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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

March 20, 2008

The Honorable George W. Bush
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

I write again, as I did last November, to demonstrate my willingness to work constructively with you in accordance with the Senate's important role in the consideration of your nominees to high-ranking positions in the executive branch and to lifetime appointments on our Federal courts.

Since last September, the Senate Judiciary Committee has been hard at work seeking to help restore the Department of Justice. The leadership ranks at the Department of Justice were decimated by the scandals of the Gonzales era. The Judiciary Committee's hearing last week was the seventh hearing we have held since September on executive nominations. The Senate has proceeded to confirm a new Attorney General, a new Deputy Attorney General, and numerous other nominations to fill high-ranking positions at the Justice Department.

I regret to inform you that we were stalled last week in our efforts to fill two other critical positions at the Department, when an anonymous Republican hold blocked confirmation of Kevin O'Connor to be the Associate Attorney General, and Gregory Katsas to be the Assistant Attorney General in charge of the Civil Division. I was particularly disappointed with this unexpected development. We had worked hard to expedite these nominations, holding a hearing on the first day of this session of Congress. After a nearly month-long delay, when Republican Members of the Judiciary Committee effectively boycotted our business meetings in February, we were able to report these nominations to the Senate in early March. They were set for confirmation before the Easter recess, until the last-minute Republican objection stalled them. They join your nomination of Michael Sullivan to be the Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives as among those stymied by Republican objections. I trust at any future White House event on the status of nominations you will point out that several of your high-level executive nominations are being stalled by Republican objections.

With respect to judicial nominations, I want to commend you for working with Senators Warner and Webb to identify a nominee from those they recommended to you to fill a Virginia Fourth Circuit vacancy.

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Your previous nominations from Virginia, William Haynes, Claude Allen and Duncan Getchell, were controversial and did not proceed. Following your withdrawal of the Getchell nomination earlier this year, I urged you to work with the Virginia Senators. I now thank you for doing so.

I expect your nomination of Steven Agee to be considered promptly following completion of the necessary paperwork. I want to encourage meaningful consultation with Senators of both parties. Just as we proceeded last year to confirm your nomination of Judge Randy Smith to the Ninth Circuit, once you had withdrawn his nomination for a California seat and resubmitted it for a vacancy from Idaho, I expect the Judiciary Committee and the Senate to proceed to confirm Justice Agee with the support of Senator Warner and Senator Webb. I urge you to work with Senators from other states, as well, so that we might make progress before time runs out on your Presidency and the Thurmond Rule precludes additional confirmations.

Your judicial nominations have fared far better than those of your Democratic predecessor. Nearly 90 percent of your nominations have been confirmed to lifetime appointments. Approximately three-quarters of your circuit nominations, compared to little more than half of President Clinton's circuit court nominations, have been confirmed. We have succeeded in reducing overall vacancies and circuit court vacancies to as few as half as many as during President Clinton's term. With four more judicial nominations on the Senate's Executive Calendar and another pending on the Senate Judiciary agenda, I am proceeding to notice another hearing for judicial nominees for the week immediately following the Easter recess. That will be our fifth nominations hearing so far this year.

Respectfully,



PATRICK LEAHY
Chairman

cc: The Honorable Arlen Specter