

Received(Date): 28 MAR 2002 10:37:07

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

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

Cc: Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])

Subject: : RE: From our friends at PFAW

Begin Original ARMS Header

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-MAR-2002 10:37:07.00

SUBJECT:: RE: From our friends at PFAW

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

READ:UNKNOWN

CC:Matthew E. Smith (CN=Matthew E. Smith/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

End Original ARMS Header

B

you were a hit!

warmly

tsg

----- Forwarded by Tim Goeglein/WHO/EOP on 03/28/2002

10:36 AM -----

Damon Ansell <dansell@atr.org>

03/28/2002 10:19:49 AM

Record Type: Record

To:

P6/b(6)

cc: Tim Goeglein/WHO/EOP@EOP

Subject: RE: From our friends at PFAW

I am going to have to bail today, please give my regards and appologies to

Tim. [P6/b(6)] ATR

will do an e-mail alert on judicial nominees to our list of 50k plus. In

it

we will urge our members to contact Sen. Leahy using an ATR template. We

will ask to be copied on these so that I can give you an update as to how

many have sent letters.

I am copying Mr. G on this. I thought the presentation by the White House yesterday (at the Wednesday meeting) was brave, informative and extremely useful. Thanks to both of you for facilitating this.

regards,

Damon

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

From: [P6/b(6)]

Sent: Thursday, March 28, 2002 10:01 AM

To: [P6/b(6)]

Subject: From our friends at PFAW

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

From: Jim Ward [mailto:jward@pfaw.org] <mailto:[mailto:jward@pfaw.org]>

Sent: Tuesday, March 19, 2002 7:40 PM

To:

Subject: Bush and Right-Wing Nominees

I would like to forward you information about a coalition of disability rights groups opposed to President Bush's judicial nominee, Jeffrey Sutton and Gerrald Reynolds, his nominee for the Department of Education's Office of Civil Rights. The Pickering battle was a perfect example of how the right tries to portray these battles as just race- or abortion-based. The "New Federalists" have been attacking the ADA for years and, despite Bush's professed support of disability rights, he keeps appointing ADA opponents to enforcement positions. Thank you, Jim Ward

From www.adawatch.org <<http://www.adawatch.org>> :

The Bush Administration and Disability Rights:

Changes at Justice Department Reveal Politics of Civil Rights Enforcement

The Washington Post (see below) reports today that "Attorney General John D.

Ashcroft has moved in recent months to consolidate his control over the Justice Department's Civil Rights Division, turning over control of sensitive issues traditionally handled by career lawyers to more conservative political appointees." One these operatives is Hugh Joseph Beard, former senior counsel for the Center for Equal Opportunity, a right-wing group which has been hostile towards the ADA and other civil rights laws. Gerald Reynolds, Bush's controversial nominee for Assistant Secretary for the Office of Civil Rights (OCR) at the Department of Education (who has been opposed by numerous ADA Watch coalition partners), also hails from the Center for Equal Opportunity. (More than 60% of OCR complaints involve people with disabilities)

There clearly is a disturbing pattern of the Bush Administration appointing

individuals who have worked to weaken the very Federal protections they are now charged with enforcing.

The Center for Equal Opportunity and the ADA:

Both Reynolds and Beard served in senior positions at the Center for Equal Opportunity (CEO). CEO's President Linda Chavez, President Bush's first pick

for Secretary of Labor, told reporters that the ADA "has become a haven for everyone from scam artists to disgruntled workers." Associated Press' Laura Meckler reported that "Chavez ridiculed the Americans with Disabilities Act as 'special treatment in the name of accommodating the disabled.'" (AP, Jan.

5, 2001)

CEO's Legal Counsel, Roger Glegg, in a recent letter to the Washington Post,

applauded the Supreme Court's weakening of the ADA, called it "one of the worst-drafted statutes in the U.S. Code," and said Congress should "return to the drawing board and make the act narrower." (Washington Post, Jan. 30, 2002,pg. A22) Glegg and the CEO have repeatedly attacked the ADA for what he

calls its "dubious rationale and its silly results" and believes Congress should at the least exclude protections for people with "mental impairments." (Legal Times, July 11,2001)

In "The Costly Compassion of the ADA," Glegg, representing the Center for Equal Opportunity, wrote that "the core of the ADA's rationale is that Congress felt so sorry for the disabled that it was willing to force other people to help them, at considerable expense. The law should be scrapped

because employers are now afraid of hiring a lawsuit." (The Public Interest, June 1, 1999)

While at the Center for Equal Opportunity, Gerrald Reynolds adhered to the same divisive rhetoric. Pitting minority entrepreneurs against people with disabilities, he testified before the U.S. Civil Rights Commission and pointed to the ADA as one of "these statutes and regulations [that] are going to retard economic development in urban centers across the country." (April 5, 1997).

Attorney General John Ashcroft himself has attempted to roll back the civil rights of children and adults with disabilities. As a U.S. Senator, Ashcroft

took the lead role in trying to weaken the due process protections afforded children and youth with disabilities by the Individuals with Disabilities Education Act (IDEA) and voted twice against increased funding for IDEA. Ashcroft also voted against the Hate Crimes Prevention Act, which would have

amended federal law to recognize hate crimes based on disability and other classes. (AAPD News Release, Jan. 12, 2001)

* Jim Ward

Ashcroft Personnel Moves Irk Career Justice Lawyers

By Ellen Nakashima and Thomas B. Edsall

Washington Post Staff Writers

Friday, March 15, 2002; Page A05

Attorney General John D. Ashcroft has moved in recent months to consolidate his control over the Justice Department's Civil Rights Division, turning

over control of sensitive issues traditionally handled by career lawyers to more conservative political appointees. On a variety of issues, including voting rights and employment discrimination, Ashcroft aides have moved to limit the input of career employees, in some cases meeting with defendants without informing the career lawyers handling the cases or allowing them to be present, career lawyers said.

