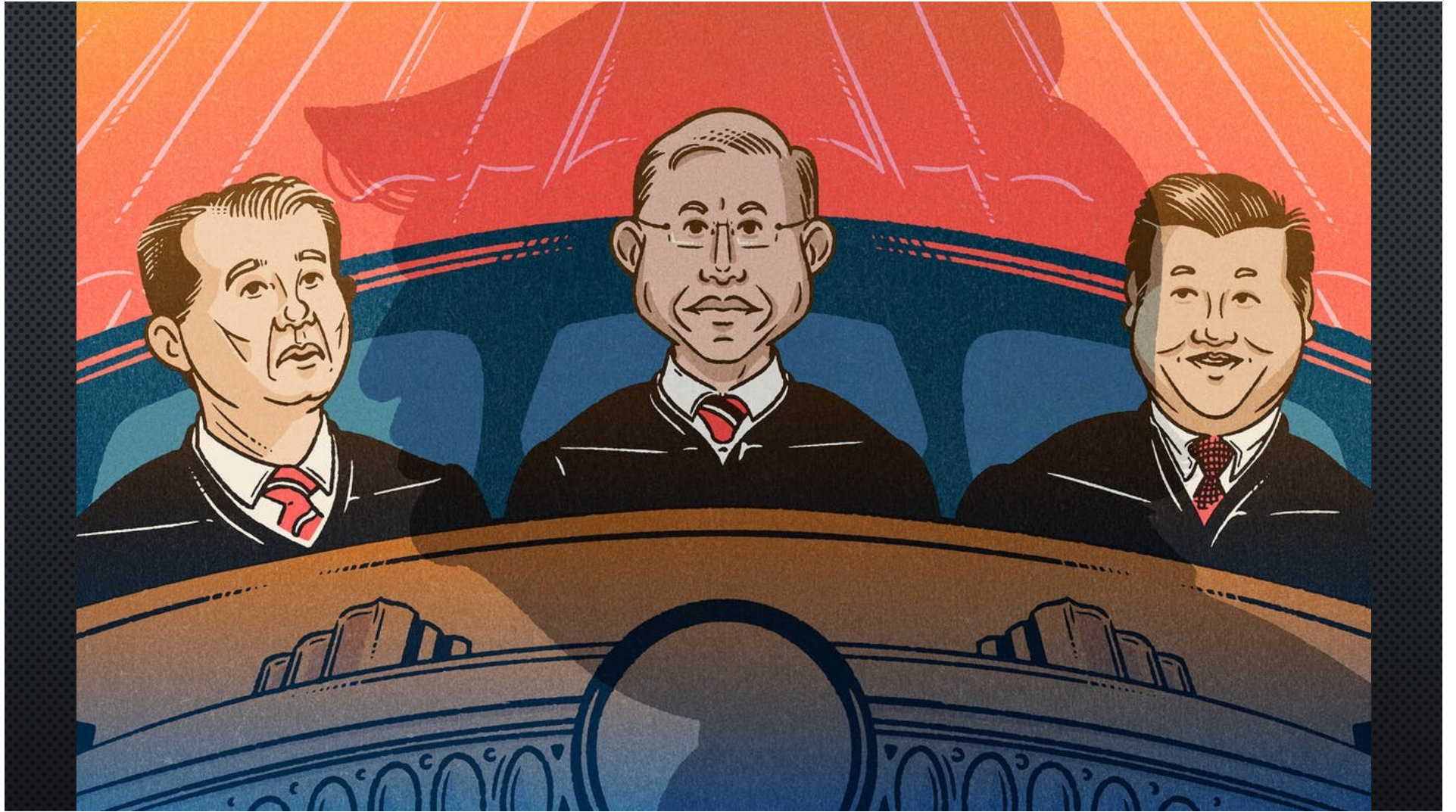
Kurt D. Engelhardt
Louisiana
2018-Present



