

**Statement of Senator Patrick Leahy (D-Vt.),
Ranking Member, Senate Judiciary Committee,
On Judicial Nominations
April 11, 2016**

Today we will finally vote on the nomination of Waverly Crenshaw to fill a judicial emergency vacancy in the Federal District Court in the Middle District of Tennessee. This vacancy has been open since December 2014, and Mr. Crenshaw was nominated over a year ago, on February 4, 2015. He has the support of his two Republican home state Senators, Senators Alexander and Corker. He was voted out of the Judiciary Committee by unanimous voice vote last summer on July 9, 2015. There is no good reason why it has taken 14 months to confirm this nominee.

Mr. Crenshaw is currently a partner at the law firm Waller Lansden Dortch & Davis, LLP, in Nashville. Mr. Crenshaw was the first African-American partner at Waller, and in his nearly three-decade career in private practice, he has tried approximately 50 cases to verdict. Mr. Crenshaw also served for three years in the Tennessee Attorney General's Office as an assistant attorney general. He has the experience and qualifications necessary to serve on the Federal bench and he should be confirmed.

This is our first judicial confirmation vote in two months. In the last two years of the Bush administration – with a Democratic majority – the Senate confirmed 68 judges. This new Congress, the Republican leadership has allowed only 16 judges to be confirmed since they gained the majority last year. This record of obstruction began last year, when Senate Republicans confirmed the fewest judicial nominees in more than half a century.

Senate Republican leadership is failing our Federal judiciary with their obstruction of judicial confirmations. When Senate Republicans took over the majority in January of last year, there were 43 judicial vacancies. Since then, vacancies have dramatically increased more than 75 percent to 79. Furthermore, the number of judicial vacancies deemed to be “emergencies” by the Administrative Office of the U.S. Courts because caseloads in those courts are unmanageably high has nearly tripled under Republican Senate leadership – from 12 when Republicans took over last year to 34 today.

After we vote on Mr. Crenshaw's nomination, 19 judicial nominees will remain pending on the Executive Calendar. This includes nominees with home state support from Republican Senators, including Robert Rossiter for the Federal District Court in the District of Nebraska; Edward Stanton for the Federal District Court in the Western District of Tennessee; and Susan Baxter and Marilyn Horan for the Federal District Court in the Western District of Pennsylvania.

We can reduce the empty judgeships in those states if Republican leadership would allow timely votes on the pending judicial nominees on the Executive Calendar. All of those nominees were reported out of the Judiciary Committee by voice vote. There should not be any further delay in confirming them.

Last Thursday, the Leadership Conference on Civil and Human Rights and 42 other organizations submitted a letter to Chairman Grassley expressing their dismay with the failure of

the Judiciary Committee to do its job to process nominees for our Federal trial and appellate courts, creating a growing backlog of judicial nominations. I ask unanimous consent to include a copy of this letter at the end of my statement.

The American people expect Senators to do their jobs. This is true with judicial nominations to the lower courts, but it is even more crucial for the Supreme Court of the United States because no one can fill in for the vacant seat on our highest court. In just the last few weeks, the Supreme Court has deadlocked twice so it was unable to serve its constitutional function. Refusing to consider Chief Judge Merrick Garland for the Supreme Court is not only unfair to him, it is irresponsible and a threat to a functioning democracy.

A recent poll shows that nearly 70 percent of Americans – including a majority of Republicans – say that the Senate should hold a hearing for Chief Judge Garland. That is what the American people are saying, but Republicans are refusing to hear them. Instead of listening to their constituents, they are listening to powerful interest groups.

Since public confirmation hearings of Supreme Court nominees began in 1916, the Senate has never denied a Supreme Court nominee a hearing and a vote. And based on the Senate's precedent for decades, the Senate Judiciary Committee should hold a hearing for Chief Judge Garland this month.

A public hearing would allow Americans to engage in the process of considering the nomination and hear directly from Chief Judge Garland. But Senate Republicans continue to refuse to do their jobs. Instead, Republicans have outsourced their job to political interest groups whose only goal is to raise millions of dollars to launch a smear campaign against the nominee's admirable record of public service. These outside groups are not accountable to the American people. They do not have the American people's interest in mind. They are private, powerful groups whose only goal is to advance their own special interests at any cost.

These special interest groups are spending millions of dollars in dark money to run ads distorting Chief Judge Garland's record. At the same time, Republican Senators are planning to deny Chief Judge Garland a chance to defend himself at a public hearing. It is wrong, it is harmful, and it is unfair.

Some Senators have claimed that their unprecedented obstruction against Chief Judge Garland is based on "principle, not the person." But it is not principled to attack Chief Judge Garland's sterling career and then refuse to allow him the chance to respond at a public hearing.

Rather than following the demands of unaccountable interest groups, Republicans should listen to the American people who want to see real leadership in Washington. Americans want Republicans to do their jobs and consider for themselves the merits of Chief Judge Garland's record through a public hearing and a vote.

I am glad that several Republican Senators have agreed to meet with Chief Judge Garland. This is a person who has spent almost three decades in public service and has more Federal judicial experience than any Supreme Court nominee in history. Those who meet with Chief Judge

Garland will see what I have seen: that he has an exceptional legal mind and a deep respect for the Constitution. His commitment to public service is inspiring – from his days at the Justice Department working as a prosecutor on the ground in the aftermath of the Oklahoma City bombing to his nearly two decades as a Federal appellate judge.

But simply meeting with Chief Judge Garland is not enough. The Senate must act on his nomination. In the last several weeks, the Supreme Court deadlocked twice and was not able to carry out its constitutional role as the final arbiter of our Nation’s laws. Where you live will impact what your rights are. That is unacceptable and contrary to our constitutional system. If Republicans’ irresponsible obstruction of Chief Judge Garland does not stop, this will continue at the Supreme Court for two terms.

I hope Senate Republicans will listen to the American people, roll up their sleeves, and do their job. We must carry out one of our most important and solemn responsibilities and consider the Supreme Court nomination before us.

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