

**Statement of Senator Patrick Leahy (D-Vt.),  
Ranking Member, Senate Judiciary Committee,  
On Judicial Nominations  
June 21, 2016**

Today this Committee holds a nominations hearing for four judicial nominees, including one circuit court nominee, Jennifer Puhl, for the Eighth Circuit Court of Appeals. The other three would fill district court vacancies in South Carolina, Idaho, and New York. This is just the fourth judicial nominations hearing of this year – and it should not be the last. In 2008 when I was Chairman in the last year of the Bush administration, we held 8 hearings for judicial nominees, 2 of which took place in September of that year.

A glaring omission on today's hearing is the nomination of Chief Judge Merrick Garland. It has been 97 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. Today, the American Bar Association announced its rating of Chief Judge Garland's nomination, unanimously awarding him its highest rating of "Well-Qualified." This Committee should be inviting the American Bar Association to testify about its findings on Chief Judge Garland's outstanding qualifications to serve on our Nation's highest Court. Instead, Republicans have taken to the airwaves to discredit his nomination, making their case that the nomination can only go to a partisan conservative. They refuse to consider the nominee before them who has been praised by Republicans and Democrats as an impartial judge with fidelity to the rule of law.

There is an urgent need for this Committee to hold more hearings for judicial nominees this year, for Chief Judge Garland and so many other long-pending nominees who would fill vacancies throughout the country. Since Republicans took over the majority last year, judicial vacancies have nearly doubled from 43 to 83. Of these, 30 are in courts so strained that the vacancies have been deemed "emergencies." Despite these empty judgeships all over the country, Republicans have allowed just 20 judicial nominees to be confirmed since last year. Contrast that to the last two years of the Bush administration, when Senate Democrats were in the majority when we confirmed 68 judges, and judicial vacancies at the same time were half of what they are today.

This Committee should be holding additional hearings this year to consider the 26 other judicial nominees pending, including additional circuit court nominees. In the last two years of the Bush administration, I had already held hearings on eight circuit court nominees by this time, and all eight of those nominees were subsequently confirmed – by a Democratically-controlled Senate. Under Republican leadership, this Committee will have considered only four circuit court nominees after today. We should be considering the nominee for an emergency vacancy on Ninth Circuit, which is by far the busiest Federal appeals court. Judge Lucy Koh, who currently serves on the Federal district court in California, was nominated to that vacancy four months ago. She has the endorsement of several Republicans and conservative leaders, including former 10th Circuit judge Michael McConnell; former California Governor Arnold Schwarzenegger; former high-level Bush administration Justice Department appointee Viet Dinh; and others. There is no reason why we should not be holding a hearing on her nomination in July.

However, after allowing vacancies to dramatically rise, Senate Republicans want to shut down process for judicial nominees next month. This is wrong. Hardworking Americans know that it is wrong to slack off at work, and then leave early. The American people put in long hours to get their jobs done, and they deserve a Senate that does the same.

Republican leaders claim that they are justified in shutting down the process on judicial nominees starting in July because they have been “fair” to President Obama’s judicial nominees. This is simply not true and the American people know it. And I have documented countless times how Republicans’ unfair treatment of President Obama’s nominees has harmed our Federal judiciary. Republicans must understand our job is not to hit their calculation of “fairness” and then put their pencils down. We work for the American people. Senators do not get to stop doing their work during election years. This is especially the case right now, when we should be addressing the high number of judicial vacancies across the country.

We can alleviate the judicial vacancy crisis today. We should be immediately taking up the 26 judicial nominees pending on the floor. This includes the next district court nominee pending on the Executive Calendar, Brian Martinotti, for the District of New Jersey. And the next emergency vacancy pending on the floor is for the district court in Nebraska. Robert Rossiter’s nomination for that vacancy has been pending since last October and he has the strong support of both of his Republican home state Senators. As professor Carl Tobias recently wrote in the *Omaha World-Herald*, “It is past time to schedule a debate and vote on Robert Rossiter... The Nebraska federal judiciary as well as individuals and businesses litigating in federal court deserve a full bench.”

Senate Democrats will continue to do what is right and work for the American people. And the American people – by a 2-1 margin – are with us. They are also demanding that Chief Judge Garland, a widely respected nominee with the most Federal judicial experience in history, receive a fair, public hearing and a vote. I urge Republicans to listen to the American people and to do their jobs. This Committee should continue its work this year to hold hearings for Chief Judge Garland and the other judicial nominees pending. And we should not wait another day to take up the 26 judicial nominees languishing on the Senate floor.

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