Andy Oldham
Texas
2018-Present



Cory T. Wilson
Mississippi
2020-Present



5 ACTIVE DEMOCRATIC-APPOINTED JUDGES



12 ACTIVE REPUBLICAN-APPOINTED JUDGES





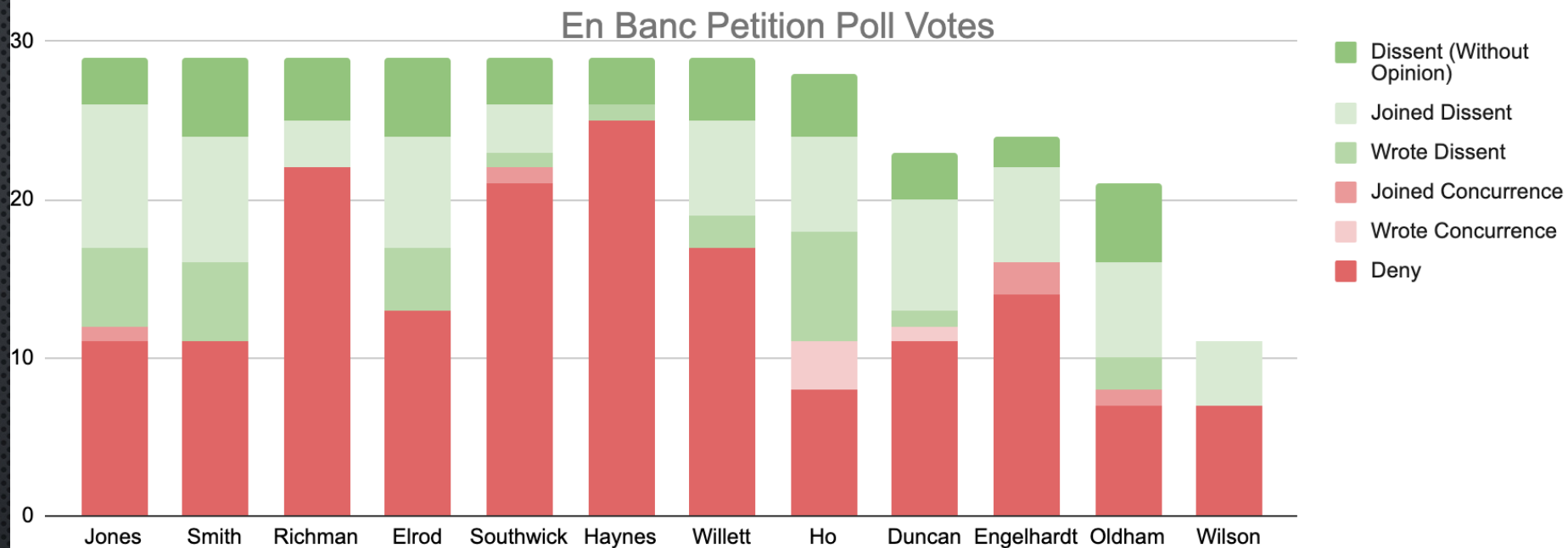
EN BANC COURT – 17 MEMBERS



MARCH 2018 – APRIL 2022

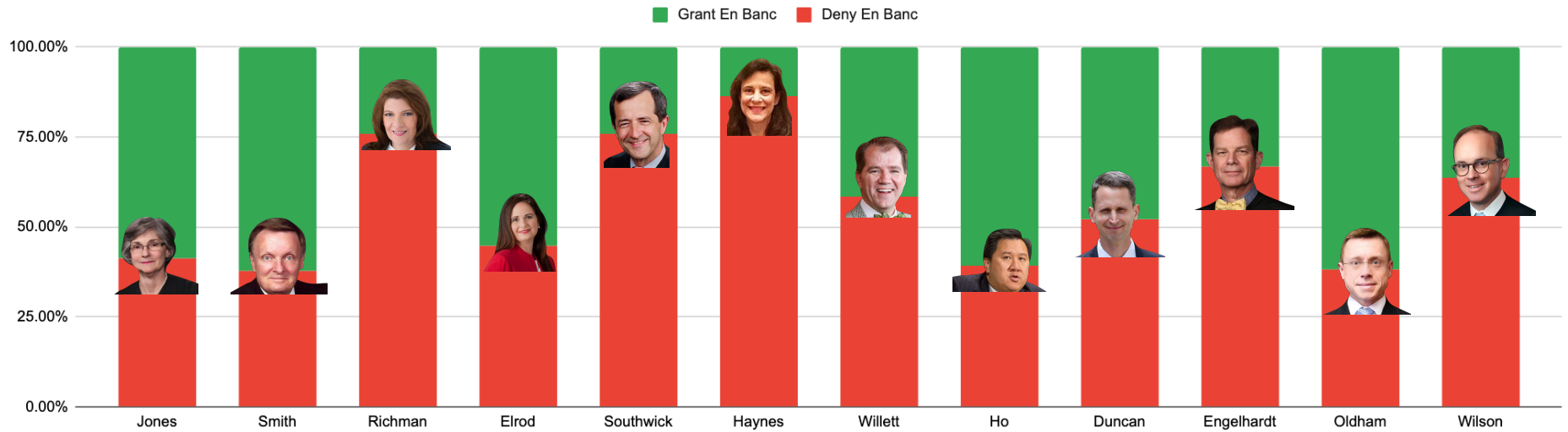
- 29* *En Banc* petition polls with at least one noted dissent.
- 22* *En Banc* cases decided on the merits.

EN BANC PETITION VOTES



