

Originally Processed With FOIA(s):
1998-0004-F[2]

FOIA Number:
S

FOIA MARKER

**This is not a textual record. This is used as an
administrative marker by the George Bush Presidential
Library Staff.**

Record Group/Collection: George H.W. Bush Presidential Records
Collection/Office of Origin: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files

OA/ID Number: 29161
Folder ID Number: 29161-006

Folder Title:
Judicial Selection 1991 [1]

Stack:	Row:	Section:	Shelf:	Position:
G	15	25	2	6

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memo	From C. Boyden Gray to John Sununu Re: Judicial Nominations: Trouble Spots (2 pp.)	9/24/91	(b)(6)	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Judicial Selection 1991 [1]

Date Closed:	1/4/2005	OA/ID Number:	29161-006
FOIA/SYS Case #:	1998-0004-F[2]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02a. Note	From Phillip D. Brady to C. Boyden Gray Re: Attached Material on Recommendation for Circuit Court Nomination (1 pp.)	9/13/91	P 5	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Judicial Selection 1991 [1]

Open on Expiration of PRA
 (Document Follows)
 By SP (NLGB) on 10/28/05

Date Closed: 1/4/2005	OA/ID Number: 29161-006
FOIA/SYS Case #: 1998-0004-F[2]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
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THE WHITE HOUSE
WASHINGTON

9/13/91

FOR: BOYDEN GRAY

FROM: PHILLIP BRADY
Assistant to the President
and Staff Secretary

☐ Information

☒ Action

☐ Let's Discuss

cc: Chief of Staff ✓

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02b. Letter	From Bob Dole to POTUS Re: Recommendation for Circuit Court Nomination (1 pp.)	9/10/91	(b)(6)	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Judicial Selection 1991 [1]

Date Closed:	1/4/2005	OA/ID Number:	29161-006
FOIA/SYS Case #:	1998-0004-F[2]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
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Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02c. Memo	From Frederick McClure to POTUS Re: Letter from Senator Bob Dole (1 pp.)	9/12/91	(b)(6)	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Judicial Selection 1991 [1]

Date Closed: 1/4/2005	OA/ID Number: 29161-006
FOIA/SYS Case #: 1998-0004-F[2]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
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RESTRICTION CODES

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Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02d. Memo	From C. Boyden Gray to POTUS Re: Response to President Ford re Second Circuit (1 pp.)	8/5/91	(b)(6)	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Judicial Selection 1991 [1]

Date Closed:	1/4/2005	OA/ID Number:	29161-006
FOIA/SYS Case #:	1998-0004-F[2]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
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Withdrawal/Redaction Sheet

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Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02e. Memo	From POTUS to Jerry Re: Letter of Support (1 pp.)	8/6/91	(b)(6)	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Judicial Selection 1991 [1]

Date Closed:	1/4/2005	OA/ID Number:	29161-006
FOIA/SYS Case #:	1998-0004-F[2]	Appeal Case #:	
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To Lee Lieberman 9/6/91

M E M O R A N D U M

TO: Governor John Sununu
FROM: Governor Kay A. Orr *JO*
DATE: September 5, 1991

THE CHIEF of STAFF
has seen

The following is a summary of the facts I gave you during our conversation yesterday regarding the Federal District Court judgeship in Lincoln, Nebraska.

In the summer of 1990, United States District Court Judge Warren Urbom announced his wish to retire and move to Senior Judge status. Shortly thereafter, Congressman Douglas Bereuter announced his plans to appoint a committee, chaired by Mr. Jim Hewitt, to choose his nominee for the position. Mr. Hewitt is a former president of the Nebraska Bar Association and is active in the American Bar Association. Mr. Hewitt's committee chose Fred Kauffman of Lincoln. (Many people, including Governor Orr and former Governor Thone, anticipated the committee would choose Mr. Kauffman.)

Governor Orr, in consultation with former Governor Thone and Congresswoman Virginia Smith, added the nomination of Dick Nelson of Lincoln for the position.

In early summer of 1991, it became clear from conversations with staff in the Justice Department who were handling the appointment that neither candidate would be recommended by Justice to the White House. In addition, staff at the Department of Justice indicated a preference to appoint women or members of minorities to the judgeships.

In response to these indications from the Department of Justice, all of the parties who had been active in nominating Kauffman and Nelson, plus recently elected Congressman Bill Barrett, came together and unanimously and enthusiastically agreed to nominate Cynthia Hardin Milligan of Lincoln for the federal judgeship which is located in Lincoln. Mr. Hewitt agreed to support Mrs. Milligan's nomination with his colleagues at the American Bar Association.

Before the parties could inform Justice that a consensus had been reached by the group, Justice forwarded to the White House two names of attorneys who live in Omaha. (There is a new federal judgeship being created to be located in Omaha. One of the names sent would be recommended for the Omaha seat and one for the Lincoln seat.) The letter recommending Cynthia Milligan as the unanimous candidate of the Nebraska Republican Party officials and

officeholders was sent, but arrived at the Department of Justice after the two names had been forwarded to the White House.

Cynthia Milligan has practiced law for twenty years. She is a Phi Beta Kappa, an honor graduate, and has a reputation as a brilliant legal scholar. She has been recognized as one of the outstanding lawyers in America. She was with a well-known Washington, D.C. firm for seven years (Arent, Fox, Kintner, Plotkin and Kahn). While in Washington, D.C., she served as an adjunct professor at Georgetown University, teaching at the graduate course level.

She then moved to Lincoln where she practiced with a firm for ten years, headed the tax section of the bar, and continued her teaching at the University of Nebraska Law School and other continuing legal education programs, until she joined Governor Orr's administration in 1987 as Director of the Department of Banking and Finance.

She currently heads her own firm doing legal and business consulting for financial institutions. She has been a member of the American Law Institute for sixteen years. As further evidence of the high regard with which Cynthia is held, she has been elected to the Board of Directors of Nebraska's largest banking organization, as well as the Board of Directors of the University of Nebraska Foundation, Hastings College, and numerous public service boards.

It is clear that the President would be better served if a Lincoln attorney was appointed to the U.S. District Court judgeship which is located in Lincoln, particularly by appointing someone as outstanding as Cynthia Milligan. There have been articles in the Lincoln and Omaha newspapers and an editorial in the Lincoln paper expressing displeasure with an Omahan being appointed to serve in Lincoln when Lincoln has excellent attorneys. Sen. Exon has indicated to some that he may hold up Senate confirmation if an Omaha attorney is nominated for the Lincoln seat.

September 6, 1991

John:

As I mentioned to you, Cynthia Milligan is the daughter of former Secretary of Agriculture Clifford Hardin. She is close to President Nixon and serves on the Executive Board of the Nixon Library. Her sister is the daughter-in-law of former Attorney General and Secretary of State William Rogers. She is also well-known to President Bush's cousin, Bert Walker. All of these individuals are enthusiastic in their support for Cynthia for the Federal District Court judgeship.


Key

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
03. Resume	From Cynthia Hardin Milligan (1 pp.)	n.d.	P2 , P3	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Judicial Selection 1991 [1]

Open on Expiration of PRA
 (Document Follows)
 By JP (NLGB) on 10/28/05

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CYNTHIA HARDIN MILLIGAN

2633 South 24th Street
Lincoln, Nebraska 68502
(402) 474-5621

PRESENT AND PREVIOUS OCCUPATIONS:

Consultant to Financial Institutions (January, 1991 to present).

Director, Nebraska Department of Banking and Finance (1987 to January, 1991).

Responsible for the supervision of state-chartered financial institutions, which include 277 commercial banks, 2 industrial banks, 43 credit unions, 5 savings and loan companies, 70 installment loan companies, and the Bureau of Securities, which registers all securities offered or sold in the State or to Nebraska residents, licenses securities brokers, issuers, agents, and investment advisors, and investigates securities violations and frauds. The Department also enforces the Installment Loan Act, the Nebraska Installment Sales Act, the Nebraska Loan Broker Act, the Sale of Checks Act, the Seller-Assisted Marketing Plan Act, and the Mortgage Bankers Registration and Licensing Act. The Department has approximately 65 employees; its operating budget is approximately \$3.6 million; and its revenues for the fiscal year ending in 1990 were approximately \$8.4 million.

Education Advisor to the Governor of Nebraska (1987-1991)

Helped formulate and implement education policy. Served as Governor's representative on boards and commissions studying education issues. Spoke at education conferences. Attended President's Education Summit for the fifty governors and their education advisors (1989).

