

Testimony of

The Honorable Jorge Rangel

May 9, 2002

Mr. Chairman, Members of the Subcommittee:

On July 24, 1997, President Clinton nominated me to the United States Court of Appeals for the Fifth Circuit. Almost five years later, I welcome this opportunity to appear before a committee of the United States Senate to discuss that nomination. I must confess that this hearing is not exactly what I envisioned when my nomination was announced. At the time, I fully expected that, in due course, the Senate Judiciary Committee, in discharging its advice and consent responsibilities under the Constitution, would conduct a hearing to review my background and qualifications.

I was sadly mistaken, because the hearing never materialized. My nomination died the following year when the Senate adjourned on October 21, 1998. The next day I wrote the President, requesting that my nomination not be resubmitted in the next session of Congress, because, personally and professionally, I could not continue to place my life on hold while waiting to see if the political forces at play would favor me with a hearing. The delay had taken its toll and it was time to move on.

The confirmation process was grueling and time-consuming, but I did everything that was asked of me. I invested almost two years of my life in the process, starting in early 1997 when my name first surfaced as a possible nominee to fill a vacancy that exists to this day. I underwent extensive background checks by the FBI, the Justice Department and the White House. After the ABA Committee completed its investigation into my professional qualifications, I received a well qualified rating. I filled out countless forms containing every conceivable question concerning every aspect of my adult life, including detailed financial information.

After my nomination was forwarded to the Senate, a cross section of the Texas legal community, including Democrats and Republicans, sent dozens of letters to Senators Gramm and Hutchison urging my confirmation. In September 1997, I met with the senators' state-wide advisory committee of lawyers which advised them on judicial nominations. The committee asked numerous questions about my legal experience and about my views on the role of the judiciary in our society. In May 1998, at my request, I met privately and separately with Senator Gramm and Senator Hutchison to discuss the status of my nomination and to answer their individual questions. During those meetings, I made a personal plea for a hearing. They stated that they were still considering my nomination and would let me know if I needed to submit any additional information. As the weeks of delay turned into months, nothing seemed to bring me closer to a hearing. Each letter of support triggered a form response acknowledging receipt and stating that my background and credentials were under review. While my nomination was pending, I was inducted as a Fellow of the American College of Trial Lawyers, one of the legal profession's most prestigious organizations, whose membership is limited to lawyers who have distinguished themselves in the courtroom. The president of the group, the late Ed Brodsky from New York, asked me to give the response speech on behalf of all the inductees at the induction ceremonies. I duly reported the news to those reviewing my nomination, but it was of no

apparent consequence.

When the one year anniversary of my nomination passed without a hearing, it became clear that there was nothing that I could do to open the doors to the hearing room of the Senate Judiciary Committee. The doors remained closed until the end. I was never given a reason why my nomination did not merit a hearing.

Even with the passage of time, I find it difficult to reconcile my experience in the confirmation process with the basic notions of fair play, justice and due process that have guided me in my career. Moving from the past to the present, I am somewhat troubled at the ease with which some are now attacking the pace of judicial confirmations while choosing to ignore or forget what happened to so many of President Clinton's judicial nominees. We have become mere historical statistics in a never ending numbers games. With all due respect, I would like to raise my voice to underscore the point that those statistics represent real human beings with real families and real careers that suffered at the hands of those who, for political reasons, set out to prevent many of us from being confirmed. Hopefully, our presence here today will in fact set the record straight so that other judicial nominees, regardless of their party affiliation, will not suffer the same fate. They and the American people deserve better.

Thank you Mr. Chairman.