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Subject: : Lavenski Smith article

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CREATOR:H. Christopher Bartolomucci (CN=H. Christopher Bartolomucci/OU=WHO/O=EOP [WHO])

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SUBJECT:: Lavenski Smith article

TO:Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO])

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"Griffin, Tim" <Tim.Griffin2@usdoj.gov>

05/10/2002 04:21:19 PM

Record Type: Record

To: (b)(6) H. Christopher
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cc:

Subject: from today's paper

GOP bitter about vacant
judicial benches

PAUL BARTON
ARKANSAS DEMOCRAT-GAZETTE

WASHINGTON -- Republicans charged Thursday that Senate Democrats are unjustly denying confirmation hearings to President Bush's federal judicial nominees, including Lavenski Smith of Arkansas, out of partisan spite.

Democrats answered back that their confirmation process is much fairer than the one Republicans used when they controlled the Senate during the Clinton administration.

The nomination of Smith, a Republican, to the 8th U.S. Circuit Court of Appeals, was announced a year ago this month. The Bush administration formally submitted his nomination in September. He remains part of a batch of unconfirmed appeals-court nominees.

Ten percent of federal judgeships, 89 positions, are vacant. Since Bush took office in January 2001, the Senate has confirmed 56 of the 99 candidates he has submitted. The Senate Judiciary Committee has 48 nominations pending before it.

At the White House on Thursday morning, Bush said the Senate was practicing "bad politics" and "America is not getting the justice it needs."

One by one, Republican senators, including Tim Hutchinson of Arkansas, went to the Senate floor Thursday afternoon to complain about delayed nominations affecting their states. All had pictures of their unconfirmed judges.

"This is my friend, Lavenski Smith," Hutchinson said, standing next to an easel that held a large picture of Smith.

Hutchinson said he wanted to put "a human face on at least one of the people we are hurting by these unjust and inexcusable delays."

Smith, a graduate of the University of Arkansas School of Law, has served on both the Arkansas Supreme Court and the state Public Service

Commission. He also has worked for Gov. Mike Huckabee as a regulatory liaison.

Smith has yet to get a confirmation hearing, and Hutchinson said he has done all he can to get the attention of Sen. Patrick Leahy of Vermont, chairman of the Senate Judiciary Committee.

"I've been waiting, and I've been waiting, and I've been waiting," Hutchinson said. "I've written Sen. Leahy, and I've written Sen. Leahy over and over. I've talked to Sen. Leahy ... and nothing yet has happened."

Hutchinson also noted that Smith would be the first black from Arkansas to serve on the 8th Circuit. If it were the Republicans delaying a black nomination, he said, there would be outrage.

A spokesman for Sen. Blanche Lincoln, a Democrat, said she and her staff also have tried to get a hearing for Smith. "She's trying to expedite this," said spokesman Drew Goesl. He added that the "extensive backlog" of nominations going through the process has contributed to the delay.

But Hutchinson said he suspected another reason -- abortion politics.

While Smith's nomination has won endorsements from the National

Association for the Advancement of Colored People, the American Bar

Association and Arkansans at both ends of the political spectrum, Hutchinson

said abortion-rights groups such as the National Organization for Women and

the National Abortion Rights Action League oppose him for his pro-life views.

"Is that tragic?" Hutchinson asked, adding, "He's got a record that's pro-life."

How could we possibly consider him for the 8th Circuit Court of Appeals?

Well, that's a litmus test if there ever was a litmus test, and they're pretty blatant about it."

Leahy, while not addressing Smith's nomination or that of other specific

nominees, defended the confirmation schedule by denying that Democrats

were punishing prospective judges solely because they are Republicans.

"We know they are going to be conservative, and that's fine," Leahy said.

But he added that Republicans are now trying to stack the courts with

far-right activists.

"The American people do not want, and our justice

system does not need, a
finger on the scales of justice," he said. "It is up to
the Senate to maintain the
independence of the court and the balance on it. That
means resisting the
appointment of ends-oriented, ideology-serving nominees."
Leahy said his committee is moving no more slowly
than the
Republican-controlled Senate Judiciary Committee did
during the Clinton
years.
Another member of the Judiciary Committee, Democrat
Charles Schumer of
New York, responded even more strongly to Republican
attacks.
"As I've said time and time again, I have three
criteria for judges. They must
be legally excellent, ideologically moderate, and issues
of diversity must be
properly accounted for. I don't like ideologues --
whether they are too far to
the right or too far to the left."
He also charged, "This administration isn't about
balance. They're not about
keeping the courts within the mainstream."

This article was published on Friday, May 10, 2002