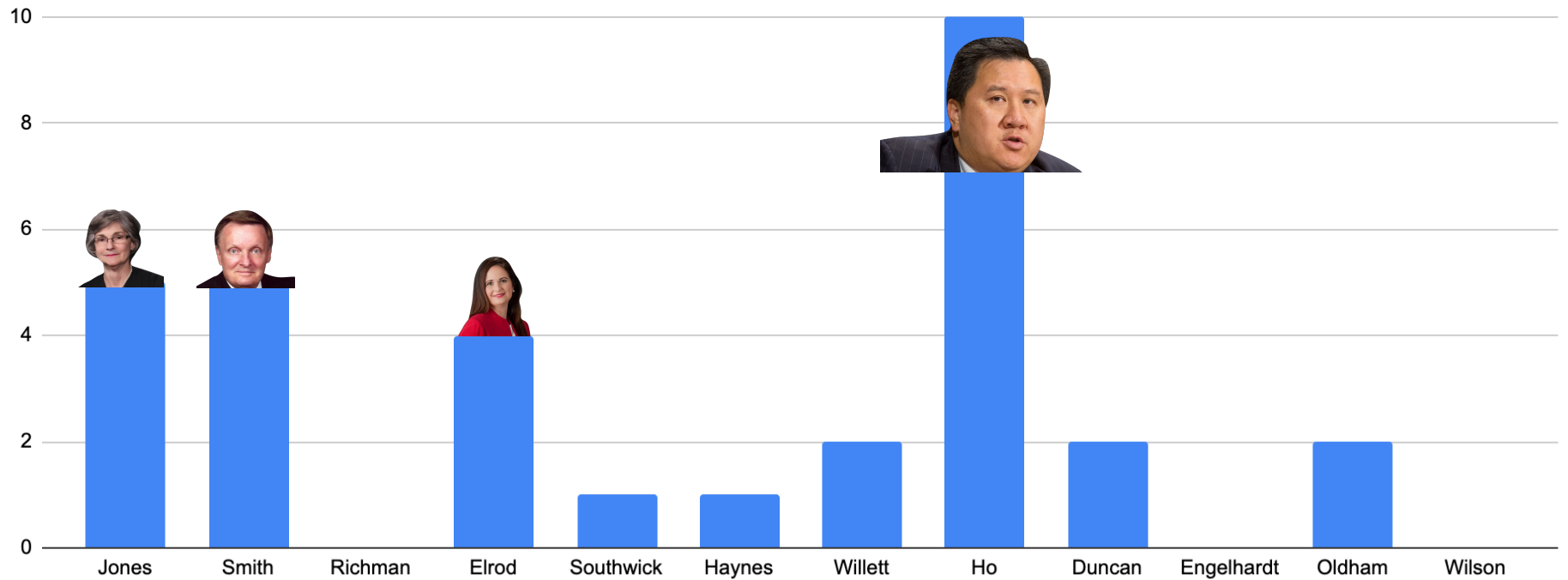
	Jones	Smith	Richman	Elrod	Southwick	Haynes	Willett	Ho	Duncan	Engelhardt	Oldham	Wilson
Deny	11	11	22	13	21	25	17	8	11	14	7	7
Wrote Concurrence	0	0	0	0	0	0	0	3	1	0	0	0
Joined Concurrence	1	0	0	0	1	0	0	0	0	2	1	0
Wrote Dissent	5	5	0	4	1	1	2	7	1	0	2	0
Joined Dissent	9	8	3	7	3	0	6	6	7	6	6	4
Dissent (Without Opinion)	3	5	4	5	3	3	4	4	3	2	5	0
Total	29	29	29	29	29	29	29	28	23	24	21	11