Political staff also took control of the department's consideration of Mississippi's redistricting plan, sources said, and rejected career lawyers'

recommendation to approve a plan proposed by the state's Democratic-controlled legislature. After delays, a panel of three Republican

federal judges approved a plan favorable to Rep. Charles W. "Chip" Pickering

Jr. (R-Miss.), whose district was affected by the redistricting. Ashcroft aides describe the actions as part of the normal process of a new administration taking over an agency previously led from a different political viewpoint.

But the conflict at the Civil Rights Division is notable for its intensity and its potential political significance. Ashcroft, a former senator from Missouri with close ties to the Christian right, has been under scrutiny from the beginning of his tenure for how he might handle politically sensitive civil rights issues. Now, career lawyers contend their division's enforcement of civil rights laws is being compromised.

"There's a lot of fear among attorneys and other staff in the division," said one lawyer in the division, who insisted on anonymity for fear of reprisal. "It's a fear about our cases, their future, the investigations we're doing."

Civil Rights Assistant Attorney General Ralph F. Boyd Jr. yesterday

rejected

the characterization of his division as politicized."Is my probing, questioning style going to shake things up? Certainly," Boyd said. "Is it going to make some people uncomfortable? Perhaps. But that's worked for me in the past. . . . This is a principled, deliberative decision-making process that we're engaged in."

But concern over the changes has spread among advocacy groups and Democrats.

On Wednesday, Senate Judiciary Committee Chairman Patrick J. Leahy (D-Vt.) sent a letter to Ashcroft, asking questions about how the division is being run."You stated repeatedly at your confirmation hearing that it is an Attorney General's duty to enforce the law as written, regardless of his or her personal beliefs," Leahy wrote.

But the "considerable changes in the upper echelons of the Department's career ranks raise concerns about the reasons for the changes and their effect on the Department's important mission."

In addition to the meetings with defendants' attorneys and the Mississippi redistricting case, career lawyers, congressional sources and civil rights groups have taken issue with the hiring of two conservative operatives as career lawyers and the reassignment of two top career officials in the Employment Litigation Section. Of the two political operatives hired, one is

a former employee of the Voting Integrity Project, which ran the disputed purging of Florida voter rolls of alleged felons during the 2000 election, and the other is a former senior counsel for the Center for Equal Opportunity, an organization that has been sharply critical of preferential affirmative action policies. They will be part of a voting-rights task force

Ashcroft announced last year, to be headed by a political appointee.

The two officials in the Employment Litigation Section were reassigned to a task force on employment discrimination-some colleagues say in retaliation for their pursuit of employment discrimination cases and defense of affirmative action. In addition, congressional sources noted that Viet D. Dinh, assistant attorney general for the Office of Legal Policy, last month directed six former division lawyers and one current lawyer not to discuss "internal communications or deliberations" with Senate Judiciary Committee staff investigating civil rights cases handled by District Judge Charles W. Pickering Sr., whose nomination to the Fifth Circuit Court of Appeals was rejected by the Senate Judiciary Committee yesterday. In an interview yesterday, Boyd acknowledged that he or his staff sometimes meet with defendants' counsel. It is part of his "open door" policy, he explained."In many instances, the career staff is present," he said. "Sometimes they are not."He said he never held such meetings without letting career staff know. The idea that such meetings undermine the lawyers' work is "flat out wrong," he said.In the Mississippi redistricting case, he said, "that's a decision that I alone made," and "it completely comported with the deliberative process that we undertake in making decisions here." He acknowledged hiring Hans A. von Spakovsky, a former board member of the Voting Integrity Project, and Hugh Joseph Beard, former senior counsel for the Center for Equal Opportunity, as career lawyers in the voting rights section. He said they were experienced trial lawyers and that "when I look at people for assignments, frankly, I'm not interested at all in their ideology. What I'm interested in is their professionalism as lawyers." He also acknowledged reassigning Katherine A. Baldwin, chief of the Employment Litigation Section, to the employment discrimination task force, and said the task

force was crucial to the department."The importance of this task force is reflected in who I've asked to take the laboring oar, Kay Baldwin," he said.

He also wants Deputy Chief Richard S. Ugelow to join the task force, but said the move had not been finalized. "These are two folks who have litigated these cases for years and years and years," he said. "They are both excellent teachers."

Although the Dinh letters focused on the confidentiality of internal communications, congressional sources said they were concerned because the letters involved a case that Pickering had closed years ago. On Feb. 13, four

committee investigators were well into a speaker-phone interview with former

division lawyer Bradford M. Berry about the case when they received a fax from Dinh to Leahy. The Justice Department did not object to "this highly unusual interview," it said, but there was a chance that "public revelation"

of "deliberative discussions" could hamper department lawyers' effectiveness. Therefore, Dinh was directing Berry—who was read the letter over the phone—not to answer "any such questions."The investigators asked no

more questions about deliberations. Dinh sent similar letters to five other former department lawyers and one current one.

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