

**Senate Judiciary Committee Hearing on Nominations**  
**March 21, 2018**  
**Senator Durbin – Opening Remarks**  
**Full Statement for the Record**

I want to welcome the nominees and their families and guests to today's hearing. I will make a few comments before we proceed with the introduction of the nominees.

First, I want to note that each of today's nominees has received blue slips from both of their home state Senators. That's exactly the way it should be. For the last century, the blue slip process has worked well to encourage negotiation and meaningful consultation between the White House and Senate when it comes to making lifetime appointments to the federal bench. The blue slip serves as a check and a balance, helping to steer the judicial selection process toward the center stripe.

I appreciate the White House's consultation with Senator Duckworth and me on filling the two 7<sup>th</sup> Circuit vacancies from Illinois. We had good faith negotiations and a substantive back-and-forth. I also appreciate that the White House respected our tradition in Illinois of having an expert screening committee take the time to review candidates and give their advice to us Senators. This process resulted in the selection of a pair of Illinois 7<sup>th</sup> Circuit nominees who we could all agree upon. That's a good thing. It's the way the process is supposed to work.

These nominees are unquestionably well-qualified. And while one was previously appointed by a Republican President and the other served in a Republican Administration, neither nominee is a partisan ideologue. They are both well within the legal mainstream. In short, they are the type of nominees that Senate Democrats are willing to support from a Republican Administration.

I hope the example we have shown in Illinois will cause the White House and the majority in this Committee to reflect upon and reconsider what has happened with another 7<sup>th</sup> Circuit nominee, Michael Brennan. Senator Baldwin and Wisconsin's bipartisan screening commission were effectively cut out of the process that led to Mr. Brennan's nomination. And last month this Committee disregarded both the blue slip and the traditional Wisconsin screening committee process in reporting Mr. Brennan out of Committee on a party line vote. This did not have to happen, and it takes us down a troubling path.

I know that Senators in both parties like to quibble over precedents and point fingers at each other when it comes to blue slip disputes. But I think all Senators understand that we have a fundamental responsibility to our constituents to exercise a vigorous advice and consent role when it comes to federal judges in our home states. And it should be unsettling to all of us if any Senator is cut out of the judicial selection process in that Senator's state.

It's not too late to change course with the Wisconsin 7<sup>th</sup> Circuit vacancy. I hope our example in Illinois shows that there is a better way – a path of good faith negotiations that can lead to compromise while respecting the Senate's important traditions and home-state practices.

Finally, I want to note that we have two Circuit Court nominees appearing on the same witness panel today. So far, this has happened five times under President Trump in 14 months. It only happened three times during the entire eight years of the Obama presidency, and each of those times the minority and majority parties consented to the arrangement.

Sometimes there are legitimate reasons for considering two Circuit nominees on the same day - such as today, when the nominees are from the same state and were nominated at the same time. I do not object to today's witness lineup. But we need to be careful. This Committee must carefully vet nominees for lifetime appointments to the Circuit Courts. These nominees often have thousands of pages of materials and cases for us to review. We should not consider more than one Circuit nominee per hearing unless the minority side has consented to the arrangement. That is a reasonable way for the Committee to proceed, and I hope that is how we will proceed for the rest of this Congress.

I thank the Chairman.