

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
November 18, 2009

Statement of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee,
Hearing On Executive And Judicial Nominations
November 18, 2009

Today, we will hear from five of President Obama's well-qualified nominees, three for lifetime appointments to the Federal bench and two for important positions in the executive branch.

The first nominee we will hear from today is Judge Denny Chin, a well-respected judge on the Southern District of New York whom President Obama has nominated for elevation to the Second Circuit Court of Appeals. Like so many of this President's impressive circuit court nominees, including Judge David Hamilton, Judge Andre Davis, Judge Gerard Lynch, Judge Joseph Greenaway, Judge Beverly Martin, Judge Thomas Vanaskie, and Judge James A Wynn, Jr. , Judge Chin has had a long career as a Federal judge and is highly qualified to take this next step. Judge Chin also has years of experience as lawyer in private practice and as a Federal prosecutor.

Judge Chin was the first Asian Pacific American appointed as a Federal district court judge outside the Ninth Circuit. If confirmed to the Second Circuit, he will be the only active Asian Pacific American judge to serve on a Federal appellate court. It is unbelievable that of the approximately 175 active appellate court judges in our country, none are Asian Pacific American. More than 14 years have passed since an Asian Pacific American was nominated to a Federal appellate court. The progress we make today is long overdue.

I am glad that President Obama is following through on his commitment to nominate men and women to the Federal bench who reflect the diversity of America. Diversity on the bench helps ensure that the words "equal justice under law," inscribed in Vermont marble over the entrance to the Supreme Court, are a reality, and that justice is rendered fairly and impartially. With the President's nomination of Judge Chin, we are moving closer to that crucial goal. Today is an important milestone not only for the Asian Pacific American community, but for all Americans.

Given Judge Chin's qualifications, it is no surprise the Committee has received so many letters of support. Judge Michael Mukasey, who served as Attorney General under President George W. Bush, and who, before that, spent 18 years as a judge on the United States District Court for the Southern District of New York, had high praise for Judge Chin, who was his colleague on that court. Judge Mukasey wrote, "I believe him to be an intelligent and highly qualified nominee,

who brings to the job not only experience but also demonstrated good judgment and skill." He continued:

"He has handled complicated and contentious cases in a way that shows him to be a sound judge with both technical competence and common sense, and a temperament that has shown him to be both firm and fair. He will bring to the appellate bench a keen appreciation of the setting in which the cases he reviews are handled, as well as a good grasp of the law in the many and varied cases, civil and criminal, that come before him."

Judge John S. Martin, Jr., another judge who was Judge Chin's colleague in the Southern District of New York, echoed this praise. Judge Martin wrote: "Denny is a wonderful person and has been an excellent judge." Judge Martin also wrote:

"As his impressive resume reveals, he is an exceptionally able lawyer who has enjoyed great professional success. What his resume does not reveal is what a decent and thoughtful individual he is. As an Assistant United States Attorney, Denny was hard-working and well-liked by his colleagues. As a United States District Judge, he has handled a number of high-profile cases with distinction. Judge Chin is a thoughtful jurist who has earned the respect of those who have appeared before him. In short, Denny Chin has been an outstanding District Judge and I have no doubt that, if confirmed, he will serve with distinction on the Second Circuit."

The National Asian Pacific American Bar Association wrote to the Committee and emphasized the historical significance of Judge Chin's nomination, noting that when confirmed, "Judge Chin would become only the fifth Asian Pacific American federal appellate court judge in the history of the United States, and the first Asian Pacific American federal appellate court judge confirmed outside of the Ninth Circuit." The Association also wrote: "Regardless of his ethnicity, Judge Chin would be a federal appellate court judge of the highest caliber. He has served as a federal district court judge for the Southern District of New York for over 15 years, during which time he has presided over more than 5,300 cases and issued over 1,500 opinions. He has been reversed in less than 1 percent of his cases."

The Judiciary Committee has also received letters of strong support from the Asian American Justice Center, the Congressional Asian Pacific American Caucus, the Organization of Chinese Americans, and the Japanese American Citizens League. These letters will be included in the record.

I trust that each of the nominees here today will be treated well by the Committee and will receive prompt consideration. They should also receive prompt and fair consideration by the Senate, a long tradition followed by Democrats and Republicans that Republican Senators seem intent to abandon.

The Senate yesterday had to overcome a filibuster to consider the long-delayed nomination of Judge David Hamilton of Indiana to the Seventh Circuit. Judge Hamilton was President Obama's first judicial nomination, sent to the Senate in March, and has been stalled on the Executive Calendar since June 4, despite the strong support of his home state Senators, Senator Bayh, a moderate, and Senator Lugar, the longest-serving Republican in the Senate.