Senior Partner in law firm of Rembolt Ludtke Parker Milligan & Berger, Lincoln, Nebraska (1977-1987). Law firm of 14 attorneys and 23 staff members. Practiced in the areas of general business, taxation, securities, banking, corporate, partnership, estate planning, and probate law.

Associate Attorney with law firm of Arent, Fox, Kintner, Plotkin & Kahn, Washington, D.C. (1970-1977). Law firm of 145 attorneys. Practiced real estate, taxation, securities, partnership, corporate, and general business law. Invited to become a partner in the firm (1977).

CURRENT OTHER RESPONSIBILITIES:

Board of Directors, Norwest Bank Nebraska, N.A. and Norwest Bank Lincoln, Nebraska, N.A.

Board of Directors, M.I. Industries, Lincoln, Nebraska.

Board of Directors and Board of Trustees, University of Nebraska Foundation, Lincoln, Nebraska.

Board of Trustees, Hastings College, Hastings, Nebraska.

Board of Directors and Secretary, Lincoln Foundation, Inc., Lincoln, Nebraska.

Board of Directors, People's City Mission Foundation, Lincoln, Nebraska.

PREVIOUS POSITIONS:

Board of Directors, Nebraska Futures, Inc. (1988-1990).

Member, Intergovernmental Policy Advisory Committee for the Office of the U.S. Trade Representative, under Secretary Clayton Yeutter and Ambassador Carla Hills (1988-1990).

Member, School Financing Review Commission (1988-1990).

Member, LR 247 Higher Education Study Committee (1988-1991).

Member, Conference of State Bank Supervisors, Washington, D.C. (1987-1991, Chairman of Midwestern District-1988-89).

CYNTHIA HARDIN MILLIGAN

Page 2

PREVIOUS POSITIONS (continued):

Board of Directors, Nebraska Continuing Legal Education, Inc., Lincoln, Nebraska (1986-1989).
Member, Citizens Commission for the Study of Higher Education, Nebraska (1984).
Member of Nebraska State Board of Education (1981-1984), Vice President (1984).
Member of Nebraska Coordinating Commission for Post-Secondary Education (1981-1984).
Board of Elders, Westminster Presbyterian Church, Lincoln, Nebraska (1981-1983).
Board of Directors, Lincoln Symphony (1979-1982).

LECTURER AND PROFESSOR:

Lecturer at various continuing legal education seminars, including the following:
American Law Institute-American Bar Association national seminars on financial and tax aspects of condominium conversions.
New York University Tax Institute national seminar on estate taxes and estate planning (1982).
Numerous Nebraska and Washington, D.C. seminars on federal income taxation, estate planning, and condominium conversions, including the Great Plains Federal Tax Institute (1983).
Adjunct Professor of Law (Taxation), University of Nebraska, College of Law (1980).
Adjunct Professor of Law (Taxation), Georgetown University, Washington, D.C. (1975).

AUTHOR:

"Tax Considerations in Condominium Conversions," National Capitol Area Realtor, March 1974, reprinted in Real Estate Securities and Syndication Newsletter published by the National Association of Realtors, May, 1974.
"Permissible Estate Tax Deductions Under Section 2053 - A New Look," New York University Tax Institute, 1981 Seminar.

EDUCATION:

J.D. with honors from George Washington University National Law Center, Washington, D.C. (1970).
B.A. with honors from the University of Kansas, Lawrence, Kansas (1967). Elected to Phi Beta Kappa (1967).
Attended University of Nebraska-Lincoln (summers).
Bryn Mawr College, French Institute, Avignon, France (1966).

HONORS AND AWARDS:

1991 Business Excellence Achievement Award, University of Nebraska-Lincoln, College of Business Administration Alumni.
1987 Toll Fellow, Council of State Governments, Lexington, Kentucky.
Business Woman of the Year, Phi Chi Theta, Lincoln, Nebraska (1986).
Listed in Best Lawyers in America, authored by Steven Naifeh and Gregory White Smith, Harvard Law (1977).
Listed in Who's Who of American Women, Marquis Who's Who.
Listed in Who's Who in American Law, Marquis Who's Who.
Lead Articles Editor, Nebraska Law Review, Lincoln, Nebraska (1969).
Phi Beta Kappa, University of Kansas, Lawrence, Kansas (1967).

CYNTHIA HARDIN MILLIGAN

Page 3

PROFESSIONAL MEMBERSHIPS:

American Law Institute.

American Bar Association.

Nebraska State Bar Association (member of Committee on Inquiry for District 1 –1981-present, Vice Chairman – 1990-present; Tax Section Chairman – 1982).

District of Columbia Bar Association.

Planning Committee of Great Plains Federal Tax Institute (Co-Chairman of 1982 Institute).

PERSONAL:

Married to Robert S. Milligan, businessman.

Five children.

CA 61

LARRY D. THOMPSON

Mr. Thompson received his law degree from the University of Michigan Law School in Ann Arbor, Michigan. He is a partner with the Atlanta law firm of King & Spalding.

Mr. Thompson's practice involves white collar criminal defense matters and complex civil litigation, including grand jury and administrative investigations, internal corporate investigations, RICO litigation and criminal and civil trials.

Mr. Thompson is active in several professional and civic organizations. He serves as Chairman, Board of Directors, Atlanta Urban League. He also serves as a member of the boards of directors of the King-Tisdell Cottage Foundation in Savannah, Georgia; Woodward Academy in College Park, Georgia; and the Georgia Republican Foundation. Mr. Thompson has written a chapter for a recent Critical Issues monograph published by The Heritage Foundation.

Mr. Thompson is a member of the Board of Directors, Northern District of Georgia Federal Defender Program and the State of Georgia Board of Bar Examiners. He is also a member of the Joseph Henry Lumpkin Inn of Court. He has participated as a faculty member in several continuing legal education programs and has written and lectured on civil litigation techniques, litigation ethics, RICO, bank fraud and white collar crime for such organizations and programs as the Institute of Continuing Legal Education in Georgia, American Bar Association and the Regional Training Program for Federal Investigators. Mr. Thompson has also edited an American Bar Association publication entitled, "Jury Instructions in Criminal Antitrust Cases, 1976-1980." He has served as an Adjunct Professor of Law with the Walter F. George School of Law at Mercer University in Macon, Georgia and is a member of the bars of Georgia and Missouri. Mr. Thompson is also a member of the Lawyers Advisory Committee of the Eleventh Circuit Court of Appeals.

Mr. Thompson served as United States Attorney for the Northern District of Georgia from 1982 to 1986. As United States Attorney, Mr. Thompson directed the Southeastern Organized Crime Drug Enforcement Task Force and served on the Attorney General's Economic Crime Council.

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
04. Memo	From C. Boyden Gray to POTUS Re: Letter from Sundquist re Sixth Circuit (1 pp.)	8/5/91	(b)(6)	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Judicial Selection 1991 [1]

Date Closed:	1/4/2005	OA/ID Number:	29161-006
FOIA/SYS Case #:	1998-0004-F[2]	Appeal Case #:	
Re-review Case #:	2005-0426-S	Appeal Disposition:	
P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-3 Release would violate a Federal statute [(a)(3) of the PRA]
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
 (b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 (b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 (b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 (b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 (b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

Dear Don:

Thank you for your letter about the Sixth Circuit. I understand you sat down with folks last week and that everybody is working diligently on this issue.

Have a splendid and restful recess. I am looking forward to mine!

Sincerely,

GB

- Name of Correspondent:**

Phil Brady

- User Codes:** (A) (B) (C)

Subject:

Letter from Congressman Sundquist re
recommendation of Julia Gibbons
nomination to the Sixth Circuit Court.

DISPOSITION

ACTION CODES:

- I - Info Copy Only/No Action Necessary**
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

A - Answered **C - Completed**
B - Non-Special Referral **S - Suspended**

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments:

5/81

THE WHITE HOUSE
WASHINGTON

7/26/91

TO: COUNSEL

FROM: PHILLIP D. BRADY
Assistant to the President and
Staff Secretary

Please prepare a response for
the President's signature at
the earliest possible time.

