

Statement of
The Honorable Orrin Hatch

United States Senator
Utah
June 16, 2004

Richard A. Griffin
to be U.S. Circuit Judge for the Sixth Circuit

David W. McKeague
to be U.S. Circuit Judge for the Sixth Circuit, and

Virginia Maria Hernandez Covington
to be U.S. District Judge for the Middle District of Florida

Today the Committee will conduct a hearing on the nominations of three outstanding lawyers to be federal judges. I commend President Bush for nominating each of them, and I look forward to their testimony. I welcome the nominees, their family and guests, our distinguished colleagues who are here to testify today, as well as members of the House who will introduce two of our nominees.

On our agenda today are two nominees for the United States Court of Appeals for the Sixth Circuit - Mr. Richard A. Griffin and Mr. David W. McKeague.

In addition, we will consider the nomination of Virginia Maria Hernandez Covington to be United States District Judge for the Middle District of Florida.

I might add that it was over two and one half years ago, on November 8, 2001, that President Bush nominated Judge McKeague for a seat on the Sixth Circuit. Judge Griffin was first nominated to this position by President George W. Bush on June 26, 2002.

Both of these nominees have been rated Well Qualified by the American Bar Association.

Let me be frank: I am aware that many people have strong feelings about the status of the 6th Circuit nominees. For more than two years I have been working with many, including the Senators from Michigan, to bring an acceptable resolution to these issues.

I believe the best way to continue to progress toward a resolution is to move forward with this hearing, report the nominees from the Committee, and place them on the Executive Calendar.

I am mindful that Senators Levin and Stabenow have concerns about the 6th Circuit nominees.

The Michigan senators' negative blue slips have been and will continue to be accorded substantial weight. Indeed, the timing of this hearing is due in part to the views of the Michigan

senators'. While negative blue slips are not dispositive under the Committee's Kennedy-Biden-Hatch blue slip policy, they are certainly a significant factor.

Since I first became chairman of this Committee in 1995, I have followed the same blue slip policy crafted by two former Democratic chairmen of this Committee, Senator Kennedy and Senator Biden. Here's the Committee's blue slip policy as explained in a letter by former Chairman Joe Biden to the first President Bush dated June 6, 1989:

"For many years - under both Democratic and Republican chairmanships - the return of a negative blue slip meant that the nomination simply would not be considered. That policy was modified under Senator Kennedy's chairmanship, so that the return of a negative blue slip would not preclude consideration of the nomination. A hearing and vote would be held, although the return of a negative blue slip would be given substantial weight."

Chairman Biden continued to explain the blue slip policy that the Committee would follow under his chairmanship as follows: "The return of a negative blue slip will be a significant factor to be weighed by the committee in its evaluation of a judicial nominee, but it will not preclude consideration of that nominee unless the Administration has not consulted with both home state Senators prior to submitting the nomination to the Senate. If such good faith consultation has not taken place, the Judiciary Committee will treat the return of a negative blue slip by a home state Senator as dispositive and the nominee will not be considered."

In the case of Judge McKeague, Judge Griffin and the other Michigan nominees, there is a clear record of consultation by the Bush White House with the Michigan Senators.

Over three years ago - on April 10, 2001 -- White House Counsel Alberto Gonzales began discussions with the offices of the Michigan senators regarding the vacancies on the Sixth Circuit and in the Eastern District of Michigan.

I understand that on May 17, 2001, Judge Gonzales provided the names of the individuals being considered for the Michigan vacancies, and invited both Senators to provide feedback. The record is clear that over the next year through subsequent telephone conversations, as well as written correspondence, there was extensive consultation and repeated invitations to the Michigan Senators to provide their input into the nomination process.

In fact, I understand the White House offered to consider nominating both of the individuals championed by the Michigan Senators to federal judgeships.

Although President Bush ultimately did not nominate those individuals, one can only conclude the consultation requirement was meaningfully fulfilled in the cases of Judge McKeague, Judge Griffin, and the other Michigan nominees.

