

Statement Of Senator Patrick Leahy (D-Vt.)
Chairman, Senate Judiciary Committee
On Judicial Nominations
July 24, 2013

Today the Judiciary Committee welcomes five excellent judicial nominees, and I thank Senator Blumenthal for chairing this important hearing. The Committee will hear first from Nina Pillard, who is President Obama's nominee to fill one of the three current vacancies on the D.C. Circuit. Professor Pillard has had a distinguished career as a practitioner and as an academic. She earned a unanimous rating of "well qualified" from the ABA Standing Committee on the Federal Judiciary. She has argued nine cases before the Supreme Court and briefed 18 others on behalf of a range of clients. Professor Pillard spent her legal career in public service, in the Office of the Solicitor General and the Office of Legal Counsel, and at the American Civil Liberties Union and NAACP Legal Defense and Educational Fund. For the past 13 years she has worked as professor at my alma mater, Georgetown University Law Center. At Georgetown she serves as the Faculty Co-Director of the Supreme Court Institute, where she has helped prepare fellow lawyers in dozens of cases.

She is lucky enough to have family in the great State of Vermont. Her sister lives in Charlotte on the shore of our Great Lake, Lake Champlain. I understand Professor Pillard and her family spend quite a bit of time in Vermont, so I am especially pleased to welcome her to the Committee this morning.

At our last nominations hearing, a number of Republican members of the Committee made comments about the history of this Committee's consideration of nominees to the D.C. Circuit that were misleading at best. It is simply inaccurate to suggest that there is any comparison between a 2006 letter sent by Committee Democrats expressing concerns about a particular nominee and the current cynical effort by Committee Republicans to strip the D.C. Circuit of 3 of its 11 judgeships.

The 2006 letter made reference solely to the eleventh judgeship, and the caseload issue was raised, in addition to several substantive concerns about the nominee, only to point out the double-standard of Committee Republicans, who had blocked and opposed President Clinton's nominees to the D.C. Circuit's eleventh seat, even though the caseload was higher during the Clinton administration than in the Bush administration.

When the D.C. Circuit's caseload was around 190 pending appeals per active judge during the Clinton administration, Senator Grassley and other Republicans opposed filling the twelfth and even the eleventh seat, and delayed the confirmation of Merrick Garland. At the time, even Senator Hatch said that these Senators were "playing politics with judges" and that he was "sick of it." Of course, these Senate Republicans then had no problem filling the eleventh seat and

bringing the caseload to 121 pending appeals per active judge when a Republican president was making the nominations.

But now that the caseload has again risen, to 177 pending appeals per active judge, suddenly some Senate Republicans have decided that the eleventh, the tenth, and now even the ninth seats should not be filled, at least not by a Democratic president. The double-standard is obvious.

There is simply no precedent for this attempt by Committee Republicans to prevent three well qualified nominees from filling the three vacancies on the D.C. Circuit. The D.C. Circuit caseload argument has been made in earnest only by Senate Republicans when they wish to prevent a Democratic president from fulfilling his constitutional duty to nominate judges.

No Senate Democrat opposed the May 2003 confirmation of John Roberts to the D.C. Circuit, even though it brought the caseload all the way down to its lowest level in the past 20 years – 111 pending appeals per active judge. So I hope that we can work together to consider Professor Pillard's nomination, and those of Patricia Millett and Robert Wilkins, on the merit of the nominee.

The Committee also welcomes Landya McCafferty, nominated to the District of New Hampshire, Jeffrey Meyer, who is nominated to the District of Connecticut, and Brian Morris and Susan Watters, who are both nominated to judicial emergency vacancies in the District of Montana. All have the support of their home state Senators, and I look forward to continued bipartisan cooperation on the consideration of these judicial nominees.

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