Thank you.

rec'd 7/25

THE WHITE HOUSE
WASHINGTON

JULY 25, 1991

MEMORANDUM FOR THE PRESIDENT

FROM: GARY J. ANDRES, DEPUTY ASSISTANT TO THE PRESIDENT FOR
LEGISLATIVE AFFAIRS *GJA*

THROUGH: FREDERICK D. MCCLURE, ASSISTANT TO THE PRESIDENT FOR
LEGISLATIVE AFFAIRS *FM*

RE: LETTER FROM CONGRESSMAN DON SUNDQUIST (R-TN)

Congressman Sundquist asked me to deliver this letter to you personally today. It concerns a conversation he had with you last night at the House Gym Dinner regarding a candidate he is supporting for a nomination to the U.S. Sixth Circuit Court of Appeals.

ATTACHMENT: CONGRESSMAN SUNDQUIST LETTER TO THE PRESIDENT

DON SUNDQUIST
7TH DISTRICT, TENNESSEE

COMMITTEE
WAYS AND MEANS

WASHINGTON OFFICE:
220 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
202-225-3811

Congress of the United States
House of Representatives
Washington, DC 20515

DISTRICT OFFICES
117 SOUTH 2D STREET
CLARKSVILLE, TN 370-
616-652-4400

5909 SHELBY OAKS DR.
SUITE 213
MEMPHIS, TN 38134
901-382-8811

July 25, 1991

The Hon. George Bush
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

As I mentioned briefly last evening at the gymnasium dinner, I am experiencing a twofold problem relative to the selection of a new judge for U.S. Sixth Circuit Court of Appeals.

Of paramount concern is that Tennessee is in danger of having its representation on the circuit reduced from three to two, this at a time when Tennessee is the only growth state in the circuit and when the number of appeals originating in Tennessee continues to show steady growth. There is no precedent for reducing a state's representation on the circuit, let alone in a year when the circuit will gain an additional judgeship.

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My second problem has to do with the judicial vacancy itself. You have stated often that it is your wish to nominate highly-qualified women to the federal bench. Knowing this, I recommended late last year that the 6th Circuit vacancy be offered to U.S. District Judge Julia Gibbons of Memphis.

Judge Gibbons appears to fit perfectly the criteria you have set for judicial appointments; she is young (40), superbly educated and credentialed, a Republican, a conservative with a strong record on the bench, and enjoys broad-based support in Tennessee. Judge Gibbons served as an aide to former Governor Lamar Alexander and was named by him to the state bar.

The Hon. Goerge Bush
page two -----

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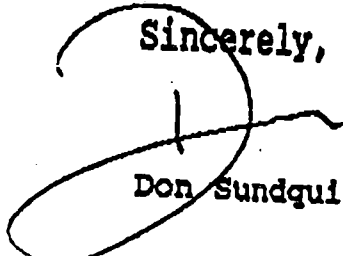
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Mr. President, the loss of a major federal judgeship in Tennessee - in my district - will certainly be viewed as a major political setback for me. Further, the rejection of a young, conservative female jurist who enjoys wide-ranging support in the state and who would appear to be exactly the sort of nominee you have sought for these positions cannot but harm the administration's standing in Tennessee.

I respectfully seek your assistance in retaining Tennessee's traditional third seat on the 6th Circuit Court of Appeals, and I ask your fair consideration of U.S. District Judge Julia Gibbons for nomination to that seat.

With thanks and kindest regards, I am

Sincerely,


Don Sundquist, M.C.

DKS:rmp

THE TENNESSEAN

NASHVILLE 3/18/91

MON MAR 18 '91

Gibbons for 6th Circuit

Reagan - Pres Endorsement
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Before that, she served as a Circuit Court judge in Memphis, a position to which she was appointed by former Gov. Lamar Alexander. That 1981 appointment made her the first woman trial judge of a court of record in Tennessee.

The Bush administration now has scores of judgeships to fill. Just in the 6th Circuit, which handles federal appeals from Tennessee, Kentucky, Ohio and Michigan, there are three vacancies on the 16-judge court.

One of those judgeships should go to Gibbons. Her appointment would benefit

the 6th Circuit because it would give those states a first-rate judge who has already proved in 10 years on the bench that she has the intellect, stamina and temperament to serve with distinction.

And the appointment would be a big credit to Bush. Frankly, the Bush administration's record of appointing women to judgeships is quite bad. Of the 48 district judicial appointments made by the administration in its first two years, just five were women. Of Bush's 18 appeals court appointments, only two were women.

Filling federal judgeships understandably has not been the White House's top priority during the months of the Persian Gulf conflict.

But the war is over, and other matters, including judgeships, are urgent. In the case of one vacancy on the 6th Circuit, Gibbons' experience and intellect should make the appointment simple. ■

The Commercial Appeal

Jan. 8, 1991

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She was, as she mentions in a Vanderbilt Alumnus article, "the first female attorney employed by the firm with which I practiced, the first female legal counsel for a governor of our state (Lamar Alexander), the first female trial judge of a court of record in Tennessee, and the first female district judge in Tennessee."

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In 1984, Judge Hull stepped down from a case involving charges against bankers Jake and C.H. Butcher after The News-Sentinel in Knoxville reported that the judge had used a Butcher loan to buy stock in a Butcher bank. More recently, the appeals court re-

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THE WHITE HOUSE
WASHINGTON

7/25

TO:

Peter BRADY

FROM:

FRED McCLURE
Assistant to the President
for Legislative Affairs

- ☐ FYI
- ☐ Comment
- ☒ Action

Scundquist raised this with POTUS last night. I do not know if he is expecting this or not. Please handle. Copies are being provided for Sumner and Gray.

— Thanks —
Fred

THE WHITE HOUSE
WASHINGTON

7/25

Lee is mtg
w/ Sundquist
8/2

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THE CHIEF of STAFF
has seen

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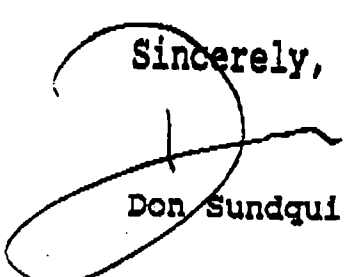
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NASHVILLE 3/18/91

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THE WHITE HOUSE
WASHINGTON

DATE: July 26, 1991

TO: GOVERNOR SUNUNU

FROM: ED ROGERS

Per yesterday's conversation, here is more information on the Sundquist nominee.

FYI.

DON SUNDQUIST
7TH DISTRICT TENNESSEE

COMMITTEE
WAYS AND MEANS

WASHINGTON OFFICE
230 CANNON HOUSE OFFICE BUILDING
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Washington, DC 20500

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-more-

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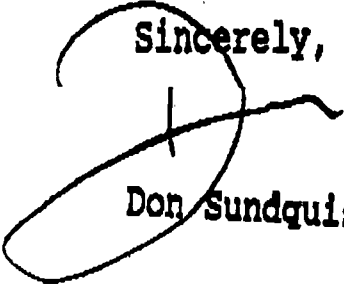
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enclosures

THE TENNESSEAN

NASHVILLE 3/18/91

MON MAR 18 '91

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By contrast, the career of Judge Gibbons has been one of unmarred distinction, from an outstanding record at Vanderbilt University and the University of Virginia School of Law through a long list of professional firsts.

She was, as she mentions in a Vanderbilt Alumnus article, "the first female attorney employed by the firm with which I practiced, the first female legal counsel for a governor of our state (Lamar Alexander), the first female trial judge of a court of record in Tennessee, and the first female district judge in Tennessee."

In one of her most publicized cases, Judge Gibbons ruled that unconstitutional conditions existed at the Shelby County Jail, but she avoided adding to the confusion and tensions. With an orderly approach that reassured everyone involved in the case, she directed jail officials and attorneys for inmates to develop a plan of reforms. She approved the plan last year.

Also weighing in the favor of Judge Gibbons is the fact that, in 1989, there were only 18 women among the nation's 133 appellate court judges. The judicial branch of government needs to have better representation than that for more than half the population.

IF NOMINATED and confirmed to the Court of Appeals, Judge Gibbons would be one of the youngest judges on the appeals bench. In her case, that's not a handicap.

First, her record is superb. In her eight years as a district judge, she has earned the respect that supports her candidacy. Her temperament is flawless; her scholarship, thorough; her judgment, mature and reliable.

Because of that record and experience, her age becomes an advantage. She would have a long career on the appeals bench — and a chance eventually to become a leading candidate for the Supreme Court. That's a major contribution for President Bush.