I will continue to work with my friends and colleagues from Michigan - Senators Levin and Stabenow - the White House, Members of the House of Representatives, Senator Leahy, and others on the Committee to reach an acceptable resolution for the vacancies in Michigan and the Sixth Circuit.

I view resolution of the 6th Circuit situation as important as any other judicial nominations matter pending before the Committee.

I remain hopeful that we can reach an acceptable outcome.

Toward that end, this morning we welcome to the Committee Richard Allen Griffin, whom President Bush has nominated for a seat on the Sixth Circuit Court of Appeals.

Judge Griffin has exceptional qualifications for the federal appellate bench. After graduating from the University of Michigan Law School in 1977, Judge Griffin spent 11 years in the private practice of law. In 1985, Judge Griffin founded the firm Read & Griffin, in Traverse City, Michigan.

During his private practice Judge Griffin specialized in automobile negligence, premises liability, products liability, and employment law. Additionally, he provided pro bono legal services as a volunteer counselor and attorney with the Third Level Crisis Center. In 1988, Judge Griffin was elected to the Michigan Court of Appeals. He was elected to retain his seat in 1996 and again in 2002.

We are pleased to have him before us today, and look forward to hearing from him.

I would be remiss, if I did not note that Mr. Griffin's father was a distinguished member of the Senate and, as a father, I know how proud Senator Griffin must be today.

Our second nominee to the Sixth Circuit is David W. McKeague, who presently serves as a Federal District Court Judge for the Western District of Michigan. This is Judge McKeague's second appearance before this Committee, his first having occurred when he was nominated to his current position more than a decade ago.

In 1992, this Committee voted him to the floor with several other district court nominees en bloc, without any objection, and the full Senate confirmed him to the federal bench by unanimous consent.

Since 1992, he has served with distinction in the Western District of Michigan, and since 1994 has regularly been designated to sit on panels and draft appellate opinions for the Sixth Circuit Court of Appeals.

Judge McKeague graduated from the University of Michigan in 1968 and then attended the University of Michigan Law School. Upon graduation in 1971, he joined the law firm of Foster, Swift, Collins & Smith, P.C., in Lansing, Michigan.

He also served six years in the United States Army Reserve. Since 1998, Judge McKeague has also served as an adjunct professor of law at Michigan State University's Detroit College of Law.

Judge McKeague is a distinguished and well-respected federal judge who, in the words of one of his current colleagues on the federal district court, "lets the law and the facts take him where they take him." He will make an outstanding addition to the Sixth Circuit, and I look forward to

hearing from him this morning. I will submit letters of support into the record for all the nominees.

Judge Virginia Maria Hernandez Covington is our nominee for the Middle District of Florida. Judge Covington has had a distinguished career on both sides of the docket and is a pioneer of sorts. She became the first Cuban-American woman ever appointed to Florida's appellate courts. She is the highest ranking Hispanic woman serving in Florida's judiciary, presently serving as a Judge, Second District Court of Appeal.

Prior to her appointment to the bench, Judge Covington served in various legal positions. After graduation from Georgetown University law school, where she was the editor of the Tax Lawyer law review, Judge Covington worked for the Federal Trade Commission as a trial attorney where she was responsible for ensuring that compliance agreements were enforced.

In 1982, she became an Assistant State Attorney for Hillsborough County Florida, where she prosecuted traffic and misdemeanor cases.

In 1983 Judge Covington became an Assistant United States Attorney for the Middle District of Florida where she rose to the position of Chief of the Asset Forfeiture. In addition to her prosecutorial and managerial duties, Judge Covington has lectured extensively on asset forfeiture, money laundering, and complex prosecutions to prosecutors and law enforcement personnel throughout the United States and abroad.

Throughout her career Judge Covington has received more than 70 commendations accolades and commendations for her professional and civic work. She is well deserving of the ABA's Unanimously Well Qualified rating.

Again, I am pleased to welcome these distinguished nominees to the Committee, and I look forward to their testimony.