

EXECUTIVE SESSION

NOMINATION OF PAUL A. ENGELMAYER TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

NOMINATION OF RAMONA VILLAGOMEZ MANGLONA TO BE JUDGE FOR THE DISTRICT COURT FOR THE NORTHERN MARIANA ISLANDS

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report:

The bill clerk read the nomination of Paul A. Engelmayer, of New York, to be United States District Judge for the Southern District of New York; Ramona Villagomez Manglona, of the Northern Mariana Islands, to be Judge for the District Court for the Northern Mariana Islands.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour for debate on the nominations, equally divided and controlled in the usual form.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand the vote will be at 5:30; is that correct?

The PRESIDING OFFICER. There is debate for 1 hour. If no time is yielded back, the vote will be at 5:36.

Mr. LEAHY. Mr. President, I will yield back 6 minutes of my time so the vote can begin at 5:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOMENT OF SILENCE

Mr. LEAHY. Mr. President, I note the Senate observed a moment of silence for John Gibson and Jacob Chestnut, who were killed in the Capitol in 1998 on July 24. Both were excellent police officers—one uniformed, one plain clothes—in the protective division. My wife and I knew both John Gibson and Jacob Chestnut, and we were at both of their memorial services. Both were fine officers, and I am glad we had a moment of silence.

We sometimes forget that we have a lot of very good police officers, both in the uniform division and the plain clothes division, in this Capitol. They are here to protect us at all times of day or night, no matter what the weather or what the circumstances. It is something we should keep in mind. We often can go home when the session ends, but they are here to make sure everything is still safe. So we owe all of them a debt of gratitude, and I hope all of them will remain safe. It is a tragedy that Officers Gibson and Chestnut were not able to remain safe but died protecting the Capitol.

Today, the Senate is finally going to vote on two judicial nominations reported unanimously by the Judiciary Committee in early April.

Let me put that into perspective. Way back when snow was still falling in my State, every single Republican and every single Democrat voted for these two nominees. In past years they would have been confirmed probably in a voice vote that same week in a wrap-up session. For some reason, my friends on the other side think it should be different with a Democratic President than it was for a Republican President, or for that matter, all past Presidents.

Despite the support of every Democrat and every Republican on the Judiciary Committee, the nominations of Paul Engelmayer to fill a judicial emergency vacancy in the Southern District of New York, and Ramona Manglona to fill a 10-year term in the District Court for the Commonwealth of the Northern Mariana Islands, have been stalled for 3½ months on the Senate's Executive Calendar. These are the kinds of qualified, consensus judicial nominations that in past years—whether under President Ford, President Carter, President Reagan, or either of the President Bushes—would have been confirmed promptly rather than being forced to languish for months because of Republican refusal to consent to debate and vote on nominations.

At a time when judicial vacancies remain above 90 throughout this country, these needless delays perpetuate the judicial vacancy crisis that Chief Justice Roberts, a Republican appointee, wrote of last December and that the President, the Attorney General, bar associations and chief judges around the country have urged us to join together to end. Imagine the example we set to litigants by saying: "Well, we can't hear your litigation, no matter how important it is. You are going to have to wait year after year after year because we don't have a judge. We can't get one confirmed." The Senate can do a better job working to ensure the ability of our Federal courts to provide justice to our fellow Americans around the country.

Recently, Chief Judge Moreno of the Southern District of Florida wrote to the Senate leaders urging that they expedite action on two nominations to fill judicial emergency vacancies in that district. Both Kathleen Williams and Robert Scola are among the many judicial nominees who were reported unanimously by the Judiciary Committee, yet both are being delayed for no good reason.

Chief Judge Moreno writes:

[T]he judicial shortage with three vacancies in our district is becoming acute. For this reason, I ask your assistance in expediting both confirmations. The Judiciary Committee has found the nominees qualified and the people of South Florida eagerly await their service.

Both of these nominees have the support of their home State Senators—Senator NELSON, a Democrat, and Senator RUBIO, a Republican. The two Senators have set aside partisan actions,

and the Senate Judiciary Committee has set aside partisan actions by voting for the nominees unanimously. Why should they be held up because of partisan actions on this floor?