Copy to Boyden

DON SUNDQUIST
7TH DISTRICT, TENNESSEE

COMMITTEE
WAYS AND MEANS

WASHINGTON OFFICE
230 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20518
202-228-2811

Congress of the United States
House of Representatives
Washington, DC 20515

DISTRICT OFFICES:
117 SOUTH 2D STREET
CLARKSVILLE, TN 37040
615-882-4408

5908 SHELBY OAKS DRIVE
SUITE 213
MEMPHIS, TN 38134
901-382-8811

June 27, 1991

has seen
THE CHIEF OF STAFF

The Honorable John Sununu
Chief of Staff
The White House
Washington, DC 20500

Dear Governor Sununu:

I understand only too well the particular pressures upon you at present and the unfair media and partisan criticism directed at you, and I want first to assure you of my full support.

I bring this matter to your personal attention again only because I seem to be getting the run-around from the General Counsel and the Justice Department. As one of the President's earliest supporters, chairman of his 1988 Congressional Steering Committee, and as one who has stood by this President and this administration -- even in its most difficult hours -- I ought to at least be able to get my questions answered by Justice and the General Counsel. Failing that, however, I ask for your help and support.

I have spoken with you on other occasions about Judge Harry W. Wellford's decision to take senior status on the U.S. 6th Circuit Court of Appeals and my great interest in retaining this judgeship for Tennessee, specifically for U.S. District Judge Julia Gibbons of Memphis.

Since Judge Wellford made known his intention to take senior status, it has been my assumption -- and that of many in Tennessee -- that a Tennessean would be selected to replace him. It now appears, however, that this seat will be given to a nominee from either Michigan or Ohio, leaving Tennessee with only two judges on an expanded 16-member circuit. I am profoundly disturbed by the prospect of my state's diminished representation, especially since Tennessee has an exemplary candidate to succeed Judge Wellford in District Judge Julia Gibbons.

-more-

Hon. John Sununu
page two -----

Her nomination would be both good policy and good politics for the Bush Administration. Judge Gibbons is young, female, Republican, conservative (a Reagan nominee to the District Court), impressively credentialed and professionally accomplished. She has earned the strong and public endorsement of Tennessee's leading newspapers and its judges on the U.S. 6th Circuit Court of Appeals.

It seems to me that Julia Gibbons is precisely the sort of nominee this administration has made a point to seek out. That she appears unable to attract the serious consideration of the Justice Department is curious.

The larger question, however, is Tennessee's retention of Judge Wellford's seat. It is my understanding that no precedent exists for reducing a state's representation on the Appeals Court. Moreover, the case for preserving Tennessee's traditional third seat is compelling. The state's population grew by a full 5 percent from 1980 to 1990; among other states in the 6th Circuit, Michigan and Ohio experienced actual declines in population (-.9 and -.2 percent, respectively), while Kentucky grew by only the barest of margins (.1 percent).

Initial census reports suggested that Michigan and Ohio will lose two congressional seats apiece after reapportionment, while Kentucky will lose one. If the adjusted census numbers are used, Michigan's loss will be but one seat, but Ohio would lose three. By either accounting, Kentucky will lose one of its congressional districts. Tennessee, the only growth state in the circuit, will retain all nine of its seats in Congress.

The substantive argument is solid enough, but there are also valid political concerns involved. Judge Wellford's seat is based in the Western District of Tennessee, which includes most of my congressional district. As one who is closely associated with this administration, I am naturally regarded back home as a friend of the White House, one with some ability to represent Tennessee's interest at a time when we are without Republican representation in the Senate.

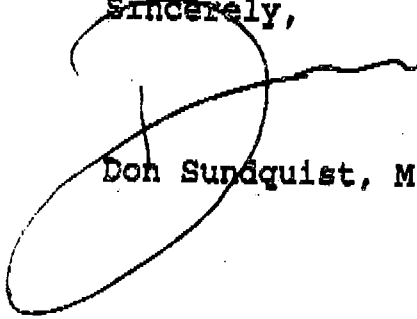
-more-

Hon. John Sununu
page three -----

A decision to strip my district of a judicial appointment long based here will be seen as a political rebuke, not only to me, but to other prominent Tennessee Republicans who have actively supported the President. In moving our judgeship to either Michigan or Ohio, the administration stands to lose far more in Tennessee than it is likely to gain in either of our amply-represented rivals to the north.

Regardless how the expanded 6th Circuit is to be organized, there is neither justification nor precedent for reducing Tennessee's representation -- especially not at a time when ours is the only state of the four that can truly be said to be growing. I urge your intervention to reverse the Justice Department's proposal and to preserve Tennessee's third judgeship on the 6th Circuit Court of Appeals.

Sincerely,



Don Sundquist, M.C.

DKS:rmp

5/29 Lee L.
6/12
6/20

THE WHITE HOUSE
WASHINGTON

DATE: May 2, 1991

TO: BOYDEN GRAY

FROM: GOVERNOR JOHN H. SUNUNU

Please review the attached letter
from Sundquist and draft a response
for my signature.

DON SUNDQUIST
7TH DISTRICT, TENNESSEE

COMMITTEE:
WAYS AND MEANS

WASHINGTON OFFICE:
230 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
202-225-2811

Congress of the United States
House of Representatives
Washington, DC 20515

231492
DISTRICT OFFICES:
117 SOUTH 2D STREET
CLARKSVILLE, TN 37040
615-552-4406

5909 SHELBY OAKS DRIVE
SUITE 213
MEMPHIS, TN 38134
901-382-5811

AC/ER

April 18, 1991

The Hon. John Sununu
Chief of Staff
The White House
Washington, DC 20500

THE CHIEF of STAFF
has seen

Dear Governor Sununu:

Recognizing the many demands placed on your time, I hesitate to call your attention to the matter of one federal judgeship. I do so, however, because it is of considerable importance for Tennessee.

At issue is the pending appointment of a replacement for retiring Judge Harry W. Wellford of the U.S. Sixth Circuit Court of Appeals. Judge Wellford's is one of three seats traditionally held by Tennesseans (Michigan and Ohio currently have six apiece; Kentucky has the remaining two; a newly-created 16th seat is to be assigned to Michigan).

I have assumed, as have many in Tennessee, that a Tennessean would be selected to replace Judge Wellford. Accordingly, I have recommended to the Justice Department the nomination of U.S. District Judge Julia Gibbons of Memphis, a well-respected, well-credentialed young woman whose judicial philosophy is in keeping with the President's.

It has recently come to my attention, however, that the Justice Department intends to give the Wellford seat to Ohio, basing its decision, I'm told, on the number of appeals originating in each state and the average caseload per judge.

Using those measures, however, the case for shifting Tennessee's seat to Ohio is weak, at best. The Justice Department's own figures show a declining number of appeals originating in Ohio, contrasted with steady growth in appeals from Tennessee. Moreover, on the basis of appeals-per-judge, each of Ohio's seven judges would handle approximately 150 cases, while each of Tennessee's two remaining judges would have to decide 406 appeals.

-more-

The Hon. John Sununu
page two -----

If you will permit me to present some statistics:

	SOURCE OF APPEALS, U.S. SIXTH CIRCUIT 1986 - 1990				
	1986	1987	1988	1989	1990
Michigan	932	1166	1235	1332	1363
Ohio	944	989	1588	1037	1082
Tennessee	622	671	683	718	812
Kentucky	449	552	569	643	689

In short, the number of appeals filed in Ohio has remained constant over the past five years, except for an unusual statistical spike in 1988; the number of appeals filed there last year represents an increase of 14.6 percent over 1986. Appeals originating in Tennessee, on the other hand, increased annually during that five year span, and the 1990 total represents a 30.5 percent increase over 1986.

I have no quarrel with awarding the new seat to Michigan. The judges there have by far the heaviest caseload and, like the Tennessee judges, have seen steady and considerable growth in appeals filed. Using the Justice Department's own measure, Ohio's argument for parity with Michigan is unconvincing; Michigan's caseload is about 35 percent heavier and its caseload per judge was 227 last year, compared with Ohio's 180. Tennessee's three judges last year handled an average of 271 cases apiece.

The only other argument for increased judicial representation for Michigan and Ohio lies in a comparison of population figures. Fair enough. I suggest, however, that the current apportionment of judges already takes population into account. Michigan has one judge for every 1.5 million people, Ohio and Tennessee each have one judge for every 1.6 million people, and Kentucky has one judge for every 1.8 million. Transferring Tennessee's seat to Ohio lowers Ohio's ratio to 1:1.5 million, but raises Tennessee's to 1:2.4 million -- way out of line with ratios for other states in the 6th Circuit.

