

Congressional staff memos that show how left-wing special interest groups are trying to hijack the appointment of federal judges. Today, I am introducing four more such memos. Besides confirming the fact that these groups are demanding, and apparently receiving, the power to delay or even block President Bush's nominees, they expose the double standard these groups apply to women and minority nominees who don't share their extreme political views. One memo shows that these groups identified Miguel Estrada, a nominee who received the American Bar Association's highest rating, as "especially dangerous" because, among other things, "he is Latino." Another memo reports that liberal lobbyists and their supporters in Congress proposed "a strategy for dealing with conservative Latino Circuit Court nominees." That memo also reveals that these lobbyists were using their contacts in the "Latino media" to undermine Mr. Estrada and others like him. Nominees Caroline Kuhl and Priscilla Owen were also singled out for opposition.

It is both ironic and tragic that these groups, which so loudly proclaim their support for the "civil rights" of women and minorities, would deny a judicial appointment to any minority or woman candidate who exercises his or her civil right to hold different opinions. It is time for these groups to stop blocking nominees who don't conform to their ideological stereotypes.

MEMORANDUM

To: [Member of Congress]

Date: November 6, 2001

Re: Meeting with Civil Rights Leaders, Tuesday, November 6, at 5 p.m. [Congressional Office Building]

Following up on a meeting in mid-October, you are scheduled to meet with leaders of several civil rights organizations to discuss their serious concerns with the judicial nomination process. The leaders will likely include: Ralph Neas (People For the American Way), Kate Michelman (NARAL), Nan Aron (Alliance for Justice), Wade Henderson (Leadership Conference on Civil Rights), Leslie Proll (NAACP Legal Defense & Education Fund), Nancy Zirkin (American Association of University Women), Marcia Greenberger (National Women's Law Center), and Judy Lichtman (National Partnership). The meeting will take place in [Congressional Office Building] with [2 Members of Congress] also present.

Today's meeting is likely to touch on a number of related issues. The primary focus will be on identifying the most controversial and/or vulnerable judicial nominees. The groups would like to postpone action on these nominees until next year, when (presumably) the public will be more tolerant of partisan dissent. They would also like to develop a strategy for moving these nominees. Among their priorities: (1) they want to ensure that they receive adequate notice before controversial nominees are scheduled for hearings; (2) they think [Member of Congress] should use controversial nominees as bargaining chips, just as the Republicans did; and (3) they are opposed to holding hearings during recess. Although [Member of Congress] has resisted these moves so far, they are reasonable requests in our estimation.

There will likely be a discussion about how to respond effectively to recent Republican

charges that the pace of judicial nominations is too slow. The Republicans have continued to hold-up the appropriations bills. As of Friday, it was their intention to launch a new campaign this week, charging the Democrats with hindering the war effort by not confirming judges who are needed to approve wire taps and search warrants. This claim is deeply flawed, because the Committee has been especially quick to move along district court judges and the White House has not nominated people to fill more than half of the current vacancies.

Under separate cover, I will provide a table that evaluates the current Court of Appeals nominees who are pending, as well as a few noteworthy district court nominees. N.B.: These are my designations, and they are preliminary. The groups may feel somewhat differently.

MEMORANDUM

To: [Member of Congress]

Date: November 7, 2001

Re: Meeting with Civil Rights Leaders Yesterday to Discuss Judges

Due to the floor activity last night, you missed a meeting with [Member of Congress] and representatives of various civil rights groups. This was intended to follow-up a meeting in [Member of Congress's] office in mid-October, when the groups expressed serious concern with the quick hearing for Charles Pickering and the pace of judicial nominations generally.

Yesterday's meeting accomplished two objectives. First, the groups advocated for some procedural ground rules. These include: (1) only one hearing per month (2) no more than three judges per hearing; (3) giving Committee Democrats and the public more advance notice of scheduled nominees; (4) no recess hearings; and (5) a commitment that nominees voted down in Committee will not get a floor vote. Earlier yesterday, [Member of Congress's] staff committed to the third item in principle.

Second, yesterday's meeting focused on identifying the most controversial and/or vulnerable judicial nominees, and a strategy for targeting them. The groups singled out three—Jeffrey Sutton (6th Circuit); Priscilla Owen (5th Circuit); and Caroline Kuhl (9th Circuit)—as a potential nominee for a contentious hearing early next year, with a eye to voting him or her down in Committee. They also identified Miguel Estrada (D.C. Circuit) as especially dangerous, because he has a minimal paper trail, he is Latino and the White House seems to be grooming him for a Supreme Court appointment. They want to hold Estrada off as long as possible.

Attached is a table that I compiled, evaluating the 19 Court of Appeals nominees and a few of the controversial district court nominees.

Based on input from the groups, I would place the appellate nominees in the categories below.

Asterisks indicate that a [Member of Congress] has placed a hold on the nominee.

GOOD

Clifton (9th Cir.)*
Melloy (8th Cir.)
O'Brien (10th Cir.)
Howard (1st Cir.)
B. Smith (3rd Cir.)

BAD

Shedd (4th Cir.)
Roberts (D.C. Cir.)

L. Smith (8th Cir.)
Pickennig (5th Cir.)
Tymkovich (10th Cir.)
Gibbons (6th Cir.)
Steel (11th Cir.)

UGLY

Boyle (4th Cir.)*
Owen (5th Cir.)
Sutton (6th Cir.)*
Cook (6th Cir.)*
McConnell (10th Cir.)
Estrada (D.C. Cir.)
Kuhl (9th Cir.)*

MEMORANDUM

To: [Member of Congress]

Subject: Judges and the Latino Community

Date: February 28, 2002

Ralph Neas called to let us know that he had lunch with Andy Stern of SEU. Andy wants to be helpful as we move forward on judges, and he has great contacts with Latino media outlets—Univision and others. Ralph told Andy that you are anxious to develop a strategy for the Supreme Court and a strategy for dealing with conservative Latino Circuit Court nominees that are hostile to constitutional and civil rights. Ralph and Andy discussed the possibility of a relatively small meeting to discuss media strategy, and Andy believes there are several Latino media leaders who share our concerns and would like to meet with you. Ralph proposes that you meet with key Latino media leaders, Raul, Antonia, Wade, and Ralph, and I think this is a very good idea.

Would you like to have such a meeting to discuss media strategy and the Latino community? If so, Ralph and Andy will take the lead in getting everyone to DC.

Decision:

Yes, I want to meet with them _____
No, I don't want to meet _____

MEMORANDUM

To: [Member of Congress]

Date: June 3, 2002

Re: Meeting with Civil Rights Leaders to Discuss Judicial Nominations Strategy

[Member of Congress] has invited invited you and [Member of Congress] to attend a meeting with civil rights leaders to discuss their priorities as the Judiciary Committee considers judicial nominees in the coming months. For example, they believe that the Committee's current pace for nominations hearings (every two weeks) is too quick; and they need more time to consider the record of Judge Dennis Shedd, a controversial 4th Circuit nominee whom [Member of Congress] is backing.

This meeting is intended to follow-up your meetings in [Member of Congress's] office last fall. The guest list will be the same: Kate Michelman (NARAL), Nan Aron (Alliance for Justice), Wade Henderson (Leadership Conference on Civil Rights), Ralph Neas (People For the American Way), Nancy Zirkin (American Association of University Women), Marcia Greenberger (National Women's Law Center), and Judy Lichtman (National Partnership). The meeting has been tentatively scheduled for late Wednesday morning.

Assuming your schedule permits, do you want to accept [Member of Congress's] invitation and attend the meeting?