

Received(Date): 22 FEB 2003 09:01:36

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Comment: Partisan holdups shouldn't bar Estrada nomination

By John Cornyn
Special to the Express-News

Web Posted : 02/22/2003 12:00 AM

Just as President Bush came to office to change the tone in Washington, D.C., I came to the Senate to change our broken judicial confirmation process. There is no better example of why that process is so badly in need of fixing, and no worse example of Democratic obstruction, than the experience of Miguel Estrada.

Estrada is the president's nominee for the U.S. Court of Appeals for the D.C. Circuit. As a lawyer, Estrada is by all accounts, and under any measure, extraordinarily qualified for that appointment. As an individual, he embodies the American dream. And a clear bipartisan majority of senators stands ready to confirm him.

But incredibly, the Democratic leadership has vowed to prevent the Senate from even voting on Mr. Estrada — an extraordinary threat, but one they can carry out if they can find 41 Democrats who are willing to hijack the Senate and filibuster his nomination. That would be both historically unprecedented and outrageously unjust.

It is difficult to imagine an individual more deserving of confirmation. Estrada possesses exceptional academic credentials. He graduated magna cum laude from Columbia College and magna cum laude from Harvard Law School, and served as an editor of the Harvard Law Review. He worked as a law clerk to one of President Carter's most respected appointees to the federal appellate bench, and to Justice Anthony Kennedy on the Supreme Court.

He represented the United States government as an assistant U.S. attorney and as an assistant to the solicitor general, primarily during the Clinton administration. His reputation as an oral advocate is stellar. He has argued before the Supreme Court 15 times, winning 10. In private practice, he represented, pro bono, a death row inmate and defended a Chicago law

specifically designed to protect minorities from gang violence before that same court.

The American Bar Association unanimously gave Estrada its highest rating of "well qualified," a rating that Senate Democrats used to call the "gold standard."

This would be an amazing record of accomplishment for even the most privileged of individuals. It is thus particularly remarkable and inspiring that Estrada is a native Spanish speaker. Born in Tegucigalpa, Honduras, he moved to the United States when he was 17, and after only 22 years in America, he is the president's nominee to the prestigious federal appellate bench.

It is hard to believe that anyone would want to stand in the way of this classic American success story. Yet Democratic leaders have threatened a partisan filibuster to stop Estrada from taking the bench. No one has ever been blocked from federal judicial office by a partisan filibuster. Indeed, only one person in U.S. history has ever been denied confirmation to a federal judgeship by any kind of filibuster: In 1968, 24 Republicans and 19 Democrats prevented a vote on Justice Abe Fortas's nomination to be chief justice but that was due to alleged ethical breaches not partisan games. Fortas later resigned under threat of impeachment.

Democrats also irresponsibly assert that Estrada has no judicial experience, even though the vast majority of the current D.C. circuit judges — both Republican and Democrat nominees — had no prior judicial experience before their appointment to the federal bench. Partisan detractors didn't stop at specious arguments about experience and temperament. Many even made the insulting remark that Estrada is somehow not a real Hispanic. (Real arguments are unnecessary to these partisan warriors, however, for their real agenda is obstructing the president's agenda.)

The partisan obstruction in Washington, D.C., must change, and the broken judicial confirmation process is a prime place to start.

Everyone who believes in the American dream should urge the Democratic leadership to reject this unprecedented action, and to give the bipartisan majority of the Senate the opportunity to confirm Mr. Estrada.

John Cornyn is a U.S. senator from Texas and a member of the Senate Judiciary Committee.

02/22/2003