

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Hearing On Judicial And Executive Nominations
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Today, the Judiciary Committee will hear from two well-respected Federal district court judges who have been nominated for elevation to Federal circuit courts. Judge Andre Davis from Maryland has been nominated to the Fourth Circuit and Judge David Hamilton from Indiana has been nominated to the Seventh Circuit. We will also hear today from another important Justice Department nominee. Tom Perez has been nominated to be the Assistant Attorney General in charge of the Civil Rights Division.

I thank Judge Hamilton for returning to the Committee even though he has already appeared and testified at a hearing on his nomination four weeks ago, on April 1. At that hearing, Senator Specter was the only Republican member to appear. He outlined a few cases about which he said there were concerns, but did not stay to ask questions of the nominee. Republican Senators boycotted that hearing and later delivered a letter to me suggesting that in the two weeks following the announcement of the nomination, they were unable to prepare.

Although that day was a busy day in the Senate, as many are, I tried to accommodate Senators by moving the hearing to the Capitol building itself. We had done this previously, following the 2001 anthrax attacks, in order to continue holding hearings for President Bush's nominees while our Committee hearing room remained closed. The April 1 hearing, which extended for more than an hour and a half, included participation by 11 Senators. All were able to vote and still come to the hearing just one floor below the Senate floor. Senators Klobuchar, Kaufman, Whitehouse and Schumer each participated and asked questions, as did I.

Senator Specter and Senator Kyl later spoke to me and requested that Judge Hamilton be invited back before the Committee. As I have done throughout the year, when Senators talk to me and make a request, I have tried to be accommodating. Out of respect to Senator Specter and Senator Kyl, I have, again, sought that accommodation. I hope that Republican members will reciprocate by not further delaying this nomination. I hope they will respect the nominee, and the endorsement by his home state Senator, and a senior Republican in the Senate, Senator Lugar. Again, I thank the nominee for his courtesy and apologize for disrupting his court docket for a second time in four weeks.

Unfortunately, by adopting this extraordinary approach, the Committee will not be allowed to complete consideration of the nomination within the 30 days called for over the past several years in legislation authored and introduced, twice, by Senator Specter. I had hoped that for the first judicial nomination of this presidency, one that has bipartisan support from his home state Senators, we could proceed more promptly. The Republican boycott that extended through the April 1 hearing and Easter recess is, in my view, unjustified and unfortunate. The nominee, the court to which he has been nominated, and the people who are served by the Seventh Circuit, which includes Illinois, Wisconsin and Indiana, are being denied prompt and fair consideration. The President is being penalized for making a prompt nomination in March, and for providing the background materials expeditiously on this nomination -- not only the material from the nominee, but also the FBI background information and even the American Bar Association peer review rating, which were received promptly after the nomination was sent to the Senate.

I view President Obama's nomination of Judge Hamilton as something to be commended rather than obstructed and delayed. The President acted quickly, and worked with both home state Senators, a Republican and a Democrat, to select a highly-qualified and respected nominee. Senator Lugar, who was consulted on the nomination and endorsed it, is a senior Republican Senator who is greatly admired throughout the Senate. Senator Bayh is known as a thoughtful Senator. Neither is extreme or radical. Just as I consistently sought to encourage President Bush to work with home state Senators, and tried to expedite confirmation of his nominees when he did, I tried to proceed promptly on the nomination of Judge Hamilton. The nomination should be noncontroversial.

I thank Senator Lugar and Senator Bayh for their introduction of Judge Hamilton at our hearing on April 1. The record from Judge Hamilton's hearing nearly a month ago contains Senator Lugar's full statement of support for a nominee he describes as "an exceptionally talented jurist" and "the type of lawyer and the type of person one wants to see on the Federal bench." Senator Lugar continued:

"I have known David since his childhood. His father, Reverend Richard Hamilton, was our family's pastor at St. Luke's United Methodist Church in Indianapolis, where his mother was the soloist in the choir. Knowing first-hand his family's character and commitment to service, it has been no surprise to me that David's life has borne witness to the values learned in his youth."

Senator Lugar also praised the process he and Senator Bayh had undertaken for recommending judicial nominees from Indiana, thanking Senator Bayh for "the thoughtful, cooperative, merit-driven attitude that has marked his own approach to recommending prospective judicial nominees" and his "strong support for President Bush's nominations of Judge Tinder for the Seventh Circuit and of Judge William Lawrence for the Southern District of Indiana." I supported both of those nominees with the endorsement of both of Indiana's Senators and both were easily confirmed.

The nomination of Judge Hamilton is in the same mold and should be confirmed as easily. Indeed, in his introduction of Judge Hamilton, Senator Lugar spelled out his criteria for deciding whether to confirm judicial nominees. I think all Senators would do well to heed his advice. He testified:

"I believe our confirmation decisions should not be based on partisan considerations, much less on how we hope or predict a given judicial nominee will 'vote' on particular issues of public moment or controversy. I have instead tried to evaluate judicial candidates on whether they have the requisite intellect, experience, character and temperament that Americans deserve from their judges, and also on whether they indeed appreciate the vital, and yet vitally limited, role of the Federal judiciary faithfully to interpret and apply our laws, rather than seeking to impose their own policy views."

Senator Lugar believes Judge Hamilton "is superbly qualified under both sets of criteria." So do I. Judge Hamilton is a well-respected Federal judge not known for partisanship or an ideological agenda. In light of his superb record, broad support, and unanimous "well qualified" rating from the American Bar Association, it is no wonder Judge Hamilton's nomination for this important appellate seat has the support of both home state Senators. He should be confirmed without further delay and with a strong bipartisan majority.

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