

May 19, 2014

Dear Senate Judiciary Committee Member:

I write in support of the nomination of Ronnie L. White to the U.S. District Court for the Eastern District of Missouri. White, a former chief justice of the Missouri Supreme Court, has an impeccable record of public service that demonstrates his integrity, intelligence, commitment to the rule of law, and judicial temperament. If confirmed, Justice White would serve the people of Missouri and our federal justice system with great distinction.

Confirming Justice White would also rectify a profound injustice, and reverse one of the Senate's most shameful exhibitions of partisan obstruction. President Clinton first nominated Justice White to the Eastern District in 1997. But after then-Senator John Ashcroft mounted a politicized opposition that distorted Justice White's record and smeared him with baseless accusations of being "pro-crime," Justice White's nomination was defeated by a party-line vote in 1999. This time, with a renewed opportunity to do right by an extraordinary public servant—and, more importantly, the people of Missouri—the Senate should swiftly confirm Justice White.

Justice White's legal career is defined by more than two decades of distinguished public service as a lawyer, legislator, and judge. After earning his J.D. at the University of Missouri's Kansas City School of Law, Justice White spent six years as a trial attorney at the public defender's office in St. Louis. In 1989, Justice White successfully ran for State Representative in the Missouri General Assembly, where he served three terms and chaired both the House Judiciary and Ethics Committees. While serving in the legislature, Justice White also practiced at the Law Offices of Cahill, White & Hemphill, where he represented individual criminal defendants and plaintiffs in civil litigation. He also accepted assignments from the Office of the Special Public Defender to represent indigent defendants charged with serious felonies. In 1993, Justice White left the state house to become the first African American City Counselor for the City of St. Louis. Missouri Governor Mel Carnahan then appointed Justice White to the Missouri Court of Appeals in 1994, and to the Missouri Supreme Court in 1995, where he became the state's first African American Supreme Court Justice. The *St. Louis Post-Dispatch* described Justice White's elevation to the state's highest court as "one of those moments when justice has come to pass."

Justice White's first nomination to the Eastern District was met with long delays, and President Clinton had to renominate him in 1999. Justice White was favorably reported out of the Judiciary Committee on two separate occasions, but his nomination was ultimately defeated on the Senate floor. It was the first district court nomination the full Senate voted down in nearly 50 years, and it was the result of a strict party line vote. What's more, seven Republicans switched their affirmative Committee votes to vote "no" on confirmation.

The disgraceful 1999 campaign against Justice White—which was orchestrated almost entirely by Senator Ashcroft—has been thoroughly discredited. Facing a contested reelection in 2000, Ashcroft used Justice White as a political pawn in a misguided attempt to appear "tough on crime," and attacked White with outlandish claims that he was "pro criminal" and had "a tremendous bent toward criminal activity."¹ In support, Ashcroft cited two cases in which Justice White was the lone dissenter from a decision affirming a death sentence. Even these two cases fail to advance Ashcroft's position. In one, Justice White said that a judge who explicitly contrasted "minorities" with "hard-working taxpayers" should have recused himself before presiding over a trial

¹ Benjamin Wittes, *Judge White's Judges*, THE WASHINGTON POST, A25 (Oct. 13, 1999).

in which an African American defendant could be sentenced to death.² In the second, Justice White thought the incompetence of defense counsel warranted reversal, but added that if the defendant “was in control of his faculties when he went on this murderous rampage, then he assuredly deserves the death sentence he was given.”³ But more importantly, when considered as a whole, Justice White’s full judicial record reflects an unwavering commitment both to faithfully applying Missouri state law on capital punishment, and to upholding the constitutional rights of criminal defendants, particularly those charged with capital crimes. As of October 1999, Justice White had reviewed 59 capital cases. He voted with the majority in 51 of those cases, or nearly 90 percent of the time. Of those 51, he voted 41 times to uphold a death sentence and 10 times to reverse for serious legal error. Eight of his votes to reverse were unanimous, and in only three instances did he author a solo dissent when the majority affirmed.

In light of this record, the “soft on crime” campaign was preposterous and transparently partisan, a conclusion shared by major law enforcement groups that backed Justice White’s nomination. Both the Missouri State Fraternal Order of Police and the Missouri Police Chiefs Association endorsed White wholeheartedly. Upon White’s defeat in the Senate, the President of the Fraternal Order of Police, Thomas Mayer, wrote solemnly that “nothing can undo the needless injury which has been inflicted on the reputation of Justice White, and our nation has been deprived of an individual who surely would have proven to be an asset to the Federal Judiciary.”⁴ Perhaps even more damning, a prominent St. Louis businessman and one of Ashcroft’s Senate campaign fundraisers, Gentry Trotter, resigned his post in protest of what he called Ashcroft’s “marathon public crucifixion of White,” and dismissed Ashcroft as an “extremist.”⁵

Justice White went on to serve for another seven years on the Missouri Supreme Court, leaving in 2007 to enter private practice. Unsurprisingly, Justice White’s more recent judicial record reaffirms his commitment to the rule of law. From 2000 through 2007, Justice White wrote more than half a dozen opinions affirming a death sentence. In one, *State v. Deck*, the United States Supreme Court reversed and set aside the death sentence when it held, for the first time, that “the Constitution forbids the use of visible shackles [on the defendant] during the penalty phase” of trial.⁶ And once again, with seven more years of decisions to consider, the State Fraternal Order of Police has formally endorsed Justice White’s nomination. Writing in support, the FOP said that, “as front line law enforcement officers, we recognize the important need to have jurists such as Ronnie White, who have shown themselves to be tough on crime, yet fair and impartial.”⁷

We often say that justice delayed is justice denied, but if the Senate does its job and swiftly confirms Ronnie White, that will be only partly true. It is true that Justice White’s reputation was recklessly tarnished, and that our federal justice system has thus far been deprived of White’s service on the bench. But now the Senate has the opportunity to correct a grievous error, and to confirm a stellar nominee with vast experience, restoring in some measure the justice withheld 14 years ago. I urge you to vote in favor of his nomination.

Sincerely,



Nan Aron
President
Alliance for Justice

² *State v. Kinder*, 942 S.W.2d 313, 340 (Mo. 1996) (White, J., dissenting).

³ *State v. Johnson*, 968 S.W.2d 123, 138 (Mo. 1998) (White, J., dissenting).

⁴ Letter from the Missouri State Fraternal Order of Police to Sheriff Philip H. McKelvey (Oct. 21, 1999).

⁵ Benjamin Soskis, *White Out*, ON THE HILL, 15 (Oct. 1, 1999).

⁶ *Deck v. Missouri*, 544 U.S. 622 (2005).

⁷ Letter from Fraternal Order of Police to Senator Patrick Leahy (May 13, 2014), *available at* <http://www.judgingtheenvironment.org/library/letters/Ronnie-White-MO-FOP-Letter-of-Support-5-13-2014.pdf>.