

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
July 7, 2004

Hearing on Judicial Nominations
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Today, the Judiciary Committee is holding its 12th judicial nominations hearing of 2004. We will now have held hearings for 26 judicial nominees, nine for the circuit courts of appeals and 17 for the district courts.

This is double the number of hearings for judicial nominees that were held in all of 1996 when President Clinton was in the White House. Indeed, by this date in 1996, the last year of that presidential term, the Committee had held only four hearings to consider judicial nominees. The comparison to the number of hearings in 2000, another presidential election year, is also striking. That year, only eight nominations hearings were held all year, and by this date in 2000, the Committee had held only six hearings to consider judicial nominees. Thus, we have now tripled the number of hearings held by this date in 1996 and doubled the number of hearings held by this date in 2000.

The Judiciary Committee has now held considerably more hearings for judicial nominees this year than were held by this date in any of the past six years of Republican control of the Committee during the Clinton Administration. By this date in 1995, the Republican majority had held only six hearings; in 1996, only four hearings; in 1997, only three hearings; in 1998, only seven hearings; in 1999, only one hearing; and, in 2000, only six hearings. Furthermore, we have now held more hearings than were held in all of five of the past six years of Republican control under President Clinton. In fact, the Republican majority averaged nine hearings per year during their past six years in control. We have now exceeded that average by 33 percent.

Senate Democrats have been much more cooperative with this President than Republicans were when President Clinton was in the White House. Democrats on this Committee and in the Senate have shown great restraint and extensive cooperation in the confirmation of 198 of this President's judicial nominations. We have reduced circuit court vacancies to the lowest level since the Republican Senate leadership irresponsibly doubled those vacancies in the years 1995 through 2001 by obstructing President Clinton's moderate and qualified nominees.

Today we are considering the nomination of Michael Schneider to the U.S. District Court for the Eastern District of Texas. He currently serves on the Supreme Court of Texas, where he has served since September 2002. Prior to serving on the Texas Supreme Court, he spent 12 years on the State bench as a trial and appellate judge. He has a reputation as a conservative, but fair-minded judge. On the Texas Supreme Court, he has only authored a few opinions to date, but

they lay out the facts and the law with no hint of a personal bias. Justice Schneider shows a willingness to listen to all litigants and to be fair. Unlike some of his more conservative colleagues on the court, Justice Schneider has not been a judicial activist and has not distorted the law to benefit corporations at the expense of consumers and injured individuals. In contrast, his opinions have focused on statutory interpretation, proper trial procedures, and the rule of law.

I would note that, like his colleagues on the court, Justice Schneider campaigned for his seat on the high court and received campaign donations from a number of lawyers, including employees at large defense firms. However, in contrast to Justice Owen, who received 17 percent of her total campaign contributions in 1994 from the two leading business tort political action committees and consistently ruled in their favor, Justice Schneider received only 1 percent of his total contributions from such groups with self-employed donors constituted the largest share of his donations.

Throughout his career, Justice Schneider has demonstrated a commitment to serving those less fortunate, by developing a mock trial program at a school in an impoverished neighborhood, participating in Habitat for Humanity projects, establishing alternative dispute resolution programs, and working with the State Bar of Texas to increase access to justice.

Justice Schneider makes the 16th district court nominee of President Bush's from the State of Texas that has received a hearing before the Senate Judiciary Committee. To date, President Bush has had 15 of his nominees to the district courts in Texas confirmed. Mr. Schneider is nominated to the only current vacancy remaining in the Texas federal courts.

This is in great contrast to the fate of many of President Clinton's nominees from Texas, who were blocked and delayed by the Republican majority, including Enrique Moreno, nominated to the Fifth Circuit Court of Appeals who never got a hearing, never got a vote; Jorge Rangel, nominated to the Fifth Circuit Court of Appeals who never got a hearing, never got a vote; Hilda Tagle to the District Court, whose confirmation was delayed nearly two years without any legitimate reason ; and Michael Schattman to the District Court, who withdrew his nomination after waiting for more than two and a half years without getting a hearing or a vote.

Judge Jorge Rangel was a former Texas state judge and a dedicated attorney in private practice in Corpus Christi, Texas when President Clinton nominated him to the United States Court of Appeals for the Fifth Circuit in 1997. Mr. Rangel is a graduate of the University of Houston and the Harvard Law School and earned a rating of AWell Qualified@ by the American Bar Association. Yet, under Republican leadership, he never received a hearing on his nomination, let alone a vote by the Committee or by the full Senate. His nomination languished without action for 15 months.

After Judge Rangel, disappointed with his treatment at the hands of the Republican majority, asked the President not to resubmit his nomination, President Clinton nominated Enrique Moreno, a distinguished attorney in private practice in El Paso, Texas and a native of Mexico. Mr. Moreno is a graduate of Harvard University and the Harvard Law School. He was given the highest rating of unanimous "Well Qualified" by the ABA. Mr. Moreno also waited 15 months, but was never given the courtesy of a hearing before the Senate Judiciary Committee. President Clinton re-nominated him at the beginning of 2001, but President Bush, missing an opportunity

for bi partisanship, withdrew the nomination after a short time and later sent Justice Owen's name in its place.

The Republican majority did not show half as much courtesy to President Clinton's district court nominees in Texas as it has now to President Bush's. For example, Judge Hilda Tagle waited for more than two a half years before she was given a hearing and subsequently confirmed to the District Court for the Southern District of Texas. Michael Schattman, a well-qualified Catholic nominee of President's Clinton from Texas, also waited for more than two and a half years without being given a hearing or a vote on his nomination to the District Court for the Northern District of Texas.

In contrast, Justice Schneider was nominated on May 17, 2004 and is receiving a hearing less than two months later. I look forward to hearing from Justice Schneider today.