To sum up, I would argue that the Justice Department's inclination to shift Tennessee's traditional third seat to Ohio is not only unwise, but contrary to the department's own criteria for distributing judicial appointments among the states in the Sixth Circuit. Indeed, the shift would burden Tennessee's remaining judges with one of the highest caseloads in the nation, while leaving Ohio's judges with among the lowest.

The Hon. John Sununu
page three -----

I respectfully request your assistance in retaining this important appointment for Tennessee and ensuring some measure of balance and equity in the distribution of judges in the U.S. Sixth Circuit.

With kindest regards, I am

Sincerely,


Don Sundquist, M.C.

DKS:rmp

cc: The Hon. Dick Thornburgh
cc: Mr. Murray G. Dickman

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

INCOMING

DATE RECEIVED: APRIL 22, 1991

NAME OF CORRESPONDENT: THE HONORABLE DON SUNDQUIST

SUBJECT: OPPOSES THE JUSTICE DEPARTMENT'S INTENTION TO
MOVE THE SEAT OF THE U.S. SIXTH CIRCUIT COURT
OF APPEALS TO OHIO

		ACTION		DISPOSITION	
ROUTE TO:		ACT	DATE	TYPE	C COMPLETED
OFFICE/AGENCY	(STAFF NAME)	CODE	YY/MM/DD	RESP	D YY/MM/DD
JOHN SUNUNU		ORG	91/04/22		___/___/___
	REFERRAL NOTE: _____				
	REFERRAL NOTE: _____				
	REFERRAL NOTE: _____				
	REFERRAL NOTE: _____				
	REFERRAL NOTE: _____				

COMMENTS: _____

ADDITIONAL CORRESPONDENTS: MEDIA:L INDIVIDUAL CODES: 1240 _____

CS MAIL USER CODES: (A) _____ (B) _____ (C) _____

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*****
*ACTION CODES:      *DISPOSITION      *OUTGOING      *
*                  *                  *              *
*A-APPROPRIATE ACTION *A-ANSWERED      *CORRESPONDENCE: *
*C-COMMENT/RECOM     *B-NON-SPEC-REFERRAL *TYPE RESP=INITIALS *
*D-DRAFT RESPONSE    *C-COMPLETED      *      OF SIGNER   *
*F-FURNISH FACT SHEET *S-SUSPENDED      *      CODE = A     *
*I-INFO COPY/NO ACT NEC*                  *COMPLETED = DATE OF *
*R-DIRECT REPLY W/COPY *                  *      OUTGOING    *
*S-FOR-SIGNATURE      *                  *                  *
*X-INTERIM REPLY      *                  *                  *
*****

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REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE
(ROOM 75, OEOB) EXT-2590
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING
LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS
MANAGEMENT.

MALCOLM WALLOP
WYOMING

COMMITTEES:

ENERGY AND NATURAL RESOURCES
SMALL BUSINESS
ARMED SERVICES

Copy to Boyden

United States Senate
WASHINGTON, DC 20510-5001

258257

WASHINGTON OFFICE (202) 224-8441
CASPER OFFICE (307) 261-5415
2201 FEDERAL BUILDING 82601
CHEYENNE OFFICE (307) 634-0828
2009 FEDERAL CENTER 82001
LANDER OFFICE (307) 332-2293
POST OFFICE BUILDING 82520
ROCK SPRINGS OFFICE (307) 382-5127
2515 FOOTHILL BLVD. 82901
SHERIDAN OFFICE (307) 672-8456
40 SOUTH MAIN 82801

July 29, 1991

THE CHIEF of STAFF
has seen

The Honorable John H. Sununu
Chief of Staff
The White House
Washington, D.C. 20500

Dear John:

Following up on last Friday's meeting with you and Boyden Gray regarding Wyoming's interest in the 10th Circuit Court of Appeals judgeship, we want to reiterate once again the importance of this appointment to us and our state.

As we said, Wyoming and New Mexico are the only two 10th Circuit states that have only one judge on that bench. When Congress passed the Federal Judgeship bill last year, it was with the good faith belief that Wyoming and New Mexico would get the two new judgeships created. Oklahoma and all the other states in the circuit already have two judges each on that court, and Wyoming deserves one of these new seats.

The Department of Justice says that Oklahoma's caseload somehow justifies one or both of these seats. We would remind you that Oklahoma has some 200 death row inmates, which is a large part of its circuit caseload, and frankly the two sitting Oklahoma judges on the 10th Circuit don't seem to have done much to deal with them. There have only been three death penalty executions from the 10th Circuit in 20 years--and all three were Utah cases.

At the district level, Oklahoma also has a large number of bankruptcies, which constitute a significant amount its federal caseload, but the fact is that they are not commonly appealed. Also, much of Oklahoma's caseload is from Indian-related issues. Wyoming has one of the largest Indian reservations in the nation, and a Wyoming judge would be equally sensitive to those problems and issues.

If caseload is the determining factor, Oklahoma's problem is not that it lacks 10th Circuit judges, but that it needs more district judges. Let's give them more of the latter if we need to address Oklahoma's caseload problem. If, on the other hand, the Administration is saying that only judges from Oklahoma are equipped to handle Oklahoma appeals, that is hogwash. A Wyoming

The Honorable John Sununu
July 29, 1991
Page 2

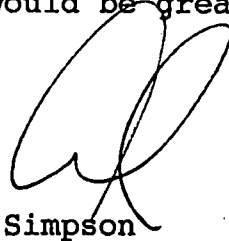
judge can read and apply the law as well as any other nominee. The issue here is balance--the 10th Circuit needs to appear and to be balanced.

John, Wyoming is the only state in the 10th Circuit with two Republican senators and a wholly Republican congressional delegation. Both of our Wyoming candidates are excellent nominees, and either would be a tribute to the Bush Administration. We truly hope the President will see fit to nominate one of our Wyoming candidates in the very near future. Any assistance and support you can provide would be greatly appreciated.

Sincerely,



Malcolm Wallop
United States Senator



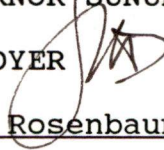
Al Simpson
United States Senator

THE WHITE HOUSE
WASHINGTON

July 24, 1991

THE CHIEF of STAFF
has seen

MEMORANDUM FOR GOVERNOR SUNUNU

FROM: JIM DYER 
SUBJECT: Dick Rosenbaum

Yesterday Senator Dole raised the question of Dick Rosenbaum's status for his appointment to be a New York State Judge. You asked to be reminded of this.

THE WHITE HOUSE
WASHINGTON

DATE: July 26, 1991

TO: GOVERNOR SUNUNU

FROM: ED ROGERS

Per our discussion yesterday, attached please find the material on Dick Rosenbaum's nomination to the 2nd circuit court of appeals.

FYI.



GERALD R. FORD

July 15, 1991

Dear George:

I write a very strong letter of endorsement on behalf of a very good friend - Dick Rosenbaum - who is being considered for nomination to the 2nd Circuit Court of Appeals.

I've know Dick since the 1960s. At the request of Governor Nelson Rockefeller, he left a New York State Supreme Court judgeship to become Republican State Chairman. For about 40 years he has served the GOP with integrity and fine leadership. At present, Dick is a fine Republican National Committeeman.

Dick Rosenbaum has an excellent legal background for a federal judgeship nomination. He has served as a Supreme Court Judge in New York State, so he has had a judicial background. He has had broad and successful experience in the private practice of the law.

Dick Rosenbaum is a person of the highest character and is dedicated to those fundamental principles of government which we support.

I reiterate my endorsement for Dick Rosenbaum's nomination as a judge on the 2nd Circuit Court of Appeals.

Warmest, best wishes,

The Honorable George Bush
The President of the United States
The White House
Washington, D.C. 20500

Rosenbaum, Vice

ALAN K. SIMPSON
WYOMING



United States Senate
Assistant Republican Leader
WASHINGTON, D.C. 20510

July 19, 1991

Honorable C. Boyden Gray
Counsel to the President
The White House
Washington, D.C. 20500

Dear Boyden:

I am advised that a decision has not yet been made on the Circuit Court of Appeals, Second Circuit, and I just wanted to "refresh" my support of Dick Rosenbaum for that appointment.

