

Prepared Statement by Senator Chuck Grassley of Iowa
Ranking Member, Senate Judiciary Committee
Executive Business Meeting
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Good morning everyone. I'm pleased that this committee is considering three criminal justice bills that I'm proud to cosponsor: the COVID-19 Safer Detention Act, the Prohibiting Punishment of Acquitted Conduct Act, and the First Step Implementation Act. These bills are being held over but I'm looking forward to working with my colleagues and advancing them out of committee next week.

Turning to nominations, we have five nominees who are ripe for votes. Before I speak about the particular judicial nominees I want to provide some background on the recent history of circuit judges going through the judiciary committee.

When Republicans were in charge of this committee during the 114th Congress, we did not have a single party-line vote on a circuit nominee. The Congress before that, we voted on 24 circuit nominees only five of which were party-line. Of those five, three were D.C. Circuit nominees. This means that during President Obama's second term, at least some Republicans voted for 83% of Obama's circuit nominees. In fact, more than half proceeded without a single Republican vote in opposition.

Fast forward to the Trump Administration. In the 115th Congress, when I was Chairman, we voted on 31 circuit nominees. 19 of those votes were party-line. In the 116th Congress under Chairman Graham we voted on 24 circuit nominees. 19 of those were party-line. That means under President Trump 69% of the circuit nominees were party-line. Only four nominees--7%--advanced without Democrat opposition.

I'll also note that, of President Trump's minority circuit nominees, only one received any Democrat votes. None went by voice vote. Trump nominated more Asian-Americans to the court of appeals than every other President before him combined, and every single Democrat on this Committee voted against every single one of them.

I'll just summarize to have it in one place. Over the last four years, 69% of Trump's circuit nominees were party-line and only 7% were reported without Democrat opposition. Over the four years before that, only 17% of Obama's circuit nominees were party-line and more than half were reported without Republican opposition.

As this shows, traditionally Republicans have been more deferential about a Democrat president's ability to pick his judges. But I'll quote again, there can't be one set of rules for Republicans and another for Democrats. As Vanita Gupta explained in written questions, when Democrats opposed Patrick Bumatay it wasn't because he was gay or because he was Asian-American; it was because they disagreed with his record.

Democrats spent the last four years systematically voting against extremely well credentialed nominees who were diverse professionally, geographically, religiously, and ethnically because

those nominees weren't committed to a living constitution. I think Republicans should adhere to a similar standard.

We need to hold Democrat circuit nominees to a high standard of constitutionalism, regardless of how impressive their credentials are or how compelling their personal stories may be. Credentials and background aren't enough, as Democrats showed us. Unless a circuit nominee can show me that she or he's affirmatively committed to the Constitution as originally understood, I don't think that he or she should be confirmed. It's only fair.

As to the nominees today, I'll be voting against the two circuit nominees and for the three district nominees. Briefly, both Judge Jackson and Ms. Jackson-Akiwumi have impressive backgrounds, but neither has satisfied me that she will adhere to the Constitution as originally understood.

In the case of Judge Jackson this is particularly troubling because in 2013 she told our late colleague, Dr. Coburn, that she affirmatively did not believe in a "living constitution." She won't say that anymore, though, and she doesn't have a particularly good reason why not.

With Ms. Jackson-Akiwumi a review of her record before the Committee gives me serious concerns about her commitment to applying Seventh Circuit and Supreme Court precedent on the Second Amendment. Her views on *Roe v. Wade* are also concerning as were other aspects of her time as a federal defender. Amusingly, Ms. Jackson-Akiwumi refused to tell me whether or not climate change is real. I wonder if that will cost her any votes among my Democrat friends. We were told that answer was a serious problem for Amy Coney Barrett, after all.

As to the District Judges, I will vote for them all. They seem well qualified. I supported Mr. Neals under Obama and don't see any reason to change that view. Judge Quraishi's service prosecuting the war on terror and enforcing our immigration laws under President Bush is admirable. And Ms. Rodriguez's background as a law firm partner and former prosecutor is very impressive.