

August 14, 2007

Senator Patrick Leahy
Chairman, United States Committee on the Judiciary
Washington, DC 20510-6275

Dear Chairman Leahy:

Thank you for the opportunity to testify at the Committee's Civil Rights Division Oversight hearing earlier this summer. Thanks too for the opportunity to respond to Senator Durbin's follow-up questions. Please forgive my delay in responding to your letter: over the summer I moved across the country to take a new job at the University of Colorado School of Law and your letter addressed to my former address at the University of Maryland School of Law did not reach me until August. My apologies for any inconvenience.

One of Senator Durbin's questions inquired about current Employment Litigation Section chief David Palmer's nomination to fill a vacancy on the Equal Employment Opportunity Commission. I understand that Mr. Palmer has since withdrawn his name from consideration for that position. For that reason, I will focus on Senator Durbin's remaining question:

Question: Professor Norton, your testimony paints a very troubling picture of this Administration's weak efforts when it comes to enforcing Title VII – our nation's most important employment discrimination statute. We have heard a lot of criticism in recent months about Civil Rights Division personnel practices and politicization of voting rights cases, but your testimony is one of the first critiques of this Administration's Title VII enforcement shortcomings. You have shown that this Administration's efforts to combat employment discrimination against African Americans, Latinos, and women is woefully inadequate. To what do you attribute this troubling trend? Is it the fault of the political appointees in the Civil Rights Division, the section chief in the Division's Employment Litigation Section, or other Justice Department and White House officials?

Response: Executive branch political leaders are ultimately accountable to the public for the success or failure of federal law enforcement efforts, as the political leadership is responsible for setting enforcement priorities and directing the work of career attorneys in achieving those enforcement goals. The Division's performance is thus the result either of the political leadership's choice of enforcement priorities or its failure adequately to hold career leaders accountable for their work. To be sure, career leaders play an instrumental role in helping identify priorities, sharing their insights about effective enforcement strategies, and supervising the day-to-day work of dedicated career professionals. But, in the end, political leaders in the Division -- as well as elsewhere in the Department of Justice and the White House -- are responsible

for enforcement deficiencies. Such shortcomings could be attributable to any or all of the following: failing to communicate that Title VII enforcement of all types should be a priority, failing to devote sufficient resources to enforcement efforts, failing to retain or select career leaders committed to those efforts, and/or failing to monitor, supervise, and hold career leadership accountable for their performance.

Again, thank you for the opportunity to provide testimony on the important matter of the Civil Rights Division's Title VII performance efforts. Please do not hesitate to contact me if I can be of any further help.

Sincerely,

/s/

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