

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 Nominations
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Today we welcome five of President Obama's nominees to the Committee who have the support of home state Senators who are Members of this Committee. I know Senator Hatch supports the nomination of Professor Scott Matheson of Salt Lake City, Utah to the Tenth Circuit. He is the Republican former Chairman of this Committee. Professor Matheson also has the support of his other distinguished home state Senator, Senator Bennett, also a Republican. This nomination shows President Obama's success reaching across the aisle to identify consensus nominees to fill vacancies on the federal bench. I look forward to Senator Hatch's introduction of Professor Matheson today.

I thank Senator Cardin for chairing this important hearing. He strongly supports both of the nominees to fill vacancies on the District of Maryland who are appearing before the Committee today, Judge James Bredar and Judge Ellen Lipton Hollander. They are both well-respect judges who also have the support of Maryland's Senior Senator, Senator Mikulski, who is here to introduce them.

Also appearing before the Committee today is John McConnell, President Obama's nominee to serve as a Federal district court judge in Rhode Island. He has the strong support of Senator Whitehouse, the Chairman of the Subcommittee on Administrative Oversight and the Courts, as well as Rhode Island's Senior Senator, Senator Reed. Both are here to introduce Mr. McConnell, who has received numerous letters of support for his nomination. We also welcome Judge Susan Richard Nelson, who has been nominated to fill a vacancy on the District of Minnesota. She has the strong support of both of her home state Senators, both valued members of this Committee, Senator Klobuchar and Senator Franken.

I trust that with the support of so many Members of this Committee, all of these nominees will be treated fairly and I hope that in light of the skyrocketing vacancies on the federal courts, we can proceed without delay to consider their nominations both in Committee and in the full Senate. That should be the case for all nominees. However, nearly every one of President Obama's nominations have been held hostage for weeks and months on the floor for no good purpose, and with no explanation. Even nominees reported favorably by this Committee with bipartisan support or no dissenting votes have been subjected to extensive delays. Often these

nominees are then confirmed unanimously. This obstruction is wrong. I have called for it to end, but the Republican Senate leadership persists in this practice.

The results of this strategy of obstruction are by now all too clear. By this date in President Bush's first term, with a Democratic majority in the Senate, 57 of President Bush's judicial nominations had been confirmed. Now that President Obama is in the White House, Republicans have allowed votes on only 25 of his Federal circuit and district court nominees. The same number, 25, are currently stalled on the Executive Calendar. Many have been there for months

The majority leader has had to file cloture petitions to cut off the Republican stalling by filibuster on President Obama's nominees 22 times. Four times he has had to file cloture to proceed with judicial nominees, only to eventually see those nominees confirmed, two which were confirmed unanimously. This stalling and obstruction is wrong.

We should be doing the business of the American people, like reigning in the abuses on Wall Street, rather than having to waste weeks and months considering nominations that should be easily confirmed. Several Senators have gone to the floor in recent weeks and have been outspoken about these delays and secret holds on judicial nominations, as well as scores of other Presidential nominations on which the Republican minority refuses to act. Regrettably, Republicans have objected to live requests for action on these nominations. They have also refused to identify who is objecting, and the reasons for the objections, in accordance with the Senate rules.

The action of the Republican minority to place politics ahead of constitutional duty by refusing to adhere to the Senate's tradition of quickly considering noncontroversial nominees reminds me of the 1996 session when the Republican majority considered only 17 of President Clinton's judicial nominations. That was a low point I thought would not be repeated. Their failing to fill judicial vacancies led to rebuke by Chief Justice Rehnquist. But they are repeating this unfortunate history today, again allowing vacancies to skyrocket to over a hundred, more than 40 of which have been declared "judicial emergencies" by the Administrative Office of the U.S. Courts.

Despite the fact that President Obama began sending judicial nominations to the Senate two months earlier than President Bush, the Senate is far behind the pace we set during the Bush administration. As I noted earlier, by his date in George W. Bush's presidency, the Senate had confirmed 57 Federal circuit and district court judges. In the second half of 2001 and through 2002 the Senate with a Democratic majority confirmed 100 of President Bush's judicial nominees. Given Republican delay and obstruction this Senate may not achieve half of that. Last year the Senate was allowed to confirmed only 12 Federal circuit and district court judges all year. That was the lowest total in more than 50 years. So far this year, despite two dozen nominations on the Executive Calendar, we have confirmed only 13 more.

The Republican pattern of obstructionism since President Obama took office has led to this unprecedented backlog in nominations on the Senate calendar awaiting final consideration. We should end the backlog by restoring the Senate's tradition of moving promptly to consider noncontroversial nominees with up-or-down votes in a matter of days, not weeks, and certainly not months. For nominees Republicans wish to debate, they should come to a time agreement to

have those debates and votes. It is passed time to end the destructive delaying tactics of stalling nominees for no good purpose.

I hope that the nominees we hear from today are not subject to these extended and damaging delays.

Professor Scott Matheson has been nominated to serve on the Tenth Circuit. He is a law professor and former Dean of the University of Utah's S.J. Quinney College of Law. He formerly served as Utah's U.S. Attorney, and he was also a county prosecutor and a lawyer in private practice. Professor Matheson earned his B.A. with distinction from Stanford University, his M.A. from Oxford University, where he was a Rhodes Scholar, and his J.D. from Yale Law School, where he was an editor of the Yale Law Review. He comes from a distinguished Utahan family with a long history of public service.

President Obama nominated John McConnell to serve as a Federal district court judge in Rhode Island. Mr. McConnell has more than 25 years of experience as a lawyer in private practice, and he is currently a partner at the Providence, Rhode Island law firm of Motley Rice. He earned his B.A. from Brown University and his J.D. from the Case Western Reserve University School of Law. Following his graduation from law school, he clerked for Associate Justice Donald F. Shea on the Rhode Island Supreme Court.

Judge James Bredar is nominated to serve on the U.S. District Court for the District of Maryland. For the last 12 years, he has served that court as a magistrate judge. Before that, he was a Federal public defender, and he also spent years as both a Federal and a local prosecutor. Judge Bredar received his B.A. with honors from Harvard University and his J.D., cum laude, from my alma mater, the Georgetown University Law Center. After graduation, he clerked for Judge Richard Matsch on the federal district court in Colorado.

Judge Ellen Lipton Hollander is nominated to serve as a Federal district court judge in Maryland. She is currently an Associate Judge on the Maryland Court of Special Appeals, and she formerly was a judge on the Baltimore City Circuit Court. Judge Hollander has years of experience as a Federal prosecutor, and also worked as a lawyer in private practice. She earned her B.A. from Goucher College and her J.D. from the Georgetown University Law Center, after which she clerked for Judge James Miller on the U.S. District Court for the District of Maryland--the court to which she is now nominated.

President Obama nominated Judge Susan Richard Nelson to serve on the U.S. District Court for the District of Minnesota. For the last ten years, she has served that court as a magistrate judge. Previously, she worked for more than two decades as a lawyer in private practice. Judge Nelson received her B.A. with high honors from Oberlin College, and she earned her J.D. from the University of Pittsburgh School of Law.

I welcome the nominees and their families to the Committee today.

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