Testimony of

Ms. Bonnie Campbell

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Mr. Chairman and Committee Members. Good morning. It is a pleasure for me to be here today to discuss the federal judicial selection process and to share a little about my own experience as a nominee within that process.

By way of introduction, let me discuss briefly the salient aspects of my background. I was born and raised in upstate New York but spent most of my adult life in Iowa. I attended Drake University and Drake Law School. After law school, I joined a law firm in Des Moines and engaged in the general practice of law. In 1991, I was sworn in as Iowa's Attorney General and began a legal career in the public sector. In 1995, I was appointed by President Clinton as the first Director of the Violence Against Women Office in the U.S. Department of Justice, where I also served as Counsel to the Attorney General. After my tenure at the Department of Justice, I joined the Arent Fox Law Firm here in the District of Columbia.

In 1999, I learned that one of the Iowa Judges serving on the Eighth Circuit had announced his pending retirement, thus creating a vacancy on the Court. Believing that my experience as an attorney in private practice, as Iowa Attorney General, and as Director of the Violence Against Women Office and Counsel to the Attorney General had prepared me well for a position as an appellate judge, I informed the White House of my interest in applying for the position. I commenced the paperwork to begin the vetting process for the FBI, the American Bar Association, the Department of Justice, and this Committee.

President Clinton nominated me for the United States Court of Appeals for the Eighth Circuit on March 2, 2000. I was pleased and proud to have been nominated and to have the support of both of my Senators -- Senator Grassley and Senator Harkin. Indeed, Iowa's two Senators have had a history of bipartisan support for judicial nominees for Iowa and Eighth Circuit vacancies.

The Senate Judiciary Committee scheduled my confirmation hearing for May 25, 2000, and I felt privileged to have the opportunity to appear before the Committee to answer any questions the Senators might have of me. Both Senator Harkin and Senator Grassley took time from their busy schedules to attend my hearing, make introductory remarks, and express their support for my nomination. From my own experience and the observation of more astute observers than I, it seemed that my confirmation hearing was cordial, even friendly; certainly there was no hint that my nomination was controversial or contentious in any fashion.

After the hearing, I received written follow-up questions from a number of Senators, and I responded to those questions as quickly as possible. I received further written questions until late June. I answered each Senator's question as completely and honestly as I could. And, then I waited.

By roughly July, 2000, after my confirmation hearing and after I had answered many follow-up questions from various Senators, there was no indication that the Senate Judiciary Committee intended to schedule my nomination for a vote. The Senate leadership began publicly stating that the White House had submitted some nominations so late in the session that the Committee would not be able to schedule further hearings or votes on nominees, especially those nominated for the appellate courts. However, this "It's too late" excuse turned out not to be a hard and fast rule. A nominee for the Ninth Circuit and two district court nominees were all nominated on July 21, 2000 (more than four months after I was nominated), provided a hearing four days later (July 25, 2000), voted out of committee two days later (July 27, 2000), and confirmed by the Senate on October 3, 2000 These confirmations are evidence that the Senate had the capacity to move nominees through the process quickly when there was a determination to do so.

Despite the fact that Senator Harkin went to the Senate floor nearly every day pleading with the Senate leadership to schedule a vote on my nomination, I never got a vote in the Senate Judiciary Committee; consequently, I never got a vote of the full Senate. And, of course, I was never told why there was no vote on my nomination. At that time, an individual Senator could put an anonymous hold on a nominee, and I heard rumors that various Senators had put a hold on my nomination. There were other rumors: one offered the possibility that the President's recess appointment of a Justice Department official so angered certain Senators that the Senate retaliated by not confirming any more circuit court nominees; another speculated that the Majority Leader had simply decided to stop the judicial selection process completely until after the November election, hoping to avoid confirming any more Clinton nominees to the courts. This latter theory is, of course, the most likely explanation for the refusal to confirm judicial nominees, and, certainly, the one to which I ascribe.

To say that I was disappointed is an understatement. My own circumstance aside, I always appreciated that, compared to others whose nominations similarly landed in limbo, I was probably relatively better positioned. I was caught up in the process for nearly two years. However, at least I did not have a private legal practice to worry about while I was shuttled along an emotional roller-coaster for those many months. For those nominees who were in private practice or the private sector, I wondered often whether their businesses stayed afloat through the ups and downs of a long and painful judicial selection process.

Last week, President Bush declared a vacancy "crisis" in the federal courts and suggested that the slowness of the process is "endangering the administration of justice in America." In my view, President Bush could have simultaneously underscored his deep concern for the vacancy level in the federal judiciary and demonstrated a bipartisan approach to filling those vacancies by re-nominating a number of individuals who had already been through the most time-consuming aspects of the process, rather than withdrawing their names when his new Administration came to office.

Considering the context of that moment -- a sharply and narrowly divided electorate (the President assumed office after receiving less than fifty percent of the popular vote), a divided Congress (so competitive that the switch of one person changed control of the Senate), a divided Supreme Court (most key decisions are 5 to 4) -- such a wonderful show of bipartisanship would not only have reduced the vacancy level within the federal judiciary but also set a positive,

constructive tone for filling future vacancies, one that, in the end, would have served the new President well.

I say today in earnest that, even now, President Bush could make a bipartisan gesture of good will by re-nominating some of those individuals who were never given the opportunity for a hearing or a vote. Just to assure that no one views this particular comment as self-serving, let me point out that the vacancy for which I was nominated has been filled now by a capable and decent man whom I consider a friend..

Recently, President Bush said that every nominee for the federal bench should be given a vote of the Senate, and I agree with him. There may have been Senators who opposed my nomination for one reason or another -- certainly, I suspect that to be the case -- but I will never know, because, like so many others, my nomination died in Committee.

Much has been said about whether it is appropriate for Senators to consider a nominee's "ideology" in the performance of their Constitutionally-mandated duty of advise and consent. Again, given the divisions within our society and its governmental institutions, common sense suggests that it would behoove the President to consult with the Senate on potential nominees in an honest attempt to assure that the candidates under consideration are within the mainstream of American thinking.

Any discussion of the judicial nominating process would be incomplete without at least a passing comment addressing the massive, duplicative paperwork which is required of potential nominees. For me these forms included: the ABA Personal Data Questionnaire; the Senate Judiciary Committee Questionnaire; two Justice Department questionnaires dealing with my family's financial affairs and my medical condition; and the FBI Background Investigation Forms. I certainly appreciate that anyone seeking a life-time appointment to the bench should be carefully vetted, but a consolidation of the various forms designed to eliminate duplication is definitely in order.

I close by expressing again my appreciation for the opportunity to appear on this panel discussing the federal judicial selection process. I wish you well in your deliberations of this very important topic.

Thank you.