Votes to Grant/Deny Rehearing Petitions



	Jones	Smith	Richman	Elrod	Southwick	Haynes	Willett	Ho	Duncan	Engelhardt	Oldham	Wilson
Deny En Banc	41.38%	37.93%	75.86%	44.83%	75.86%	86.21%	58.62%	39.29%	52.17%	66.67%	38.10%	63.64%
Grant En Banc	58.62%	62.07%	24.14%	55.17%	24.14%	13.79%	41.38%	60.71%	47.83%	33.33%	61.90%	36.36%

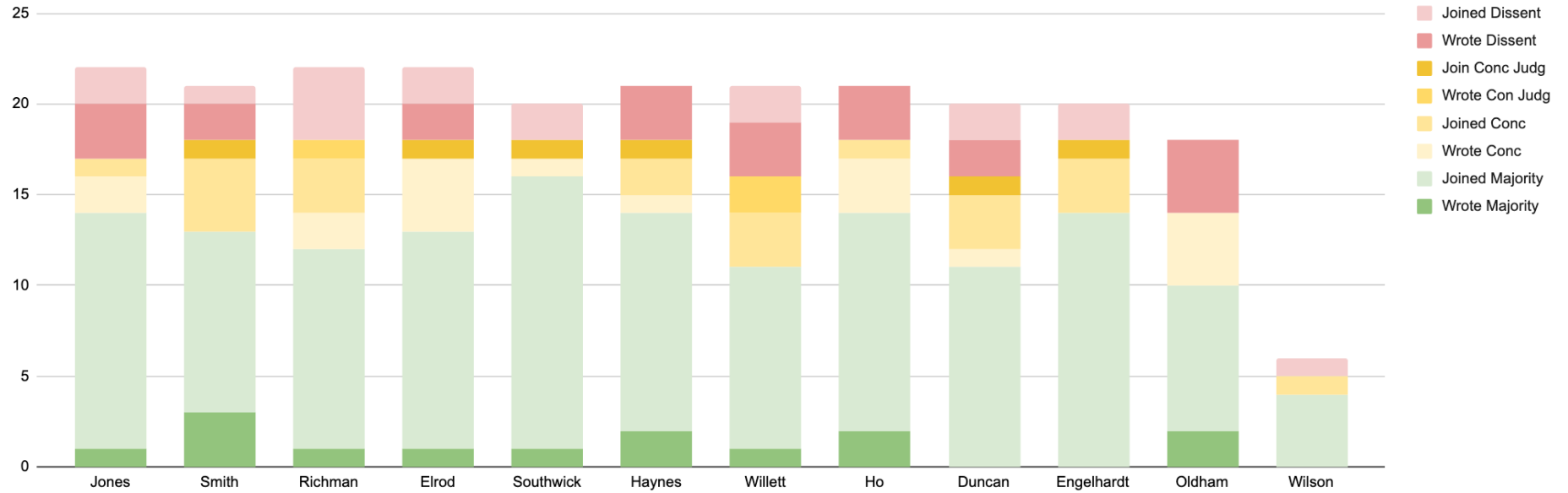
Write Separately (En Banc Petition Poll)