Attached is the text of my March 20, 1991 letter on Dick's behalf. Please know that I continue to feel just as strongly that he would be an excellent choice.

I would appreciate being advised on the status of this nomination and of the decision, once it is made.

Thank you again for giving Dick every proper consideration in the selection process. I do very much appreciate that.

With best regards,

Most sincerely,

Alan K. Simpson
United States Senator

AKS/dhg

Enclosure

United States Senate

WASHINGTON, D.C. 20510

July 19, 1991

The Honorable George Bush
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

We heartily endorse Richard M. Rosenbaum for appointment to fill a vacancy on the U.S. Court of Appeals, Second Circuit.

Dick is a graduate of the Cornell University School of Law and is a partner in the venerable law firm of Nixon, Hargrave, Devans & Doyle. He is a former member of the New York Supreme Court and he enjoys a reputation as a first class lawyer.

His philosophy of the law is in complete agreement with the philosophy of your administration in that he believes strongly in judicial restraint, strict construction of the Constitution, and he is totally opposed to legislating from the bench.

In addition to practicing law over many years, he has devoted his life to working for the good of the Republican Party.

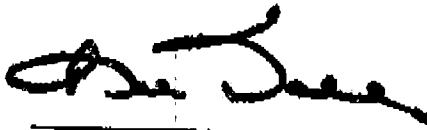
As a matter of fact, some years ago he left the bench with twelve years to go in his term in order to strengthen the Party in New York State as its Chairman at the request of then Governor, Nelson A. Rockefeller.

The only objection to Dick's candidacy has been his age (he was 60 in April) but he is in robust physical condition and is known to be an extremely hard worker.

-2-

Mr. President, we urge you to nominate Dick Rosenbaum to the U.S Court of Appeals, Second Circuit as we are sure that he will be a credit to the Court and to your Administration for many years to come.

Thank you very much for your consideration and concern.

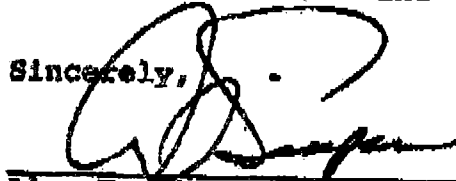


Robert Dole
Republican Leader



Alfonse D'Amato
United States Senator

Sincerely,



Alan K. Simpson
Assistant Republican Leader

STEVE SYMMS
IDAHO

United States Senate

WASHINGTON, DC 20510

June 28, 1991

Mr. Richard M. Rosenbaum
Nixon Hargrave Devans & Doyle
Clinton Square
Post Office Box 1051
Rochester, New York 14603

Dear Dick:

A short note to let you know that I have joined my colleagues in supporting your interests in serving on the Circuit Court of Appeals. Letters have gone to the White House.

Thank you for calling on me to support your efforts. It is my pleasure.

You're a great American and I wish you well.

Sincerely,



STEVE SYMMS
United States Senator

It

faxed without signature to avoid delay

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
05. Memo	From C. Boyden Gray to John Sununu Re: 10th Circuit Status Report (9 pp.)	7/26/91	(b)(6)	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Judicial Selection 1991 [1]

Date Closed: 1/4/2005	OA/ID Number: 29161-006
FOIA/SYS Case #: 1998-0004-F[2]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Removed as a personal record misfile.

Freedom of Information Act - [5 U.S.C. 552(b)]

(b)(1) National security classified information [(b)(1) of the FOIA]
(b)(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
(b)(3) Release would violate a Federal statute [(b)(3) of the FOIA]
(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
(b)(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
06.. Note	From Katie Winklejohn to John Sununu Re: Messages from Senators on their Nominees for Judicial Appointments [FOIA RESTRICTIONS REDACTED] (1 pp.)	7/26/91	P2 , P5 , (b)(6)	

Collection:

Record Group: Bush Presidential Records
Office: Chief of Staff, White House Office of
Series: Sununu, John, Files
Subseries: Issues Files
WHORM Cat.:
File Location: Judicial Selection 1991 [1]

Open on Expiration of PRA
 (Document Follows)
 By JP (NLGB) on 10/22/05

Date Closed: 1/4/2005	OA/ID Number: 29161-006
FOIA/SYS Case #: 1998-0004-F[2]	Appeal Case #:
Re-review Case #: 2005-0426-S	Appeal Disposition:
P-2/P-5 Review Case #:	Disposition Date:
AR Case #:	MR Case #:
AR Disposition:	MR Disposition:
AR Disposition Date:	MR Disposition Date:

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
 P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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 purposes [(b)(7) of the FOIA]
 (b)(8) Release would disclose information concerning the regulation of
 financial institutions [(b)(8) of the FOIA]
 (b)(9) Release would disclose geological or geophysical information

July 26 -- 8:00pm

BILL BARR and MURRAY DICKMAN called simultaneously. Bill said he would call you back in the morning. Murray had just spoken with Lee Lieberman and wanted to clear up the situation with Senators Specter, Simpson and Pressler.

Senator Specter - Thursday night Specter approached Murray and told him that "a number of us have complaints about how the judicial selection process was being run" and planned on taking it up with you when he saw you on Tuesday. Specter's is concerned that it seems like most of the decisions about judgeships are not being made by the President and the Attorney General, but by their staffs.

Senator Simpson - Simpson's AA called Murray about two weeks ago and they have not talked yet. Wyoming and New Mexico are fighting over one judgeship in the 10th Circuit. The plan is to re-evaluate the quality of Domenici's candidate at the next judicial selection. Mention was made of possibly making the selection contingent on Domenici's behavior on Civil Rights.

Senator Pressler - He recommended his AA for U.S. Attorney and has received alot of local flack about it. Murray talked with the candidate Tuesday morning and subsequently talked with Pressler. Pressler said he appreciated Justice taking his side and not bowing to the pressure coming from some dissenters. Murray assured Pressler that as soon as the FBI investigation was complete, they would move ahead with the nomination.

Murray Dickman:

[REDACTED] (b)(6)
(202) 514-1721 Office

katie



Concerned Women for America

370 L'ENFANT PROMENADE, S.W., SUITE 800 WASHINGTON, D.C. 20024 (202) 488-7000

Beverly LaHaye
President

June 28, 1991

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

Concerned Women for America urges you to select Clarence Thomas or Edith Jones to fill Thurgood Marshall's vacancy on the U.S. Supreme Court. Clarence Thomas and Edith Jones have a proven record of judicial restraint and adherence to the intent of the framers when interpreting the Constitution.

Concerned Women for America would enthusiastically support the nomination of Judge Thomas or Judge Jones to the Supreme Court.

Sincerely,

Beverly LaHaye
President

BL:pag

cc: Gov. John H. Sununu

Coalitions for America

Paul M. Weyrich
National Chairman
Eric Licht
President
Library Court
Social Issues
Stanton
Defense & Foreign Policy
Kingston
Budget & Economic Policy
721 Group
Judicial & Legal Policy
Sierra Group
Catholic Coalition
The Omega Alliance
Young Activist Coalition
Resistance Support Alliance
Freedom Fighter Policy
Jewish/Conservative Alliance

721 Second Street
Capitol Hill
Washington, D.C. 20002
(202) 546-3003

To: The Chief of Staff

Date: June 27, 1991

From the conservative movement's perspective, it is crucial for President Bush to nominate a committed and recognizable conservative to succeed Justice Marshall. From a political perspective, we are looking at candidates the entire movement can enthusiastically support from the start. The degree to which these factors were present the last time around makes them a premium this time.

The opportunity was not seized last time to break the "designated seat" mold so that issue will be nagging until something is done. Therefore, though conservatives resist any notion of picking judges by race or gender, a nominee who fits the judicial criteria and who is also black or female would not be inappropriate.

Three candidates who the conservative movement can enthusiastically support are, in order of preference, Judge Clarence Thomas, Judge Edith Jones, and Judge James Ryan.

Judge Clarence Thomas. One con is his relatively brief tenure on the D.C. Circuit. Although Justice Souter had spent just a month or so on the 1st Circuit last year, he had years of state judicial experience before joining the federal bench. Another con stems from the speculation that there may have been at least 25-30 votes against him in the Senate had there been a roll call. By the same token, the vote was 13-1 in the Judiciary Committee. Con three is that the opposition to his D.C. Circuit nomination centered on civil rights, nearly the nastiest issue.

