

Testimony of

# **The Honorable Orrin Hatch**

April 11, 2002

I am pleased that the Judiciary Committee is considering the nominations of seven exceedingly well-qualified candidates for the federal bench, and I would like to welcome you to the Committee.

Before we discuss the excellent credentials of today's nominees, however, I must take just a minute to make an observation about how this hearing fits into the bigger picture of the Committee's work on judicial nominations.

Today marks the 337th day since President Bush announced his first 11 picks for the federal bench. Eight of those nominations have been languishing in this committee for nearly a year with no commitments for hearings or votes any time soon. All eight received the ABA's majority rating of either well-qualified or qualified. Among these are some of the very best lawyers in the history of our country, including Miguel Estrada, John Roberts and Michael McConnell, just to name three.

This Committee's unwillingness to move more expeditiously on these nominations is exacerbating the circuit court vacancy crisis that exists in America today. Nearly one in five circuit court seats is vacant all across America. When President Bush sent up his first nominees we had 31 circuit court vacancies, and today we still have 31 vacancies. The DC Circuit Court of Appeals is one-third vacant and the 6th Circuit is 50-percent vacant.

President Bush has responded to the circuit court vacancy crisis by rapidly nominating top-notch men and women. The only obstacle standing in the way of the nominees' ability to serve the American people is this Committee.

I am glad that we will consider a circuit court nominee today, but I will point out that in years past under Republican leadership, we regularly considered two or more circuit nominees at a time. In fact, we did so on ten different occasions.

I'm also particularly pleased to see nominees John Walter and Percy Anderson from the Central District of California here - and I'll bet they are happy to be here today too - considering it's been 10 years since they were initially nominated to their seats during the first Bush Administration. They were both nominated in March of 1992, but unfortunately the Senate - which was controlled by the Democrats at the time - denied them a hearing.

Interestingly, they are not the only nominees pending before the Committee today who were nominated by the first President Bush nearly 10 years ago. Terrence Boyle for the 4th Circuit, John Roberts for the D.C. Circuit, Henry Saad for the 6th Circuit, Leonard Davis for the Eastern District of Texas, Andrew Hanen for the Southern District of Texas, Ronald Leighton for the Western District of Washington, and Richard Dorr for the Western District of Missouri - all seven

of these nominees were also nominated by the first President Bush, but never received Committee action at that time. I hope that they too will soon receive their long-awaited hearings.

Now, although I would like to explain my support for each of the seven excellent nominees before us today, in the interest of time, I am going to ask Chairman Kohl if the balance of my remarks could be included in the record at this point. That way, we will have more time for the introductions from Members and for the nominees themselves. Let me just say that you are all excellent nominees and I am going to support all of you. I will work with my colleagues for your swift confirmation.

Jeffrey Howard's nomination to the First Circuit Court of Appeals is one more example of the quality appointments that President Bush is making. Mr. Howard has the record of a great attorney and a great public servant. He has served his communities in elected and appointed office and in a myriad public and volunteer undertakings. The people of New Hampshire can be proud of him.

As New Hampshire's Attorney General, he wrote and implemented one of the nation's first effective comprehensive state wide interdisciplinary protocols to combat domestic violence. He also led the fight in New Hampshire for consumers that were the victim of fraudulent businesses. As Principal Associate Deputy Attorney General for the Justice Department, Mr. Howard was a top advisor to Attorney General William Barr, in the areas of asset forfeiture, drug enforcement, and civil rights.

Percy Anderson, nominated to be U.S. District Judge for the Central District of California, began his career representing indigent clients in civil matters. He later became an Assistant U.S. Attorney in Los Angeles, where he spent six years as First Assistant Division Chief, managing criminal division affairs in the absence of the Chief of the division. In 1985, he joined the Bryan Cave firm, specializing in white collar criminal defense and aviation litigation. In 1996, Mr. Anderson became a partner with Sonnenschein Nath & Rosenthal, a Los Angeles firm, where he focuses on commercial litigation, intellectual property, products liability, false claims, and white collar criminal defense work.

Michael Baylson, nominated to be U.S. District Judge for the Eastern District of Pennsylvania, is familiar with that district because he has served as the United States Attorney there. In that capacity, he developed a reputation for adopting new and successful strategies for the war on drugs, including the tactic of identifying a drug gang, then infiltrating it to learn all its members and indict them en masse. He also was an early proponent of the "Weed and Seed" program designed to "weed out" drug dealers from a community and then "seed" those communities with social services and financial support.

William C. Griesbach, nominated to be U.S. District Judge for the Eastern District of Wisconsin, comes to us with seven years of experience on the bench, having served as a Wisconsin State Circuit Court Judge since 1995. Prior to his elevation to the bench, Judge Griesbach obtained substantial experience in both criminal and civil litigation: He spent eight years as an Assistant District Attorney for Brown County Wisconsin handling criminal matters, and five years before that at a Green Bay, Wisconsin law firm working on civil cases.

Joan E. Lancaster, nominated to be U.S. District Judge for the District of Minnesota, began her career as an Assistant City Attorney, trying approximately 12 jury and 40 court trials during her service. She then spent ten years as an Assistant U.S. Attorney for the District of Minnesota. After two years of private practice, Justice Lancaster was named as a District Court Judge in the 4th Judicial District in Minnesota. Since 1998, she has served as an Associate Justice on the Minnesota Supreme Court.

Cynthia M. Rufe, nominated to be U.S. District Judge for the Eastern District of Pennsylvania, is another example of how President Bush has tried to create a diverse federal judiciary. Judge Rufe can only be described as a true champion of the rights of children and women. She also was a high school teacher. In addition to her charity work, Judge Rufe has also run the gambit of the legal profession. She was a Public Defender for 5 years and went on to start her own private practice. As a judge, she was appointed by the Pennsylvania Supreme Court and served with distinction as a member of the Appellate Procedural Rules Committee.

John F. Walter, nominated to the U.S. District Court for the Central District of California, has gained experience in private practice and government service. Mr. Walter has served as an Assistant U.S. Attorney in the Criminal Division, Fraud and Special Prosecutions Unit, where he prosecuted the then-largest bank burglary in the U.S. He has been in private practice since 1972, working not only as a civil litigator but also as a criminal defense lawyer. As a member of the Federal Indigent Defense Panel, Mr. Walter has represented more than 75 indigent defendants charged with federal crimes in federal court and devoted thousands of pro bono hours to these cases.

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