

February 24, 2010

President Barack Obama
The White House
Washington, D.C.

Dear Mr. President:

When James Madison first proposed the Bill of Rights, he counseled that the success of our constitutional system would depend in no small part upon the courage and wisdom of our federal judges, who would serve as the “guardians” of our liberties and as “an impenetrable bulwark” against every “encroachment” upon our most cherished freedoms.

After decades of Republican appointments of conservative federal judges (at the time of your election more than 60 percent of all federal judges and seven of the nine justices of the Supreme Court had been appointed by Republican presidents), you now have an historic opportunity to reestablish our nation’s commitment to the core values of our Constitution by nominating judges who will uphold the fundamental principles of individual dignity, equality, due process, personal liberty, privacy, and separation of powers. We urge you to seize this opportunity.

We write out of a growing concern that your Administration must act with far more energy and dispatch in the vitally important task of nominating and confirming federal judges. We recognize that partisan obstructionism in the Senate has made this task increasingly difficult, but the successful management of the confirmation process is critical to the nation and, ultimately, is the White House’s responsibility.

Since taking office, you have nominated only 43 federal judges -- despite the fact that there are currently more than 100 judicial vacancies and 31 judicial “emergencies” due to unfilled positions. By contrast, at this point in his presidency, President George W. Bush had nominated 89 judges to the federal bench, and by the time he left office he had appointed fully 40 percent of all federal judges. In so doing, he transformed the federal judiciary in a sharply conservative direction. This transformation was a central priority of his domestic agenda.

We urge you to make the federal judiciary just as central a priority of your Administration. This is important not only for the Supreme Court, but also for the lower federal courts, which make thousands of decisions each year on issues as wide-ranging as freedom from discrimination, due process, religious and expressive liberty, crime and punishment, the environment, immigration, workplace safety, privacy, and access to the political process.

Our nation needs a new generation of jurists who will give voice to the understanding that our federal courts are indispensable guardians of our most fundamental liberties. We therefore urge you to redouble your effort to appoint exceptional judges possessed of keen intellect, fierce independence, bold judicial leadership, and deep respect for the rule of law and the most basic values of our Constitution. By so doing, you will restore much-needed balance to the federal judiciary, leave an important legacy for the future, and fulfill your responsibility to “preserve, protect and defend the Constitution of the United States.”

Sincerely yours,

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