Pro number one is that the entire conservative movement not only supports him, but believes in him. No dissent is likely from anywhere within the movement. From the way his D.C. Circuit nomination was conducted, many conservative groups felt they got to know him in a unique way. That is a relatively recent memory. The movement will need little energizing and they will be willing to fight for him. Pro two is that, as he was last time, Senator Danforth will be a strong champion. In addition to his perceived status as a "moderate," Danforth will be very active within the Senate on behalf of the nominee. In the post-1987 political climate surrounding judicial nominations, this is essential. Pro

three is that his record on the D.C. Circuit does not include the lightning rod issues of abortion, civil rights, etc. This is partly due to his particular docket and partly due to the jurisdiction of the D.C. Circuit. Pro four is that, based on the experience of his D.C. Circuit nomination, he fully understands how he personally can best contribute to a successful process as a nominee, a witness, and the like. Pro five is that even though the opposition to his first judicial nomination focused on civil rights, that non-issue could not take on a life of its own (as it has with other nominees) not only because he is black, but because an array of "liberal" interests supported him - individuals such as William Coleman, civil rights groups. This was a unique mix that may never happen again. Pro six is that activists working on behalf of his first nomination retain their knowledge, background material, and resolve to support him again.

Judge Edith Jones. Con one is that the liberal interest groups have been assuming that she will be the next nominee and have been combing through her record for nearly a year already. They are loaded for bear. No doubt they have formulated strategies, prepared analyses, and have otherwise geared up to defeat her. The attached article reflects something of this. Con two is that, while her record contains no cases on abortion, it does include cases on other lightning rod issues including the death penalty and civil rights. Con three is that liberal interest groups will attempt to "Ryskamp" her by heavily emphasizing allegedly insensitive comments she has made from the bench. This is a nasty kind of issue to deal with. Con four is that (direct personal knowledge may be limited here) she herself will probably be less skilled in terms of her personal involvement and conduct through the nomination/hearing process. If her personality matches her opinions, she may need some introduction and education about the process that may or may not be successful.

Pro one is a long track record over several years on the federal appellate bench. Politically, gender, geography, and age are all pluses. Pro three is that the entire conservative movement supports her, though they do not believe in her the same way they do Judge Thomas. Conservatives have been told that they should strongly support her and they believe what they have been told, but that is a different kind of support. Conservatives will be willing to fight for her nomination, though it will take a measure of possibly scarce resources to educate them appropriately.

Judge James Ryan. Con one is that it will take considerable education efforts to acquaint the conservative movement with this nominee and to convince them to strongly support him. On the merits, the movement should, but they do not know that yet. Con two is that he has an established record on contentious issues such as abortion. He wrote an opinion (probably dissenting from a denial to hear a case) addressing the so-called "born alive rule" in the area of prenatal torts, for example. Other activities, more personal than judicial, also would be ready source of opposition on this issue.

Pro one is that he is a "dark horse" candidate. Pro two is that he is a readily identifiable Catholic and opposition may be perceived as reflecting an inappropriate bias (though this sort of bias surfaced with little hesitation during the Ryskamp nomination battle). Pro three is that it should not be difficult to convince the conservative movement to strongly back him. Whether he has a "champion" in the Senate is unknown.

To conclude, three individuals reality fit the substantive criteria for a Supreme Court nominee: the entire conservative movement can support. Their order of preference parallels the degree to which the movement already does so. Judge Thomas is the first choice.

The Verdict On Edith Jones

Bush's next nominee to the Supreme Court is the darling of the religious right. . . . Say a prayer. By Paul Schneider

"This is Edith," she says when her law clerk finally gets her on the line from Houston. It doesn't sound like the voice of a raving ideologue, a voice that will shift an already listing Supreme Court irrevocably toward the far right. She doesn't sound like a woman who will take away hard-earned rights and leave you with nothing but a Bible. Or a coat hanger. Or, if you can afford it, a plane ticket to some other country. Edith Jones of the United States Court of Appeals for the Fifth Circuit sounds like just an ordinary, friendly, slightly tired woman from Texas. This is comforting. But then, she's only said three words.

The next four are, "I don't give interviews." Judge Jones, as befits the most probable next nominee to the Supreme Court, is

an advocate of judicial restraint.

The reasons Edith Jones is likely to be the next Supreme Court nominee are that she was the president's number two choice, after David Souter, for Justice William Brennan's seat, and that Chief of Staff John Sununu promised she'd be next in line. "[Bush's] decision was for Souter, but I can tell you Edith starts next time at the top of the stack," Sununu was quoted in a memo marked "absolutely no leaks" that somehow wound up in *The Village Voice* and then *The New York Times*.

Sununu's motive for making the unusual prediction was to placate certain guardians of the Republic who were concerned that then-nominee David Souter was dangerously leftward leaning. Once again, for

emphasis: these people thought Souter was too liberal. They liked Jones much better. Add arch-conservative rabble-rouser Robert Novack's editorial opinion that the decision not to nominate Jones was an "opportunity lost," and that she is a favorite lecturer at the right-wing Federalist Society—and you start to wonder about Judge Jones.

"Edith Jones is a notorious conservative," says Deborah Brake. Brake is a staff attorney at People for the American Way, and is in charge of researching Jones's opinions for use in any future confirmation hearings. "These people who were angry over the Souter nomination are the radical right, the far, far, religious right. They love Edith Jones. And if you read her legal opinions you can see why." Brake sounds more weary than angry. "Jones is on the top of our list of potential nominees to oppose. On the Supreme Court you want judges who will protect the Constitution and protect civil liberties. We don't believe she will do either."

Nor surprisingly, experts on the other side have a different view. "Edith Jones is an absolute delight," says Stephen Presser of the Law School at Northwestern University, "very outspoken and razor sharp. Her views of the Constitution happen to coincide with mine. We believe that you don't depart from the understandings expressed in the eighteenth century unless there has been an amendment specifically authorizing such a departure."

Professor Presser is "proud to be a reactionary," a colleague at Northwestern says half-affectionately. Presser, it should be noted, testified twice before the Senate Judiciary Committee in favor of a constitutional amendment to prohibit flag-burning. "Edith Jones," Presser explains, "might be George Bush's ideal person. She's one who believes in traditional values and one who, I believe, brings up her children to be ladies and gentlemen. We talked about raising children."

A judge who has worked with Jones on the Fifth Circuit Court of Appeals for years, but wishes to remain nameless, says, "I get along with Edith Jones beautifully. I find her interesting and, to me, she's gracious. I wish her well. But she does have this view of the universe that is going to be in favor of the government in the criminal cases and in favor of the defense in the civil cases. Whether someday she'll mature and grow out of that I don't know, but that's why she's such a darling of the far right."

"She's very young," this judge adds later. He sounds a little sad at the thought of Jones on the high court.

Edith Hollan Jones was born in 1949 in Philadelphia and graduated from Cornell University in 1971. She then went to the University of Texas Law School and made Law Review. >



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Edith Jones

She joined the Houston firm of Andrews & Kurth, and for more than ten years specialized in corporate bankruptcy law, during which time she met and married Sherwood Jones, now an energy company executive. They had two children. In 1985, Ronald Reagan appointed her to the federal bench.

Now, maybe President Reagan knew there would be a spate of bankruptcies in Texas in the near future, and so felt the bench needed a judge with expertise in that area. But more likely, Jones's stint as the general council to the Republican Party of Texas in 1982-1983 helped her get the attention of the president. And there's another thing: Edith Jones is not the most distinguished alumnus of her old law firm. That honor goes to James A. Baker, as in Secretary of State Baker.

"She definitely has friends," says her anonymous colleague on the Fifth Circuit. "Her connections are, well, the best kind."

Jones has expanded her range to issues more complex than dividing assets among creditors. She has gained a reputation for herself as a crafter of staunchly conservative opinions and as a pointed questioner of lawyers appearing before her. One sexual harassment case, *Waltman v. International Paper*, stands out in particular in the minds of those familiar with Jones. In fact, so unusual was her behavior in this case that it is still talked about by appeals lawyers and other judges on the Fifth Circuit. "Talk to the lawyer for that Waltman woman," said a judge who had heard about the case. "I think you'll get a good story."

