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United States Senate
WASHINGTON, DC 20510

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April 15, 2003

Mr. Alberto Gonzales
White House Counsel
The White House
Washington, D.C. 20500

Dear Judge Gonzales:

We are in receipt of your letter of April 2, 2003, to us, and your letter of March 28, 2003, to Chairman Hatch. We will comment on but a few of their misleading points.

Your April 2, 2003, letter mentions two Sixth Circuit nominees, John Smietanka and Justin Wilson, and one District Court nominee, Henry Saad, whom you claim were denied timely hearings by the Democratic controlled Senate. All three of these nominations occurred in the final year of President George H. W. Bush's presidency. In fact, Mr. Saad was not nominated until October 2, 1992, a mere six days before Congress adjourned for the year. By contrast, neither of the two Michigan women who were denied hearings by the Republican Senate was nominated in an election year. (It should also be noted that both then-Senator Riegle and Senator Levin returned positive blue slips on Mr. Smietanka's nomination and that Mr. Wilson was from Tennessee, not Michigan.)

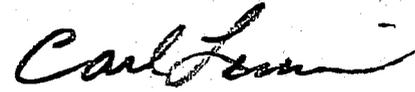
Concerning your statement that "the blue slip is not a veto, but rather a device to ensure adequate pre-nomination consultation with home-state Senators," during the Clinton Presidency, in the Republican-controlled Senate, the absence of two positive blue slips barred Judiciary Committee consideration. During this period, the Judiciary Committee did not hold a single hearing on a nominee who did not have the explicit approval, indicated by the return of positive blue slips, of both home-state senators. Indeed, for some time during this period, the blue slips themselves stated that: "No further proceedings on this nominee will be scheduled until both blue slips have been returned by the nominee's home state senators."

With regard to your office's communications with us referred to in your March 28, 2003, letter to Senator Hatch, there is a clear difference between consulting with home-state Senators to fill judicial vacancies by giving serious consideration to individuals they propose and notifying (or giving "fair warning" as you characterize it in one instance) home-state Senators of the President's intent to nominate particular individuals to fill those vacancies. Communications from your office to our offices, at best, fall in the latter category.

You have acknowledged on more than one occasion that a wrong was perpetrated by the Republican Senate against judicial nominees during the previous administration. The White House nonetheless continues to attempt to take advantage of the situation created by that wrong. We will continue to strenuously oppose allowing those wrongful tactics to succeed. We remain willing to consider proposals directed at achieving a bipartisan compromise to fill Michigan vacancies on the federal courts.

Sincerely,


Debbie Stabenow


Carl Levin

cc: The Honorable Bill Frist
The Honorable Thomas A. Daschle
The Honorable Orrin Hatch
The Honorable Patrick Leahy