The Republican Senators who have attempted to filibuster the Hamilton nomination took cues from far right-wing special interest groups to vilify a good judge and good man. They relied on

unfair distortions of his mainstream record, cherry-picking and twisting a handful of the more than 8000 cases he handled on the bench to create an unfair caricature. Their distortions of his views and of the record before the Senate were soundly refuted earlier this week by the Senator Lugar. Despite Senator Lugar's forthright statement, Senate Republicans still persisted with their filibuster of that well-qualified nominee.

Yesterday, 70 Senators -- Democrats, Independents and Republicans -- joined together to overcome the leadership-led Republican filibuster of the Hamilton nomination. This has been a record year for filibusters by the Republican minority: filibusters of needed legislation, filibusters of executive nominations and filibusters of judicial nominations, which just a few years ago they proclaimed were "unconstitutional". Although their filibuster failed, what they achieved was months of obstruction and delay. Judge Hamilton's critics are wrong and have been wrong all along. I hope they do not follow this same path to distort the record of Judge Chin.

Today is November 18. By this date in President George W. Bush's first year in office, the Senate had confirmed a total of 18 lower court judges, including five circuit court judges. I know because in the summer of that year I began serving as the chair of this Committee. We achieved those results with a controversial and confrontational Republican President after a mid-year change to a Democratic majority in the Senate; in spite of the attacks of September 11; despite the anthrax-laced letters sent to the Senate that closed our offices; and while working virtually around the clock on the PATRIOT Act for six weeks. By comparison, this year, the Republican minority has allowed action on only about one-third as many judicial nominations to the Federal circuit and district courts as were confirmed in 2001. That is disgraceful.

We reduced judicial vacancies to as low as 34 last year, even though it was the last year of President Bush's second term, and a presidential election year. But such vacancies have already more than doubled since then. There are 99 vacancies on our Federal circuit and district courts, and 22 more have already been announced. This is approaching record levels. I know we can do better. The American people deserve better. Justice should not be delayed or denied to any American because of overburdened courts.

We will now have held hearings for 22 of President Obama's nominations to fill district and circuit court vacancies. We have reported 14 of these nominations favorably. Eight judicial nominees, including Judge Hamilton, have been reported by the Judicial Committee and are on the Senate Executive Calendar. Had those nominations been considered in the normal course, we would be on the pace Senate Democrats set in 2001 when fairly considering the nominations of our last Republican President. We have another five judicial nominations on the Committee's agenda this week that could be reported by the Committee. All of these nominations deserve prompt and fair consideration.

In addition to Judge Chin, at our hearing today we will hear from Professor Rosanna Malouf Peterson, who the President has nominated to serve as a Federal judge in the Eastern District of Washington. She is a professor at Gonzaga University School of Law, and she also has a law practice. Previously, Professor Peterson practiced employment and education law, as well as general litigation and criminal defense, at several private law firms in Spokane. Professor Peterson earned her B.A. and her M.A. from the University of North Dakota and her J.D., with distinction, from the University of North Dakota School of Law, where she served as editor-in-chief of the law review and was chosen by her professors as the "Outstanding Graduate." After

graduation, Professor Peterson clerked for Judge Fred Van Sickle, whom she would now replace on the district court.

President Obama nominated William Conley to serve as a district judge in the Western District of Wisconsin. Mr. Conley is a partner in the Madison, Wisconsin, office of Foley and Lardner, where he is widely recognized as a top antitrust and appellate lawyer. He has represented clients before the U.S. Supreme Court, the Wisconsin Supreme Court, and the Seventh Circuit, among others. Mr. Conley attended the University of Wisconsin, where he earned his B.A. and J.D. with honors. Mr. Conley also served as a law clerk for Judge Thomas Fairchild on the Seventh Circuit.

Justice Susan Carbon is nominated to be the Director of the Office on Violence Against Women at the Department of Justice. She currently serves on a New Hampshire state court as both a special justice on the district court and a supervisory judge in family court, having previously spent 14 years in private practice. Justice Carbon is a member of the Governor's Commission on Domestic and Sexual Violence and, until recently, she chaired New Hampshire's Domestic Violence Fatality Review Committee. She has led efforts to combat domestic violence at both the State and the national level. Justice Carbon received her B.A. with honors from the University of Wisconsin and her J.D. from the DePaul University College of Law.

President Obama nominated Professor John Laub to be the Director of the National Institute of Justice. Currently the Distinguished University Professor in the Department of Criminology and Criminal Justice at the University of Maryland, Professor Laub's academic career in the field of criminology and criminal justice has spanned almost 30 years. He has published two award-winning books and a wide variety of articles about crime, juvenile justice, criminal victimization, and the history of criminology. Professor Laub received his B.A. from the University of Illinois, and he earned his M.A. and his Ph.D. from the State University of New York at Albany's School of Criminal Justice.

I welcome all of the nominees and their families to the Committee today.

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