Kathleen Williams and Robert Scola are among the 27 judicial nominees reviewed by the Judiciary Committee and reported favorably to the Senate for final action who are being stalled. I am glad that we are finally being allowed to consider the 2 nominees who will be confirmed today, but they have been waiting since early April. This is not traditional, and there are still 25 who languish.

This is not how the Senate has acted in years past with other Presidents' judicial nominees. It is not accurate to pretend that real progress is being made in these circumstances. After we have these two votes, we will still have 25 nominees sitting on the calendar who could be disposed of within an hour, yet they are blocked week after week after week. That is not progress. We may be making progress in the committee, but if the nominees are blocked on the floor, it is not progress. Vacancies are being kept high, consensus nominees are being delayed, and it is the American people—Republicans, Democrats, and Independents alike—that are being made to suffer.

This is another area in which we must come together for the American people. Let us do something for the American people, and not just for our political parties. There is no reason Senators cannot join together to finally bring down the excessive number of vacancies that have persisted in our Federal courts throughout the Nation for far too long. It is not a Republican or Democratic issue, it is an American issue.

Between now and the August recess the Senate should consider all of the judicial nominees ready for a final vote, including those desperately needed in southern Florida backed by Senator NELSON and Senator RUBIO.

I expect the two nominations we are going to consider today will be confirmed overwhelmingly. They are examples of the almost two dozen consensus nominees who are being stalled for no good reason. Mr. Engelmayer is a nominee with unassailable credentials. After receiving his undergraduate and law school degrees with honors from Harvard Law School, Mr. Engelmayer served as a law clerk to Judge Patricia Wald of the United States Court of Appeals for the District of Columbia and then to Justice Thurgood Marshall on the Supreme Court. He worked as a Federal prosecutor in the Southern District of New York for 9 years, where he climbed the ranks from a young lawyer to become Chief of the Major Crimes Unit. Mr. Engelmayer served for 2 years as an Assistant Solicitor General for the United States. Since 2000, he has been a partner in the law firm WilmerHale, where he practices civil and criminal litigation and regularly dedicates himself to pro bono work. The ABA's

Standing Committee on the Federal Judiciary unanimously rated him well qualified to serve, its highest rating. He is supported by his home state Senators.

Ramona Villagomez Manglona is currently an Associate Judge on the Superior Court for the Commonwealth of the Northern Mariana Islands (CNMI), having previously served as a Justice Pro Tempore on the Guam Supreme Court and a Judge Pro Tempore on the Guam Superior Court. From 1998 to 2003, she worked in the CNMI Office of the Attorney General in several capacities, including a term as Attorney General. Born in Saipan, Northern Mariana Islands, Judge Manglona earned her B.A. from the University of California, Berkeley and her J.D. from the University of New Mexico. When confirmed, Judge Manglona will be the first indigenous person to serve as a U.S. District Court Judge in the Commonwealth of the Northern Mariana Islands. Her confirmation should also save money and help ease the burden on judges who have had to travel to the Pacific from the mainland to provide judicial resources.

I, again, thank Senator GRASSLEY for his cooperation in working with me to make progress in the committee concerning judicial nominations in regular order. We have made progress in the committee, but it goes for naught if we cannot get nominees confirmed on the floor. Our work in the committee has not been matched in the Senate, where agreements to debate and vote on judicial nominations are too few and too far between. These are only the sixth and seventh nominations the Senate has considered in the last 2 months, at a time when vacancies have remained at or above 90, and despite the many consensus nominees that have been voted on in a bipartisan fashion by the committee and are now waiting for a vote on the Senate floor.

These will be only the 13th and 14th nominees confirmed this year who had their hearings this year. The other confirmations were all from the group considered by the Judiciary Committee last year, but were renominated after having had their confirmations delayed unnecessarily last year. Ignoring the words of the Chief Justice and others concerned with the continuing high number of judicial vacancies, Senate Republicans have continued the pattern and practice of delay for virtually all judicial nominees.

