

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
February 11, 2004

Statement Of Senator Patrick Leahy,
Ranking Member, Senate Judiciary Committee,
On The Nomination Of Diane Sykes
To The United States Court of Appeals For The Seventh Circuit
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Today, just three business days since our last judicial nominations hearing and only two days after we finally gained access to our offices here in the Dirksen building because of the ricin scare, the Committee is holding yet another judicial nominations hearing. This is the fourth judicial nominations hearing already this year and matches the total number of hearings for circuit court nominees during all 52 weeks of 1996. Traditionally, the number of nominees who have received hearings and who are considered in a presidential election year has been lower than in other years. Indeed, in 1996, not a single one of President Clinton's circuit court nominees was confirmed by the Republican-controlled Senate.

I doubt that the Senate's current Republican majority will repeat the pattern they followed in 1996, now that there is a Republican in the White House. In fact, the pace they have set already shows that this Committee continues to operate in overdrive in the quest to confirm President George W. Bush's judicial nominees as rapidly as possible. That is a double standard that ill serves the Senate, the courts and the country.

The hearing today is proceeding in the midst of a continuing investigation into the theft of perhaps thousands of Democratic staff memos by Republican staff on this Committee. It has come to light that Republican staffers spied and stole internal, confidential drafts and memos of their Democratic counterparts and then exploited their own misconduct bring dishonor to this Committee and the Senate. I do not intend to comment further today on what may well be criminal misconduct. Taking things that do not belong to you is wrong. There should be no excusing it.

I have concerns that this hearing is proceeding today while we are in the midst of this ongoing investigation. It also undercuts the Committee's critical role in reviewing these lifetime appointees to rush forward with a hearing a mere two days after our staff has been permitted to re-enter this building. Notice of this hearing was given while we were locked out of our buildings - with no access to our computers or our papers. The Senate's constitutional duties with regard to judicial nominations require that we be given adequate time to prepare for each nomination that comes before this Committee. We have confirmed 171 of President Bush's

nominees thus far - including 30 to the Courts of Appeals. We have and continue to work hard on this President's judicial nominations.

The Committee today begins consideration of the nomination of Justice Diane Sykes to a seat on the U.S. Court of Appeals for the Seventh Circuit. Justice Sykes comes before us with the support of Senator Kohl and Senator Feingold. She also comes before us with a judicial record - both at the trial court level and with the Supreme Court of her home State of Wisconsin, which we are reviewing.

In a speech delivered to the Federalist Society last year, Justice Sykes expressed concerns about the "politicization of the judiciary, both at the federal and state level." I have similar concerns, particularly with regard to far too many of this President's divisive judicial nominees.

We will also hear today from Judge Juan Sanchez, nominated to the U.S. District Court for the Eastern District of Pennsylvania. He will be the sixteenth nominee of President Bush's to the U.S. district courts in Pennsylvania who is being given a hearing. While I was Chairman, the Senate held hearings for and confirmed 10 Bush nominees to the district courts in Pennsylvania. There is no State in the Union that has had more federal judicial nominees of this President confirmed by this Senate than Pennsylvania, despite the fact that Republicans blocked the nominations of 10 judicial nominees of President Clinton from Pennsylvania, along with more than 50 others.

I also want to comment briefly on the nomination of James Robart to the U.S. District Court for the Western District of Washington. This nomination from Washington State has the support of both home-state Senators. Senator Murray and Senator Cantwell have both worked hard to establish a bipartisan process for making recommendations to the President for federal judicial vacancies in their state. They are to be commended for their work. Mr. Robart is the fourth Washington State nominee who is a product of Washington's bipartisan selection commission, and he appears to be another well-qualified nominee. This shows what can be achieved if the Administration would work with us.

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