

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Ranking Member, Senate Judiciary Committee
Hearing on Judicial Nominations
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Today, the Judiciary Committee is holding its seventh judicial nominations hearing of 2004. This is more than the total number of hearings for judicial nominations in all of 1996 when President Clinton was in the White House. Indeed, at this point in 1996, the last year of that presidential term, the Committee had held only one hearing to consider judicial nominees. By that measure, this year we have proceeded seven times as fast.

We have moved forward with hearings this year in spite of the investigation into the spying and stealing by Republican staff of the computer files of Democratic Senators from the Judiciary computer server beginning no later than 2001 and continuing into 2003 before it was discovered.

The American people understand that Democrats on this Committee have shown great restraint and extensive cooperation in the confirmation of 173 of this President's judicial nominations and by continuing to move forward this year. The Senate has confirmed another four lifetime judges in the first weeks of this year. That is four more than at this point in 1996 when the first confirmation did not occur until July. I have every confidence that, with cooperation from the Administration, we will be able to meet and even exceed the total of 17 judges confirmed in 1996.

Today's hearing is to consider the nomination of Paul Diamond to the U.S. District Court for the Eastern District of Pennsylvania. Mr. Diamond comes to us with a unanimous rating of "Well-Qualified" from the American Bar Association, and significant experience serving as an assistant district attorney in Philadelphia for six years and serving as a litigator in private practice for over 20 years. He is supported by the senior Senator from Pennsylvania, for whom I have great respect.

A look at the federal judiciary in Pennsylvania shows how President Bush's nominees have been treated far better than President Clinton's and how Democrats have worked in a bipartisan way to fill vacancies in that State.

Mr. Diamond makes the 20th judicial nominee of President Bush from Pennsylvania to receive a hearing - more than for any other State in the nation. In just the 108th Congress, he is the sixth Pennsylvania district court nominee to receive a hearing and the eighth for the federal courts in Pennsylvania. The Senate, with Democratic cooperation, has already confirmed 13 Pennsylvania district court nominees of President Bush. By doing so, we did what the Republican majority refused to do in the years 1995 through 2000 when there was a Democratic President and they refused to proceed on nine judicial nominees from Pennsylvania.

President Bush's nominees now account for 15 of the 40 active federal judges in Pennsylvania. He has appointed 37 percent of the Pennsylvania federal bench in a little over three years. On the Pennsylvania district court, President Bush has had even a stronger influence, since his nominees now hold 13 of the 33 active seats, or 40 percent. If the nominees on the Senate Executive Calendar are considered and confirmed, President Bush's nominees will make up half of the federal courts in Pennsylvania and appointees of Republican presidents will outnumber those of Democratic presidents by nearly two to one.

With this hearing, all of President Bush's district and circuit court nominees from Pennsylvania have now received hearings. This is in sharp contrast to the way vacancies in Pennsylvania were left unfilled during Republican control

of the Senate when President Clinton was in the White House. Republicans denied votes to nine of President Clinton's nominees in Pennsylvania alone. Despite the efforts and diligence of the senior Senator from Pennsylvania to secure the confirmation of all of the judicial nominees from every part of his home state, there were nine nominees by President Clinton to Pennsylvania vacancies who never got a vote. Despite how well-qualified these nominees were, many of their nominations sat pending before the Senate for more than a year without consideration. Such Republican obstruction provided this President with an opportunity to shape the bench according to his partisan and ideological goals.

Recent news articles have emphasized that these vacancies allowed President Bush in his first term to reshape the federal bench in Pennsylvania. For example, on November 27, 2003, the Philadelphia Inquirer noted that the significant number of vacancies on the Pennsylvania courts "present Republicans with an opportunity to shape the judicial makeup of the court for years to come." They have created that opportunity and now taken advantage of it.

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