

**From:** "Grubbs, Wendy J."  
**To:** "Kavanaugh, Brett M."  
**Subject:** Fw: From the Charlotte Observer  
**Received(Date):** Mon, 28 Apr 2003 09:08:57 -0500

Can you get this letter? I am on the hill. Thanks.

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

From: Comisac, RenaJohnson (Judiciary) <Rena\_Johnson\_Comisac@Judiciary.senate.gov>  
To: Grubbs, Wendy J. <Wendy\_J\_Grubbs@who.eop.gov>  
Sent: Mon Apr 28 10:06:21 2003  
Subject: FW: From the Charlotte Observer

Could I pls. get a copy of Judge Gonzales's 4/23 letter mentioned below? My fax number is 228-1698. Thanks.

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

From: P6/b(6)  
Sent: Saturday, April 26, 2003 2:48 PM  
To: P6/b(6)  
Subject: From the Charlotte Observer

Posted on Sat, Apr. 26, 2003 <[http://www.charlotte.com/images/component/topstory\\_fromthe\\_txt.gif](http://www.charlotte.com/images/component/topstory_fromthe_txt.gif)>  
<[http://www.charlotte.com/images/logos/site/charlotte/observer/archives\\_title.gif](http://www.charlotte.com/images/logos/site/charlotte/observer/archives_title.gif)>  
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Impasse on judges ending?  
Federal judges from N.C. likely  
TIM FUNK AND GARY L. WRIGHT  
Staff Writers

WASHINGTON -The White House plans to send nominations to the Senate on Monday that could elevate two Charlotte-based U.S. officials to the federal bench and place two black Republicans with strong N.C. connections on the 4th U.S. Circuit Court of Appeals in Richmond, Va.

U.S. Attorney Bob Conrad and U.S. Magistrate Judge Brent McKnight are expected to be nominated as federal judges for the Western District of North Carolina, said Mike Briggs, a spokesman for U.S. Sen. John Edwards, D-N.C.

Briggs said the White House also intends to nominate Raleigh lawyer Allyson Duncan to the federal appeals court.

Other sources said Claude Allen, a onetime aide to former U.S. Sen. Jesse Helms of North Carolina, would be the other appeals court nominee.

Duncan and Allen are African American.

Years of partisan wrangling in Washington have left North Carolina without a representative on the Richmond-based appeals court, which also covers South Carolina, Maryland, Virginia and West Virginia.

Each of those other states has at least two judges on the bench, which now has four vacancies.

President Bush's legal counsel, Alberto Gonzales, mentioned this geographic imbalance in an April 23 letter to U.S. senators representing North Carolina, Virginia and Maryland. To begin to rectify it, he wrote, the president will nominate, on Monday, two African Americans -- one who lives in North Carolina, one with strong ties to the state -- whose confirmation would also "dismantle an historic (racial) barrier."

Blacks make up 22 percent of the population covered by the circuit court -- higher than any other federal jurisdiction. But only one African American judge, Virginia's Roger Gregory, serves on the 12-member court.

Duncan, 51, was the first black woman to serve on the N.C. Court of Appeals.

She has been a member of the state utilities commission and is the president-elect of the N.C. Bar Association.

In the 1980s she worked for the federal Equal Employment Opportunity Commission and for a time was executive assistant to then-Chairman Clarence Thomas, now a U.S. Supreme Court justice.

Her nomination appears to have the support of both of North Carolina's senators, Edwards and Republican Elizabeth Dole. That's important because Senate rules have long given senators virtual veto power over home-state judicial nominees.

Allen, now a deputy secretary at the U.S. Department of Health and Human Services, could face opposition from Edwards.

The Democratic senator is already blocking Bush's nomination of Terrence Boyle to the 4th U.S. Circuit Court of Appeals. Boyle, chief district judge in Eastern North Carolina, also used to work for Helms.

Allen was press secretary for Helms' 1984 re-election campaign, then worked as a deputy director on the Senate Foreign Relations Committee. He's been deputy attorney general and secretary of health and human services in Virginia.

In 2001, he was picked to manage food safety issues at the U.S. Department of Health and Human Services. He also has been the point person for Bush's campaign to sell teenagers on sexual abstinence.

Neither Allen nor Duncan could be reached Friday.

#### A long-standing battle

The political fighting over the 4th U.S. Circuit Court of Appeals goes back more than 10 years. After Democrats in the Senate blocked the nomination of Boyle by then-President Bush in 1991, Helms retaliated by blocking four N.C. nominations made later by President Clinton.

Then, when Boyle was nominated by the current President Bush, Edwards made it known he opposed the nomination because of Boyle's decisions regarding civil rights.



Edwards and Helms' successor, Republican Elizabeth Dole, have said they wanted to work together to break the impasse.

In a March 31 letter to Sen. Orrin Hatch, R-Utah, chairman of the Senate Judiciary Committee, Edwards touted Duncan as a "consensus nominee" that he and Dole and the White House could support.

Dole spokeswoman Mary Brown Brewer said this week that Dole wants the vacancies on the appeals court to be filled as soon as possible, but would favor moving forward with Boyle first.

"Terry Boyle's been waiting (more than) 10 years," Brewer said. Asked about Duncan, Brewer would say only that "the president has put forward a number of well-qualified nominees."

#### Experienced prosecutors

Conrad, 44, and McKnight, 51, wouldn't talk about their potential nominations to the federal judgeships. But both have undergone FBI background checks for the job, sources said.

Conrad, a federal prosecutor since 1989, has been U.S. attorney for the Western District of North Carolina since 2001.

In the trial of two Lebanese brothers last year, Conrad's prosecutors obtained the first criminal conviction under a U.S. law banning material support to terrorist organizations. One of the brothers was sentenced in February to 155 years in prison.

In 1998, Conrad and then-Assistant U.S. Attorney Thomas Walker became the first federal prosecutors in North Carolina to obtain the death penalty since capital punishment for federal crimes was reinstated in 1988.

In 1999, then-Attorney General Janet Reno appointed Conrad, a Republican, to head a Justice Department task force investigating illegal campaign fund raising. Conrad went to the White House with FBI agents to question Clinton under oath for four hours.

Conrad wouldn't talk about who might replace him if he gets the lifetime federal judgeship. Sources in the legal community, however, are speculating that Assistant U.S. Attorney Gretchen Shappert might be selected to replace Conrad as the top federal prosecutor for the Western District of North Carolina.

McKnight, also a Republican, was a state prosecutor in Charlotte for six years in the 1980s. He handled Mecklenburg's first case under the state's tough 1985 obscenity law and worked to close adult bookstores.

He served as a Mecklenburg district judge from 1988 to 1993. In 1993, he was named a federal magistrate judge.