

# United States Senate

WASHINGTON, DC 20510

July 22, 2003

The Honorable Orrin G. Hatch  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Hatch:

We are greatly troubled by recent developments respecting the nomination of William H. Pryor, Jr., to the U.S. Court of Appeals for the Eleventh Circuit, a nomination which has been pending before the Senate Judiciary Committee for some time now. We are especially troubled because, according to press accounts and other reports, some of General Pryor's opponents may have engaged in criminal activities in support of a campaign to smear a good and honest man. Some of these activities may have even involved the participation of individuals employed by the United States Senate. These are serious matters that warrant a formal investigation by this committee or by some other appropriate entity.

During the 107th Congress, at least one Democratic member of the committee bemoaned the fact that, in the past, when some Senators opposed a judicial nominee on ideological grounds, rather than present their actual concerns in a straightforward, honest, and open manner, they would instead resort to subterfuge and employ some other method to oppose that individual's confirmation, such as introducing allegations of ethical improprieties of one sort or another. In his words, "[t]his 'gotcha' politics has warped the confirmation process and harmed the Senate's reputation."

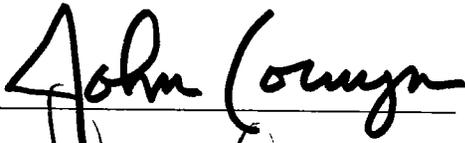
We believe that the Senate should focus on a judicial nominee's legal skill, competence, and commitment to interpreting rather than making law, and not on a nominee's ideology. And we certainly agree that "gotcha" politics only discredits the judicial confirmation process and dishonors the United States Senate.

Yet this form of destructive politics is precisely what we are witnessing today, and that is especially so with respect to the recent disclosure of documents alleged to describe certain fundraising activities organized by the Republican National Committee. As was revealed during last week's executive business meeting, at least some committee Democrats knew about these documents as early as June 11, the date of General Pryor's confirmation hearing before this committee. These same documents were only just recently made available to committee Republicans, however. Notably, these documents purport to describe only lawful campaign activities, and committee Democrats acknowledge they find no fault with those activities. Instead, these documents appear to have been used both to set potential perjury traps for a witness who in fact has answered every question honestly and forthrightly, and to attempt to justify (wrongly in our view) further investigation and further delay of the judicial confirmation process.

What's worse is that, by all accounts, it appears that these documents became available to the committee only as the result of theft. No alternative explanation as to the source of these documents has been offered to date by any member of this committee. The individual who originally handed these documents to committee Democrats is apparently a disgruntled contract employee who was fired by the organization, and who according to press accounts may be motivated by revenge on behalf of a friend who pleaded guilty just last month following a bribery investigation conducted by General Pryor and federal prosecutors. As was noted last week, she has refused repeated opportunities to explain to bipartisan committee investigators how she could have lawfully possessed the documents. Moreover, the individual has refused to explain fully how she was first contacted by the committee, forcing observers of the Senate's badly broken judicial confirmation process to wonder whether any member of the Senate staff may have conspired with her to engage in any unlawful conduct.

The integrity and credibility of the United States Senate and the judicial confirmation process cannot remain under this cloud for long without suffering serious damage. Accordingly, we ask that you open a formal committee investigation (or request an investigation by some other appropriate entity) to determine how these documents came into the possession of this committee, and to report any findings of criminal activity, including any such activity by any individual employed by the United States Senate, to the appropriate law enforcement authorities. Nothing less than the reputation of the Senate is at stake.

Yours truly,

  
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