

**Statement of Senator Patrick Leahy (D-Vt.),
Ranking Member, Senate Judiciary Committee,
On Judicial Nominations
July 13, 2016**

Today this Committee holds a nominations hearing for two judicial nominees: one circuit court nominee and one district court nominee. Judge Lucy Koh was nominated four and a half months ago to fill a judicial emergency vacancy on the Ninth Circuit Court of Appeals. I am glad the Committee is finally taking up her nomination, and we should confirm her this year to our Nation's busiest Federal appeals court. That this is an election year should not prevent us from doing our jobs. When I was chairman in the 2008 election year, this Committee held two hearings in September 2008 for ten of President George W. Bush's judicial nominees, several of whom had not even been nominated by this point in 2008. All 10 of those nominees were confirmed that same month.

The district court nominee on our hearing today is Florence Pan, nominated to the U.S. District Court for the District of Columbia. I am glad she is finally having this hearing, but there is no reason why she should be the only other judicial nominee before us today. Todd Edelman was nominated on the same day and to the same court as Judge Pan, and we should be considering his nomination today. Also ready for a hearing today are nominees to district courts in Colorado, Washington State, and Florida. The Committee has received all of the necessary material to review each of these seven nominees, and all of them have the support of their home state Senators. In fact, just yesterday both Senators from Colorado, including the junior Republican Senator, wrote to the Chairman urging that the nominee to the Federal district court in Colorado, Regina Rodriguez, be listed on a hearing. I had also hoped that five nominees to longstanding judicial emergency vacancies in Texas would be on this hearing today. These nominees have the support of the Majority Whip, but it appears the junior Senator from Texas is preventing them from being on today's hearing.

Today the Committee also welcomes Judge Danny Reeves who is nominated to the U.S. Sentencing Commission. The Committee has before it three nominees to the Sentencing Commission. Judge Charles Breyer is nominated for a reappointment and does not require a hearing. The third nominee, Judge Richard Boulware of the District Court of Nevada, was nominated to the Commission six months before Judge Reeves. I am disappointed Judge Boulware is not on today's hearing, and I hope the Chairman will schedule his hearing soon.

The most glaring omission on today's nominations hearing is the Supreme Court nomination of Chief Judge Merrick Garland. It has been 119 days since Chief Judge Garland's nomination to the Supreme Court of the United States, yet Republicans refuse to allow him a hearing before this Committee. The diminished 8-member Court just finished its term at the end of last month, and we were able to see the full impact of Republicans' unprecedented obstruction of Chief Judge Garland. The Court was unable to issue a final decision on the merits in a total of seven cases. And in another death penalty appeal – a matter of life and death – the Court also deadlocked. Republicans have before them a nominee who has been praised by their own members as a brilliant and impartial judge with unwavering fidelity to the rule of law. Yet they

continue to block any consideration of his nomination, while millions of families across the country wait for justice.

There continues to be an urgent need for this Committee to hold more hearings for judicial nominees this year, including Chief Judge Garland. Since Republicans took over the majority last year, judicial vacancies have nearly doubled from 43 to 83. Of these, 29 are in courts so strained that the vacancies have been deemed “emergencies.” Despite these empty judgeships all over the country, Republicans have allowed just 22 judicial nominees to be confirmed since last year. In contrast, in the last two years of the Bush presidency, the Democratic majority confirmed 68 of his judicial nominees.

After sitting on their hands and allowing judicial vacancies to dramatically rise since last year, Senate Republicans want to shut down the process for the rest of the year. This is wrong. The American people put in long hours to get their jobs done, and they deserve a Senate that does the same. Last week, the Majority Whip maintained that “We have a process for considering district judges.” Unless the aim of that process is simply to do nothing and expand the number of judicial vacancies, their process is not working for the American people. Senate Democrats’ record of confirming almost 70 of President Bush’s nominees in the last two years of his presidency, and bringing the number of vacancies down to 34, is what it looks like when the Senate is actually doing its job.

Senate Republicans can reverse course and alleviate the judicial vacancy crisis today before the seven-week recess the Republican Leader has scheduled. He should immediately take up the 24 judicial nominees pending on the floor. We can begin with the next district court nominee, Edward Stanton, for the Western District of Tennessee, who has been pending since last October and has the strong support of both of his Republican home state Senators.

I urge Republicans to listen to the American people and to do their jobs. By a 2-1 margin – the American people are demanding that Chief Judge Garland, a widely respected nominee with the most Federal judicial experience in history, receive a fair and public hearing. This Committee should continue its work this year to hold hearings for Chief Judge Garland as well as the other judicial nominees pending. And we should not wait another day to take up the 24 judicial nominees languishing on the Senate floor.

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