Susan Waltman worked at International Paper Company, a large mill in Shreveport, Louisiana, where she was one of the only female employees. Waltman charged that she was the victim of ongoing sexual harassment. After a lower court ruled in favor of the company, Waltman appealed to the Fifth Circuit. The nature of the appeal was such that the panel—Judges Jones, Thornberry and King—were not being asked to decide whether or not the incidents had actually happened, but whether the facts warranted a jury trial. So no one disputed Waltman's testimony that she had endured countless sexually suggestive comments from her superiors, that they had pinched her buttocks, that a fellow employee had used the plant's public address system to announce, "I want to eat Sue Waltman's pussy." That someone had pointed a high-pressure air-hose at her crotch. Or that at one time Waltman had found used tampons hanging in her locker.

Given this, it is not surprising that Waltman's lawyer, Laurie Lyons, began her argument by reminding the judges of the litany of abuses. What was surprising—in fact, shocking—were Judge Jones's comments.

"Well," Lyons remembers Judge Jones interjecting early on, "your client wasn't raped."

It was an odd thing for a judge to say; it wasn't a rape trial. A few minutes later, when Lyons reminded the court that a coworker had grabbed Waltman's breasts, the woman who is at the top of Bush's Supreme Court list spoke up again.

"But," Lyons remembers her saying this time, "they were all personal friends."

At this point something very unusual happened. Jones's implication that there was nothing really wrong with personal friends grabbing breasts moved Judge Thornberry, who was almost eighty at the time and hadn't yet spoken at all, to reprimand his young colleague.

"That doesn't matter at all," he snapped at Jones. Another time, as Judge Jones spoke at length about how unreasonable it was to expect a big company like International Paper to keep its male employees in line, the presiding judge, Carolyn King, swiveled her big leather chair so that her back was turned to Jones, then folded her arms, and, Lyons recalls, "sat there shaking her head."

"That is exactly the argument we heard fifteen years ago about racial desegregation cases," Lyons remembers

Judge King saying when Jones was finished.

There is a strict rule in the Fifth Circuit that oral arguments last no longer than twenty minutes, but when Lyons's time was up, Judge King made an extraordinary offer. "It's obvious that you spent a long time preparing your argument," King said, "and you have not been given an opportunity to present your side because you've been continually interrupted, so if you'd like five more minutes to present your case I'll grant it." Lyons took the extra time and won the appeal, with Judge Jones dissenting. Not long after, International Paper offered to settle out of court, and "Susan Waltman was very happy with the settlement," Lyons says.

In her dissenting opinion, Judge Jones wrote that the majority decision gave undue weight to sexual graffiti in the plant, which, she said, was mostly not directed specifically at Waltman. She didn't mention, but presumably knew from testimony, that scratched permanently on the company elevator were the words "Sue is a Whore," and elsewhere, "Sue

Waltman Sucks Dick" was written on a wall. Judge Jones also pointed out that in most cases Waltman herself had "wiped away graffiti she found offensive."

"Edith Jones's attitude was, 'What's the big deal with this woman, and why should her employer have to do anything about it,'" says Lyons, who still gets audibly angry at the memory. "Susan Waltman was not some overly sensitive woman who didn't like the F-word. This was pure and simple sexual harassment."

Jones may simply have a startling view of what constitutes sexual harassment. In a key sentence from her dissent, Jones wrote: "We have so little social consensus in sexual mores nowadays that, short of incidents of unwanted physical contact, it is impossible generally to categorize unacceptable sexual etiquette." In other words, you can harass, but don't touch. Unless, of course, you're all personal friends.

"I'd be horrified to wake up and find Edith Jones on the Supreme Court," Lyons says. "I'd do anything necessary to keep her off the bench. She is not just conservative—there are a lot of conservative judges that I have respect for. She goes beyond that."

Deborah Brake at People for the American Way concurs. "On the issue of sexual harassment in the work place, she is way out on the fringe," Brake says. "And the fact that sexual harassment is governed by the same point of law as racial and other kinds of discrimination means her analysis is indicative of a narrow view of civil rights."

"I have heard," Lyons says from her office in Shreveport, "that Edith Jones would just as soon the whole civil rights legislation go away. I'm not talking about affirmative action. I'm talking period."

Lyons may not be overstating things. In another case, *Blanchard v. Bergeron*, Jones wrote a decision limiting the amount of damages that could be awarded to victims of certain civil rights abuses. This would have made such civil rights suits a good deal more difficult to pursue and win. Jones's ruling was reversed in 1989 by the Supreme Court.

Judge Jones also appears to have a sliding view of the First Amendment. In a case involving *Hustler Magazine* (why do these First Amendment cases always seem to involve *Hustler* magazine?), she opined that a specific article warning of the dangers of auto-erotic asphyxia would be protected if it appeared in a mainstream magazine, but not in the pages of *Hustler*. *Hustler*, she pointed out, is pornographic. She supported her argument by citing the famously unscientific Meese Commission report on pornography.

"But the whole point of the First Amendment is to protect unpopular views and publications," Brake says.

"She will be the most conservative member of the high court, bar none," says a colleague. "She will be way to the right of Rehnquist, I guarantee it."

Edith Jones

And then there was the time that Judge Jones complained to a lawyer that a last minute petition to stay the execution of a prisoner on death row caused her to miss her son's sixth birthday party.

So there is concern.

"She will be the most conservative member of the high court, bar none," says Jones's anonymous colleague on the Fifth Circuit. "She will be way to the right of Rehnquist, I guarantee it."

One area where Jones has not made any rulings of note is the very large question of whether or not the Constitution implies a right to privacy. Privacy rights are one of the biggest questions in constitutional law today because it is under the rubric of the right to privacy that the question of reproductive freedom is often argued.

Put very simply—with apologies to those who have filled whole legal pads and more on the subject—pro-choice/pro-right-to-privacy lobbies contend that liberties not specifically ceded to the government still belong to the people. Thus, since nowhere does the Constitution hand the right to privacy over to the federal government (and the decision to have an abortion should be a private one, they argue), the choice still belongs to the individual. Were it not so, the government could eventually take away almost all individual liberties. Furthermore, these lobbies contend, the rights to due process and protection from unwarranted search and seizure also imply a general right to privacy.

The other side argues that only those rights specifically enumerated by the Constitution are protected. We have the right to free speech, religion, due process, etc., but not necessarily the right to have an abortion. The Constitution, this side points out, doesn't specifically take away the right to ax murder either. When faced with strong Senate questioning on this issue at his confirmation hearings, David Souter said he believed there was a right to privacy, causing the Pro-choice movement to breath a guarded but visible sigh of relief. Few believe Edith Jones would have said the same.

Still, the fact that neither Souter nor Jones have much of a paper trail on this, the thorniest of constitutional issues, was probably crucial to their making it as far as they did in the administration's search to find a replacement for Justice Brennan. In the timid-at-home Bush White House, the litmus test for the federal judiciary apparently isn't whether or not you believe in

reproductive freedom, but whether you have ever gone on the record one way or the other.

Coming right before the midterm elections, the last thing George Bush wanted was a Borkesque confirmation battle in the Senate over his first Supreme Court nominee. When it finally came down to it, as short as Jones's paper trail is, David Souter's was even shorter. (And it may not have bolstered her chances that when President Bush requested arguments in favor of the final two nominees, he asked Dan Quayle to make the case for Jones.) "The final choice was [President Bush's]," Sununu said in his memo. "It was a political judgment call on which one we'd be most likely to get through [the Senate]." The choice, of course, was for Souter. But it was so close. So close.

It must have been the longest hour and a half of her life sitting there in a presumably rectangular room just down the hall from the Oval Office. Did she read the paper? Did she twiddle her thumbs? The interview had gone well, and now the President of the United States of America was making up his mind on whether she, Edith Jones, would make the history books.

"It was very exciting," her pleasant voice says over the phone, not sounding all that excited. "But you know, I really think that this office is such that it detracts from my

dignity as a judge to give interviews. If I were in politics, of course, and were elected and could be deposed by the people, then the people would have a right to know a whole lot about me."

At this point, I mean to ask her if she is implying that she has a right to privacy, but it's clear from her tone that our conversation has come to an end. "It's not that the White House has asked me not to talk or anything," she volunteers. "I just take the position that what the press has to say should stand on its own."

The press will have plenty to say if Edith Jones is nominated to the Supreme Court—and virtually all of the major civil rights and women's organizations are already drawing the battle lines. If President Bush does decide to use Judge Jones to solidify his right flank, this is certain: it will be the biggest thing that's happened to the Senate Judiciary Committee since they faced a man named Robert Bork, and the committee doesn't care a whit for the dignity of judges when it comes to requests for interviews.

Paul Schnackler is a New York writer.

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