

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
July 29, 2009

Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee
Hearing On Judicial and Executive Nominations
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Yesterday, the Committee reported the nomination of Judge Sonia Sotomayor to be a Justice on the United States Supreme Court. This morning, we hold our first confirmation hearing for lower court nominees since the Supreme Court vacancy arose in May.

The vacancies throughout the Federal courts have already risen to over 80. In addition, 27 upcoming vacancies have been announced. They will push Federal judicial vacancies over 100. We worked very hard to fill vacancies during the last presidency. When I chaired this Committee and we had a President of the other party in the White House, we were able to reduce overall vacancies by two-thirds, from over 100 down to 34, and to reduce circuit court vacancies to single digits. Despite having received Federal judicial nominees since March from President Obama and despite having held hearings and reported those nominees in June, not a single Federal judge has been confirmed by the Senate all year. The Senate must do better.

Both the judicial nominations we consider today come to us with bipartisan support. President Obama's nomination of Judge Beverly Martin, to be elevated from the U.S. District Court for the Northern District of Georgia to the 11th Circuit, has the support of Georgia's Senators, Senator Chambliss and Senator Isakson. Jeffrey Viken, nominated to serve on the U.S. District Court for the District of South Dakota, has the support of South Dakota's senior Senator, Senator Johnson, and Senator Thune.

Judge Martin is the fourth of President Obama's circuit court nominees to come before the Committee and the fourth with extensive experience as a well-respected Federal district court judge. When her nomination came before the Senate in 2000, it had the support of Senator Max Cleland, a Democrat, and Republican Senator Paul Coverdell, a Republican. Since her confirmation, she has managed a docket of 3,100 cases. Her nomination to the circuit court is rated unanimously "well qualified" by the ABA Standing Committee on the Federal Judiciary. Before becoming a Federal judge she had served as the U.S. Attorney for the Middle District of Georgia, as an Assistant U.S. Attorney in that office and as an Assistant Attorney General in the Office of the Attorney General of Georgia.

Jeffery Viken's wide-ranging experience makes him particularly qualified to serve as a judge on the U.S. District Court for the District of South Dakota. He is currently the Federal Defender for

the combined districts of North Dakota and South Dakota. He spent more than two decades at a South Dakota law firm and, before that, he served the District of South Dakota as its Acting U.S. Attorney and as an Assistant U.S. Attorney.

I am also pleased to include in today's hearing the nomination of David Kappos to be Director of the U.S. Patent and Trademark Office and Under Secretary of Commerce for Intellectual Property. He is a nominee who is well respected on both sides of the aisle and in all parts of the intellectual property community.

Mr. Kappos is no stranger to the members of this Committee. He testified earlier this year with regard to patent reform legislation. Coalitions on all sides of that debate have applauded the nomination of Mr. Kappos.

The PTO needs strong and accountable leadership. It has a significant backlog of applications and faces serious challenges as a result of the difficult economic environment. All of us who have been deeply involved in the patent reform effort share an interest in improving patent quality and reducing the backlog.

I look forward to working with Mr. Kappos, once he is confirmed, on patent reform legislation that will improve and modernize the statutory framework for our patent system. Ultimately, patent quality begins at the PTO and requires effective leadership. I am pleased that the President has nominated someone for this position with strong qualifications and ability.

I hope the hearing today can mark a new start in cooperating to fill vacancies. Republican objections have prevented the Senate from confirming nominees reported by the Judiciary Committee for over two months, since May 12. There are currently 17 nominees reported by the Judiciary Committee pending on the Executive Calendar. A dozen have been stalled on the Senate Executive Calendar since before the July 4th recess. The pending nominations include five U. S. Attorneys, four Assistant Attorneys General and the Chairman of the United States Sentencing Commission. I would urge the Senate Republican leadership to work with us to clear those nominations for confirmation before the extended August recess.

I am pleased to welcome our nominees and their families to the Committee today and I look forward to our considering these nominations.

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