	Jones	Smith	Richman	Elrod	Southwick	Haynes	Willett	Ho	Duncan	Engelhardt	Oldham	Wilson
Writing Separately (Count)	5	5	0	4	1	1	2	10	2	0	2	0
Writing Separately (%)	17.24%	17.24%	0.00%	13.79%	3.45%	3.45%	6.90%	35.71%	8.70%	0.00%	9.52%	0.00%

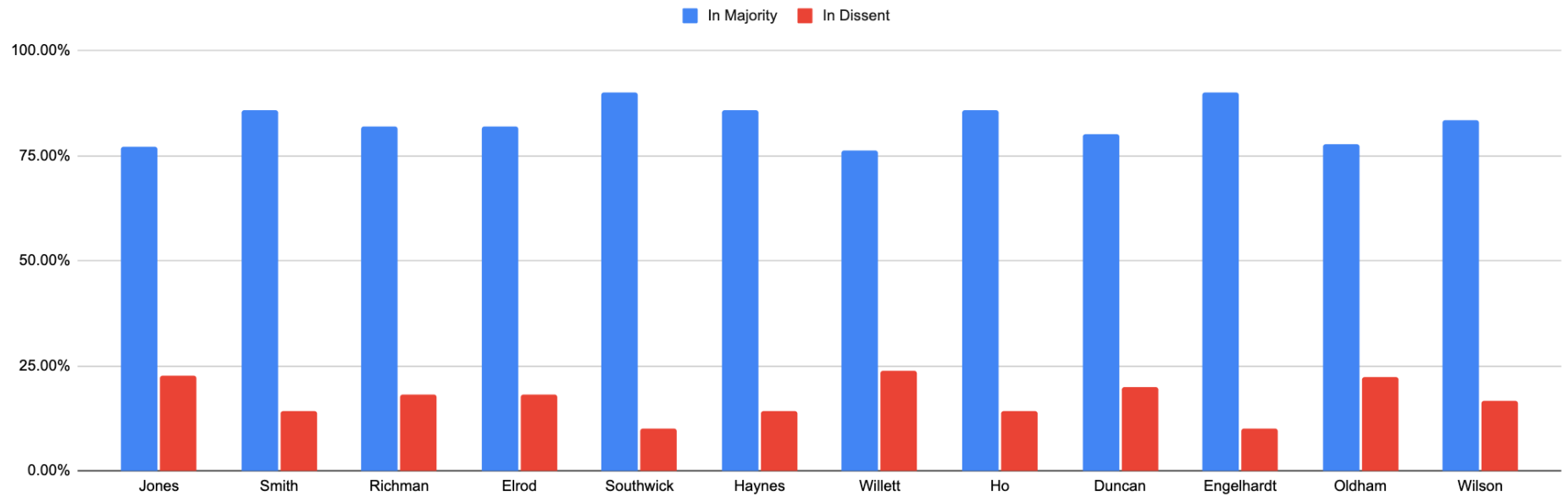
EN BANC MERITS VOTES

En Banc Merits Votes



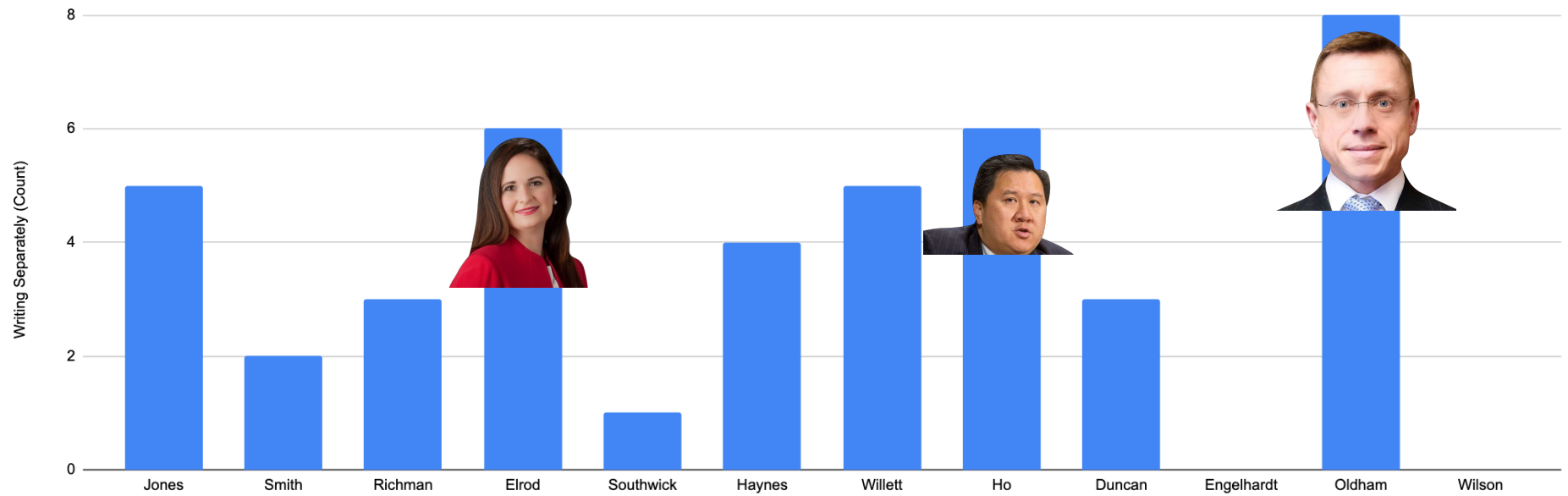
	Jones	Smith	Richman	Elrod	Southwick	Haynes	Willett	Ho	Duncan	Engelhardt	Oldham	Wilson
Wrote Majority	1	3	1	1	1	2	1	2	0	0	2	0
Joined Majority	13	10	11	12	15	12	10	12	11	14	8	4
Wrote Conc	2	0	2	4	1	1	0	3	1	0	4	0
Joined Conc	1	4	3	0	0	2	3	1	3	3	0	1
Wrote Conc Judg	0	0	1	0	0	0	2	0	0	0	0	0
Join Conc Judg	0	1	0	1	1	1	0	0	1	1	0	0
Wrote Dissent	3	2	0	2	0	3	3	3	2	0	4	0
Joined Dissent	2	1	4	2	2	0	2	0	2	2	0	1
Total	22	21	22	22	20	21	21	21	20	20	18	6

Percentage in Majority for En Banc Merit Votes



	Jones	Smith	Richman	Elrod	Southwick	Haynes	Willett	Ho	Duncan	Engelhardt	Oldham	Wilson
In Majority	77.27%	85.71%	81.82%	81.82%	90.00%	85.71%	76.19%	85.71%	80.00%	90.00%	77.78%	83.33%
In Dissent	22.73%	14.29%	18.18%	18.18%	10.00%	14.29%	23.81%	14.29%	20.00%	10.00%	22.22%	16.67%

