

**Statement of Senator Patrick Leahy (D-Vt.)  
Chairman, Committee On The Judiciary  
Executive Business Meeting  
October 31, 2013**

We have a full agenda this morning. There are ten judicial nominees on our agenda. I expect we will be able to report out most of them and then turn to two bills that I have introduced with Senator Grassley and with Senator Cornyn.

The first nominee on our agenda is Judge Robert Wilkins. He is nominated to one of three vacancies on the District of Columbia Circuit and is currently serving on the United States District Court for the District of Columbia. Less than three years ago, the Senate confirmed him by voice vote. He has the experience, temperament, and judgment to be an extraordinary judge on the D.C. Circuit. As a district court judge he has presided over hundreds of cases and issued significant decisions in many areas of the law, including in the fields of administrative and constitutional law.

Prior to serving on the bench, he was a partner for nearly 10 years at Venable, in Washington, D.C. Judge Wilkins also spent more than 10 years at the Public Defender Service for the District of Columbia.

Later today the Senate will vote on whether to end a filibuster against another nominee to the D.C. Circuit, Patricia Millett. In the course of that debate, I have heard Republicans argue that the D.C. Circuit does not need any more judges. History shows that these Republican arguments have nothing to do with caseload and everything to do with the party of the president.

When President Bush held office, there were no objections to confirming John Roberts to the D.C. Circuit, when the court's caseload, measured by pending appeals per active judge, was reduced to its lowest level in the past 20 years. The Senate then confirmed three more of President Bush's nominees to the D.C. Circuit: Janice Rogers Brown, Thomas Griffith and Brett Kavanaugh. These nominees filled the tenth, eleventh, and again the tenth seats, and not a single Senate Republican raised any concern about whether those judges were truly needed. Patricia Millett is nominated to the seat that John Roberts vacated, the ninth seat. Judge Wilkins is nominated to be the eleventh judge on the court, just as Thomas Griffith was nominated during the Bush administration.

Now that it is a Democratic president making nominations to those same seats, Senate Republicans have dusted off their old arguments against filling vacancies on the D.C. Circuit. Let us give Judge Wilkins the proper respect and consideration that he deserves, based on his outstanding credentials.

This past July, the Senate voted unanimously to confirm Wyoming Attorney General Gregory Phillips to the Tenth Circuit. With his confirmation, the number of pending appeals per active judge on that court dropped from 150 to 135. The D.C. Circuit currently has 185 pending appeals per active judge. Despite that higher caseload, some Senate Republicans argue that the D.C. Circuit's caseload is too low, and that three of its judgeships should be eliminated. Most of

these Senators voted to confirm Attorney General Phillips, even though his confirmation means that the Tenth Circuit now has the lowest caseload in the country. Earlier this year Senate Republicans supported the confirmation of Jane Kelly to the Eighth Circuit, which gave that court the lowest caseload in the country at the time. I hope those Senators will reconsider their double-standard and not play politics with an independent branch of government.

After voting to report the judicial nominees on our agenda, we will turn to the bipartisan Criminal Antitrust Anti-Retaliation Act. I thank the Ranking Member for working with me on this legislation. And if we can keep a quorum, I hope we can report the Justice for All Reauthorization Act. I thank Senator Cornyn for working with me on this important criminal justice initiative.

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