

Statement of

The Honorable John Edwards

United States Senator
North Carolina
October 2, 2003

STATEMENT OF SENATOR JOHN EDWARDS
ON THE NOMINATION OF
CHARLES PICKERING
TO THE FIFTH CIRCUIT COURT OF APPEALS
Thursday, October 2, 2003

Mr. Chairman, it has been said that "he who ignores history is doomed to repeat it." And, sadly, we are both ignoring and repeating history here today.

We are reaching back in time and re-doing a nomination that has already been resolved. More than a year and a half ago, Charles Pickering had a full and fair hearing before this Committee and, after careful consideration and full debate, we voted fair and square not to send this nomination to the floor.

At any other time, that would have been the end of that.

But that was then, this is now. Until this year, never in our history has a nominee been sent back to the Senate after they were voted down for the same position. This is wrong.

Judge Pickering has repeatedly demonstrated a disregard and even a hostility to the principles that protect the rights of so many of our citizens.

I do not presume to know what is in Judge Pickering's heart. But I DO know what is in his record. That record proves him unfit to serve as a Court of Appeals judge.

Judge Pickering's record as a judge is full of instances in which he has elevated his personal views above the law. For example, Judge Pickering has shown a lack of respect - in fact, disdain - for the Supreme Court's landmark legal precedents, especially those that protect rights. He has harshly criticized the Supreme Court's "one person, one vote" rulings and has been reversed numerous times by the 5th Circuit Court of Appeals for his failure to follow "well-settled principles of law."

In one case, Judge Pickering took extraordinary steps to reduce the sentence required by law for a man convicted of cross burning. In addition, he exerted extraordinary efforts to reduce the five-year sentence mandated by federal sentencing guidelines in the cross-burning case and went so far as to make an ex parte phone call to Justice Department officials in an attempt to assist the defendant.

And, since his hearing, Judge Pickering has actively solicited the support of this nomination from attorneys who appear in his courtroom. This behavior not only calls into question Judge Pickering's commitment to protecting the constitutional rights of all Americans, but legal experts agree that his actions violated the canons of judicial ethics.

And, Mr. Chairman -what does the revisiting of this nomination say to our constituents? What message are we sending when we change the rules because we don't like the result that following the rules will give us? What message are we sending about OUR commitment to the law when we go so far out of our way to elevate to the Court of Appeals a man has gone so far out of HIS way to tip the scales of justice against those who depend upon the courts to protect their rights?

Mr. Chairman, I urge you and all of my colleagues to remember this history in order not to repeat it. I know that this is not the best that the Mississippi legal community has to offer. We can do better. And we should do better.