Write Separately (Merits Stage)

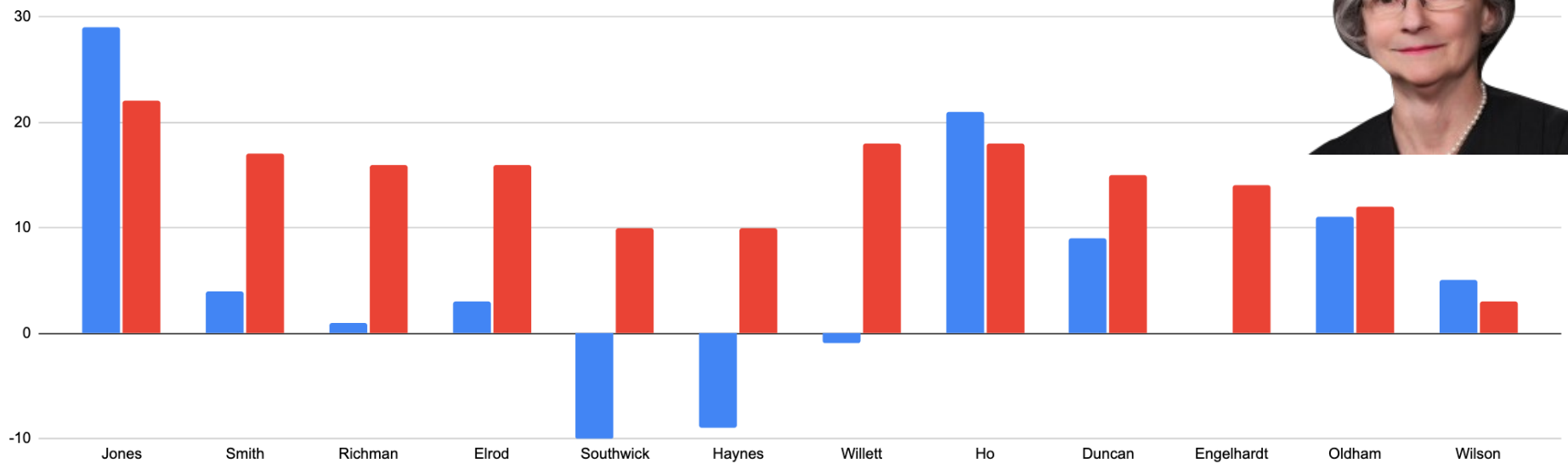


	Jones	Smith	Richman	Elrod	Southwick	Haynes	Willett	Ho	Duncan	Engelhardt	Oldham	Wilson
Writing Separately (Count)	5	2	3	6	1	4	5	6	3	0	8	0
Writing Separately (%)	22.73%	9.52%	13.64%	27.27%	5.00%	19.05%	23.81%	28.57%	15.00%	0.00%	44.44%	0.00%

