

Received(Date): 5 JAN 2003 13:26:55

From: "Dinh, Viet" <Viet.Dinh@usdoj.gov> ("Dinh, Viet" <Viet.Dinh@usdoj.gov> [UNKNOWN])

To: Alberto R. Gonzales (CN=Alberto R. Gonzales/OU=WHO/O=EOP@EOP [WHO]), Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP@EOP [WHO]), Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO]), David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO]), "Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) ("Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) [UNKNOWN])

Subject: : RE: Pryor

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR:"Dinh, Viet" <Viet.Dinh@usdoj.gov> ("Dinh, Viet" <Viet.Dinh@usdoj.gov> [UNKNOWN])

CREATION DATE/TIME: 5-JAN-2003 13:26:55.00

SUBJECT:: RE: Pryor

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

READ:UNKNOWN

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

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TO:Benjamin A. Powell (CN=Benjamin A. Powell/OU=WHO/O=EOP@EOP [WHO])

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TO:David G. Leitch (CN=David G. Leitch/OU=WHO/O=EOP@EOP [WHO])

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TO:"Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) ("Charnes, Adam" <Adam.Charnes@usdoj.gov> (Receipt Notification Requested) [UNKNOWN])

READ:UNKNOWN

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Thanks. Nicely played.

-----Original Message-----

From: Benjamin_A._Powell@who.eop.gov

[mailto:Benjamin_A._Powell@who.eop.gov]

Sent: Sunday, January 05, 2003 10:48 AM

To: Charnes, Adam; Dinh, Viet; Alberto_R._Gonzales@who.eop.gov;

David_G._Leitch@who.eop.gov; Brett_M._Kavanaugh@who.eop.gov

Subject: Fw: Pryor

Article below is from Sunday morning Birmingham News.

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----- Original Message -----

From: P6/b(6)

To: Benjamin A. Powell/WHO/EOP@EOP

Cc:

Date: 01/05/2003 10:36:00 AM

Subject: Pryor

Pryor up for judgeship

01/05/03

MARY ORNDORFF
News Washington correspondent

WASHINGTON The White House is considering Alabama Attorney General Bill Pryor for a lifetime appointment to a high-level federal judgeship, according to Sen. Jeff Sessions' office.

"It is no secret that President Bush believes Bill Pryor is a superb lawyer and attorney general," said Michael Brumas, spokesman for Sessions. "Sen. Sessions shares that view and believes Bill Pryor would be a magnificent circuit judge."

The White House has inquired about Pryor's credentials for appointment to the 11th U.S. Circuit Court of Appeals, a federal court that handles appeals from Alabama, Georgia and Florida and is one step below the U.S. Supreme Court.

Pryor, a politically active and ideologically conservative state prosecutor, has developed ties in the White House and around Washington since Bush's election. He said last month he would accept a nomination if it were offered.

Pryor declined comment Saturday night.

The timing of Pryor's nomination would be ideal, several Republicans said Friday. The GOP retook control of the Senate in the last election, giving Bush nominees the chance for a smoother confirmation ride through the Judiciary Committee.

Also, Pryor would leave his post as attorney general during Gov.-elect Bob Riley's term, meaning a Republican would appoint Pryor's replacement. The appointment would be early enough in the term to give the new prosecutor a lengthy time in office before facing election in 2006.

Pryor's nomination also would signal a desire by Republicans stung by the recent resignation of Sen. Trent Lott, R-Miss., as party leader to dodge another confrontation over race. Bush's original nominee to the 11th Circuit, William Steele of Mobile, is opposed by black groups and has languished for 15 months without a confirmation hearing before the Senate Judiciary Committee.

Steele, already a federal magistrate, could instead be nominated for a district court position, a lower level than the appellate court.

"Sen. Sessions believes the president has complete confidence in Bill Steele and the senator expects that Judge Steele will be nominated for a federal judgeship shortly," Brumas said.

Objections to Steele:

The Southern Christian Leadership Conference and the NAACP last year objected to Steele's nomination because of a 2001 opinion he issued in a racial harassment case filed by black employees at a Pennington paper mill. Although Steele found evidence of racially insensitive remarks in the workplace, he dismissed the case in favor of the mill's owner because the employees failed to meet several legal requirements.

The 11th Circuit recently reversed Steele's decision and Sessions said then that the reversal was due to changes in the law, not a mistake by Steele.

But since Lott's glowing praise of a one-time segregationist presidential candidate, Republicans are especially vulnerable to allegations of racial insensitivity, and the criticism of Steele's original ruling would undoubtedly resurface.

Swapping Steele for Pryor, however, does not guarantee a noncontroversial confirmation hearing.

Extensive record:

Pryor has been the most active state prosecutor in the country in pressing cases of interest to the U.S. Supreme Court, and he has an extensive record of speeches, articles and congressional testimony on important federal issues. Pryor has taken strident positions supporting the right to student-led prayer in public schools, promoting states' rights over the federal government's and protecting Second Amendment rights on gun ownership, to name just a few.

His conservative record also provides Democrats, especially wary of strident anti-abortion Bush nominees to the bench, with plenty of ammunition.

"Our greatest right is the right to life," Pryor said in a 2000 rally promoting restrictions on a woman's access to abortions in Alabama.

Pryor opposed the multistate lawsuit against the tobacco companies, and he advocated giving utility companies more freedom to upgrade their coal-fired power plants without being forced to add pollution

control devices. He defends Alabama Supreme Court Chief Justice Roy Moore's decision to prominently display the Ten Commandments in the state judicial building and helped write rules that provide fewer automatic appeals of death penalty cases.

For Sessions, escorting Pryor's nomination through Senate confirmation would be pleasantly ironic as Sessions' own chance at the federal bench was scuttled years ago by allegations of racial insensitivity. Pryor was a Sessions protege at the attorney general's office, and Pryor replaced Sessions in the top job when Sessions was elected to the Senate in 1996.

Pryor, now 40, was appointed attorney general by Gov. Fob James and has twice won re-election, most recently last year.

Solidly conservative:

Ideologically, Pryor's record is solidly conservative. Politically, it's murkier. He's angered some state Republicans at times, as in 2001 when he sided with Gov. Don Siegelman in the governor's ability to cut higher education more deeply than K-12 during a budget crisis.

Most recently, his opinion in the debate over a recounting of the votes in the closely contested governor's race favored Riley. In that election cycle, Sessions and Pryor were the top two vote-getters in the state.

Pryor would be another in a long line of high-level Bush appointees who are active in the Federalist Society, an association of legal scholars and lawyers promoting the conservative principles of limited government. Pryor's 1998 campaign was aided by consultant Karl Rove, now the president's top political adviser. The two have stayed in touch, evidenced by Pryor's recent ride aboard Air Force One arranged by Rove.

The opening on the appellate court was created when Emmett Ripley Cox, an Alabama native and appointee of President Reagan, announced in December 2000 that he was stepping down from handling cases.

The White House selects nominees for the federal appellate courts but frequently consults with the senators from their home states.

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