

**Statement Of Senator Patrick Leahy (D-Vt.)  
Chairman, Senate Judiciary Committee  
On Judicial Nominations  
June 11, 2013**

Today the Judiciary Committee welcomes two of President Obama's executive nominees. B. Todd Jones is nominated to serve as the director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and Stuart Delery is nominated to serve as the Assistant Attorney General for the Civil Division at the U.S. Department of Justice. I thank Senator Klobuchar for chairing this important hearing.

The ATF has been without a permanent director since that position was designated as a Senate confirmable position in 2006. During this time, we have continued to rely heavily on the expertise of the ATF to protect our nation. The nominee before the committee today, Todd Jones, has led the ATF as the acting director since September 2011. Under his leadership, ATF has been called on to analyze the bombs left near the finish line at the Boston Marathon, to sift through burned debris in the West, Texas explosion and to trace the weapons used by the shooters in the Newtown and Aurora massacres. Agents of the ATF have played a major role in investigating some of our nation's worst tragedies. Yet, we continue to handicap their ability to prevent these tragedies from occurring. Todd Jones is the ATF's fifth acting director since 2006. During that time 80,000 Americans have been murdered with guns. The ATF helps protect our communities from dangerous criminals, gun violence, and acts of terror. It is a central piece of our law enforcement strategy but for the past six years it has been serving without a confirmed director. We should be doing everything we can to ensure the Bureau of Alcohol, Tobacco, Firearms, and Explosives has the tools it needs to keep Americans safe and that starts with a Senate-confirmed director.

Todd Jones has already served his country in many ways. He volunteered for the U.S. Marine Corps in 1983, serving on active duty as a Judge Advocate and Infantry Officer until 1989. In 1991, he was recalled to active duty to command the 4th Marine Division's Military Police Company in Iraq. He also served as Commanding Officer of the Twin Cities Marine Reserve Unit. He has twice been unanimously reported out of the Committee and unanimously confirmed by the Senate – in 1998 and again in 2009 – to serve as the U.S. Attorney for the District of Minnesota. When confirmed in 1998, he became the first African American U.S. Attorney in Minnesota's history.

The Committee has received numerous letters of support for Todd Jones's nomination to head the ATF from law enforcement, legal professionals, and veterans of the U.S. Marine Corps.

The Ranking Member has said that this hearing should be postponed. This is not surprising considering that not one Republican showed up to the confirmation hearing in 2007 of President Bush's nominee to head this agency. That nominee was never confirmed because Senate Republicans refused to agree to a vote. President Obama's first nominee to head the ATF, Andrew Traver, never got a hearing after it was made clear that his nomination, too, would be blocked. Well, enough is enough.

I have accommodated the Ranking Member on requests for further information and delay on this nomination at every turn. Senator Grassley insisted on the production of documents from the Department of Justice that his staff had already had access to for months. He insisted that his staff be able to interview Todd Jones in his capacity as U.S. Attorney for the District of Minnesota as well as two other Department officials. The interview of Mr. Jones took place in early March. Senator Grassley requested additional background information from the administration not usually required by the committee for an executive nomination and he received that information. He requested that this hearing, originally scheduled for June 4 be postponed; the hearing was postponed. On Friday evening, Senator Grassley informed me that he was prepared to use Senate rules to call outside witnesses to testify at today's hearing. Despite there being no precedent for outside witnesses at a hearing for a sub-cabinet level position, when I sought to accommodate this request, I was rebuffed and told that it was unreasonable of me to agree to his own demand for outside witnesses.

In April, after learning that an Assistant U.S. Attorney had filed a complaint with the U.S. Office of Special Counsel alleging management failures and subsequent retaliation for raising these concerns in the U.S. Attorney's Office for the District of Minnesota, I put on hold a planned hearing on this nomination with the intention of not moving forward until OSC's work was complete – work that I understood to be confidential to protect all parties concerned. Unfortunately, in late April, a news article reported that “an aide to Senator Grassley” had released a letter from OSC that the Ranking Member and I had received on April 12. This public disclosure was unnecessary. It was at that time that I determined that this hearing should move forward to allow the nominee an opportunity to defend his reputation.

On June 5, OSC sent a letter notifying me and the Ranking Member that it had “closed the case file” on the underlying allegations made against Mr. Jones of “gross mismanagement and abuses of authority” due to insufficient evidence. And that furthermore, the complaint involving alleged retaliation for raising the underlying management issue was moving to mediation. Satisfied that the issues before OSC were heading for resolution, I made the decision to not further delay this hearing.

The Ranking Member has said to me that it is unheard of for the committee to move forward on a nomination while the OSC investigation is still technically “open”—the OSC would continue its work to determine if the allegations held any validity only if mediation does not work. Yet as the Ranking Member well knows, this committee has a tradition of looking into allegations made against nominees in a bipartisan way and making a determination on whether to proceed. We did this with the nomination of now-Judge Stephanie Rose of the United States District Court for the Southern District of Iowa. Judge Rose was confirmed in September 2012, despite a lawsuit having been filed making allegations against her – a lawsuit that is still ongoing today. Earlier this year, when defense counsel filed a motion against the U.S. Attorney for the District of New Mexico, Ken Gonzales, making allegations of wrongdoing, we worked together to resolve this issue—despite the fact that the motion is still pending.

My staff has reached out to the Ranking Member staff about getting back to our tradition of conducting a bipartisan inquiry into allegations made against any nominee. I hope that the Ranking Member will promptly make his staff available to conduct such an inquiry into the

allegation made against Mr. Jones in time to report back to committee members before the committee votes on the nomination.

Today, we will finally hear from B. Todd Jones. I look forward to his testimony. I hope the Ranking Member will take every opportunity to ask any and all questions he has of Mr. Jones.

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