EHJ SCORES

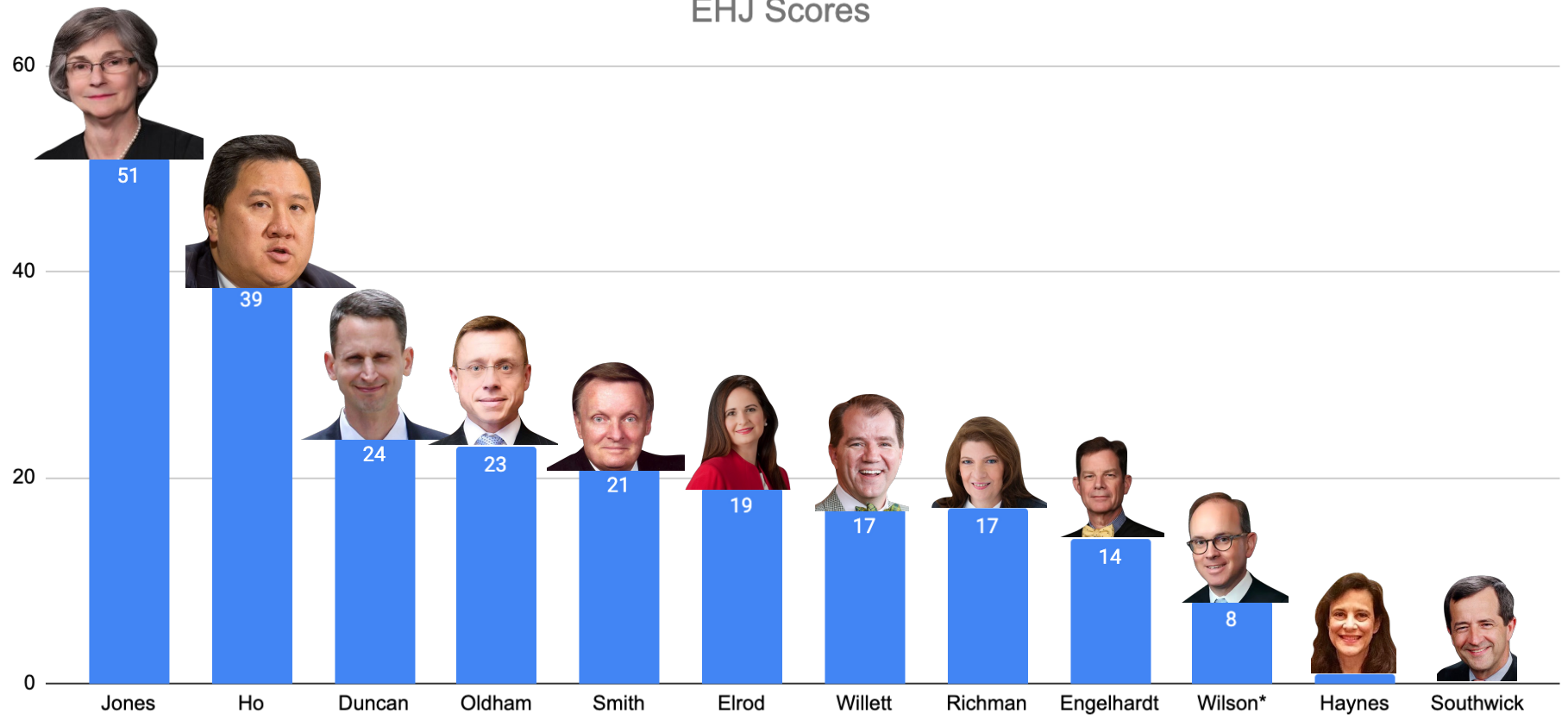
Keeping up with E. Jones

■ Poll Score ■ Merits Score



	Jones	Smith	Richman	Elrod	Southwick	Haynes	Willett	Ho	Duncan	Engelhardt	Oldham	Wilson
Poll Score	29	4	1	3	-10	-9	-1	21	9	0	11	5
Merits Score	22	17	16	16	10	10	18	18	15	14	12	3
	51	21	17	19	0	1	17	39	24	14	23	8

EHJ Scores



CONSERVATIVE DIVIDES

HEWITT V. HELIX ENERGY SOLUTIONS

JAMES C. HO, *Circuit Judge*, joined by SMITH, STEWART, HAYNES, GRAVES, HIGGINSON, COSTA, WILLETT, DUNCAN, ENGELHARDT, OLDHAM, and WILSON, *Circuit Judges*:

EDITH H. JONES, *Circuit Judge*, joined by OWEN, *Chief Judge*, and WIENER, ELROD, and SOUTHWICK, *Circuit Judges*, dissenting:



OLIVER V. ARNOLD (10-7)

DENY REHEARING EN BANC



GRANT REHEARING EN BANC



SAMBRANO V. UNITED AIRLINES



QUESTIONS?