

Received(Date): 31 MAY 2002 15:13:23

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Subject: : Text of Owen column for Texas papers

[P_KRQQ7003_WHO.TXT_1.doc](#)

Begin Original ARMS Header

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR:Tim Goeglein (CN=Tim Goeglein/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:31-MAY-2002 15:13:23.00

SUBJECT:: Text of Owen column for Texas papers

TO:Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

TO:Anne Womack (CN=Anne Womack/OU=WHO/O=EOP@EOP [WHO])

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TO:Heather Wingate (CN=Heather Wingate/OU=WHO/O=EOP@EOP [WHO])

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03:12 PM -----

Tom Jipping <Tjipping@cwfa.org>

05/30/2002 10:39:38 AM

Record Type: Record

To: Tim Goeglein/WHO/EOP@EOP

cc:

Subject: Text of Owen column for Texas papers

- Column on Priscilla Owen for Texas CWA.doc

ATT CREATION TIME/DATE: 0 00:00:00.00

File attachment <P_KRQQ7003_WHO.TXT_1>

By now, Americans know about the vacancy crisis in America's courts. In his annual report, Chief Justice William Rehnquist called it "alarming." Here in Texas, seven district court positions sit empty and two seats are vacant in the appeals court region that includes Texas.

One of these appeals court vacancies tells the judicial obstruction story going on in Washington. President Bush nominated Texas Supreme Court Justice Priscilla Owen to the U.S. Court of Appeals for the Fifth Circuit on May 9, 2001. That's not a misprint. After 13 months, Justice Owen has not even had a hearing before the Judiciary Committee.

Justice Owen, re-elected without opposition to the court in 2000, graduated first in her class at Baylor University Law School and received the top score on the Texas Bar Exam. The *Houston Chronicle* praised her "proper balance of judicial experience, solid legal scholarship and real-world know-how."

Senate Democrats once called the liberal American Bar Association's rating the "gold standard" for evaluating judicial nominees. After 17 years of private practice and eight years on the bench, Justice Owen received a unanimous "well qualified" ABA rating. Why has she not had a hearing?

Senate Democrats once said they would process judicial nominees supported by both of their home-state senators. Sens. Phil Gramm and Kay Bailey Hutchison strongly support Justice Owen. Why has she not had a hearing?

Senate Democrats once called for swift consideration and confirmation of appeals court nominees. Just two years ago, Judiciary Committee Chairman Patrick Leahy singled out the Fifth Circuit and said that "vacancies on the courts of appeals around the country are particularly acute." The position Justice Owen would fill has been open for more than five years and the agency managing the federal courts has labeled it a "judicial emergency." Why has she not had a hearing?

It's because Senate Democrats simply don't want to fill these vacancies, at least not with Republican appointees. Since they can't just say that, however, they have raised the most outrageous arguments against Justice Owen.

First, abortion advocates say she has "extreme hostility to reproductive rights." Yet no one knows Justice Owen's position on abortion rights. All we know is that in several cases two years ago, Justice Owen took seriously our state statute requiring parental notification for minors' abortions. She said that the statute was intended to encourage parental involvement, not to make it easy for children to bypass their parents altogether.

Justice Owen was in the minority because the majority tried to make the statute more liberal than the legislature intended. Even if you like that result, judges are not supposed to re-write statutes. Justice Owen knew that she was a judge, not a legislator. If abortion

advocates want to isolate young girls from their parents in making abortion decisions, they should tell it to the legislature, not attack Justice Owen.

Second, Justice Owen's critics suggest that she tilts her decisions to favor corporations, such as Enron, that have contributed to her judicial campaigns. Under the Texas Constitution, state court judges run for election and the Texas Code of Judicial Conduct allows them to solicit and accept campaign contributions. Judges do not have to step aside every time a contributor appears before them.

Justice Owen received no contributions from Enron, its employees, or its PAC in her 2000 re-election campaign. The \$8600 she received in 1994 from the Enron employees' PAC and a few employees was part of more than \$1.2 million she raised from more than 3000 contributors. Seven of the nine current Texas Supreme Court members received Enron contributions, some more than Justice Owen.

In the 14 court proceedings involving Enron that came before Justice Owen, her vote was favorable to Enron in six, against Enron in five, and the others don't fall in either category. Her one opinion in a 1996 case involving Enron was for a unanimous court. The lawyer representing the losing party has said criticism of Justice Owen is "nonsense."

Justice Owen is superbly qualified and deserves immediate confirmation. The partisan stall by Senate Democrats harms judicial independence and integrity. Sens. Gramm and Hutchison should do more to fight for fair treatment and final approval of this fine nominee.