

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
February 12, 2008

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Chairman, Senate Judiciary Committee,
On Judicial Confirmation Hearing
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Today, the Committee holds another hearing to consider President Bush's judicial nominations. I thank Senator Feinstein for agreeing to chair this hearing. It has been especially difficult to schedule given the important matters that have been under consideration before the Senate so far this year. Indeed, the hearing had to be postponed from this morning when a series of Senate votes were scheduled on amendments to the Foreign Intelligence Surveillance Act legislation. We regret the inconvenience to the nominees, their families, and to Senators who wished to attend.

Today's hearing focuses on four nominees for lifetime appointments to the Federal bench-- James Randall Hall for the Southern District of Georgia, Richard H. Honaker for the District of Wyoming, Gustavus Adolphus Puryear, IV for the Middle District of Tennessee, and Brian Stacy Miller for the Eastern District of Arkansas.

All of these nominees have the support of their home-state Senators. With this hearing I have fulfilled my commitment to Senator Enzi by including the Honaker nomination in today's hearing despite the controversy that this nomination has generated.

We are building on the progress we made last year in reviewing judicial nominations. In 2007, the Committee reported out 40 lifetime appointments to the Federal courts and the Senate confirmed all 40 of them. That is more than were confirmed by the Republican-led Senate in 1997, 1999, and 2000 when they were considering President Clinton's nominations, and more than the Republican-led Senate confirmed in any of the last three years with a Republican President, in either 2004, 2005 or 2006.

At the end of the Clinton administration, the Republican-led Senate returned to the President without action 17 of his appellate court nominees. I do not intend to duplicate that record any more than I intend to see the Senate pocket filibuster more than 60 of President Bush's judicial nominees, as Republicans did with President Clinton's. We have considered nominations - even those I do not support - openly and on the record.

In the less than three years that I have chaired this Committee during President Bush's administration, the Senate has confirmed 23 circuit court nominations and 140 total Federal

judicial nominees. During the four full years Republicans were in charge during the Bush administration the total number of nominees confirmed was just 158.

The Administrative Office of the U.S. Courts currently lists 45 judicial vacancies. Nineteen of them - almost half - have no nominee. In addition, several of the nominees do not have the support of their home state Senators. Of the vacancies deemed by the Administrative Office to be judicial emergencies, the President has yet to send us nominees for eight of them, more than a third. Of the circuit court vacancies, four, nearly a third, are without a nominee and more than half of the current circuit court nominees do not have the support of both home-state Senators.

If this President had worked with the Senators from Michigan, Rhode Island, Maryland, California, New Jersey, and Virginia, we could be in position to make even more progress. Instead we have lost precious time to nominations like that of Duncan Getchell and Claude Allen of Virginia. Those nominations were both withdrawn by the President after months of wasted time and effort.

We have helped cut the circuit vacancies from a high water mark of 32 in the early days of this administration, to as few as 13 in 2007. Contrast that with the Republican-led Senate's lack of action on President Clinton's moderate and qualified nominees that resulted in increasing circuit vacancies during the Clinton years from 17 when he was inaugurated to 26 at the end of his term.

Our work is complicated by our efforts to restore the Justice Department and restock its offices, which were decimated by resignations in the wake of the U.S. Attorney firing scandal. That work on executive nominations has been and remains a top priority.

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