In addition to the 2 nominations we consider today, there are currently 25 judicial nominations that have been fully considered by the Judiciary Committee and sent to the Senate for final action. Of them, 20 were unanimously reported, by Republicans and Democrats, without a single negative vote. At the very least, we ought to take up those 20. The two nominations we consider today were reported in April. There remain 13 judicial nominations on the calendar reported favorably by the committee way back in May or ear-

lier, 11 of which were reported unanimously. When I urged the Senate to take up and vote on the many judicial nominations that were on the calendar and ready for action before the Memorial Day recess, Republican Senators would not agree to consider a single one. With almost a score of judicial nominees available to the Senate for final action, only one was considered before the July 4 recess. That is not the way to make real progress.

Regrettably, the Senate has not reduced vacancies as dramatically as we did during the Bush administration. Federal judicial vacancies around the country still number too many, and they have persisted for far too long. Whereas the Democratic majority in the Senate reduced vacancies from 110 to 60 in President Bush's first two years, Senate Republicans' insistence on objections and delays have resulted in judicial vacancies still numbering more than 90 two and a half years into President Obama's term. By now, judicial vacancies should have been reduced to similar levels, but we have barely kept up with attrition.

In fact, the Senate has reversed course during the Obama administration given Republican objections, and the slow pace of confirmations are keeping judicial vacancies at crisis levels. Over the eight years of the Bush administration, from 2001 to 2009, we reduced judicial vacancies from 110 to a low of 34. That has now been reversed, with vacancies staying near or above 90 for the last two years. The vacancy rate—which we reduced from 10 percent to 6 percent by this date in President Bush's third year, and ultimately to less than 4 percent in 2008—is back above 10 percent.

By this time in the third year of the Bush administration, the Senate had confirmed 136 judges. That is over 40 percent more than the number of President Obama's nominees we have been allowed to process to confirmation. We have a long way to go to do as well as we did during President Bush's first term, when we confirmed 205 of his judicial nominations. The Senate confirmed 100 of those judicial nominations during the 17 months I was Chairman during President Bush's first 2 years in office. In the other 31 months, Republicans were able to do another 105. So again, we demonstrated we are ready to work faster with President Bush than even his Republican Senators were—and we certainly worked a lot faster than we have been able to work now. President Obama is now in his 30th month in office and we have only been allowed to consider and confirm 91 of his Federal Circuit and District Court nominees. Compare that to the 100 I did in 17 months for President Bush.

The delays continue, despite the needs of the Federal judiciary, as evidenced by Chief Judge Moreno's recent letter, which I ask unanimous consent to be made part of the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. I would note that the delays in confirmation of President Obama's consensus nominees, nominees agreed to by both Republicans and Democrats, are to the detriment of all Americans. Most people, when they go into court, do not go in as a Republican or Democrat. They are just an American seeking justice. But the courts' doors are now being closed; closed because the Senate will not allow confirmation of the judges who could open those doors. That is wrong. It is a stain on the judiciary, and it is a stain on this body.

EXHIBIT 1

U.S. DISTRICT COURT,
SOUTHERN DISTRICT OF FLORIDA,
Miami, FL, July 21, 2011.

Re Nominations of Kathleen Williams and Robert Scola to the U.S. District Court for the Southern District of Florida.

Senator MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCONNELL: As Chief Judge of the United States District Court for the Southern District of Florida, I urge you to expedite the Senate's confirmation of Kathleen Williams and Robert Scola to the positions of district judges in our district. I understand that the Judiciary Committee has sent both nominations by unanimous voice vote and is awaiting a vote by the full Senate. Ms. Williams, our district's Federal Public Defender, has been awaiting confirmation for the longest period of any present nominee to the district court in the entire country. State Judge Robert Scola's nomination is of a more recent vintage but the litigants are eagerly awaiting his confirmation.

The judgeship Ms. Williams has been nominated to fill has been vacant for two years! At the present time, our district has three vacancies. Unfilled positions in our Court present an undue hardship on the citizens residing in the Southern District of Florida, particularly those with cases pending in the affected division of the Court. Our district is huge and heavily populated. It includes the most populous counties in Florida, Miami-Dade, Broward (where Fort Lauderdale is located) and Palm Beach Counties. The district also includes Monroe, St. Lucie, Highlands, Okeechobee, Martin, and Indian River Counties.

We have been laboring under a judicial shortage for quite some time. The Judicial Conference of the United States has for the past several years annually recommended to Congress three additional permanent judgeships and to convert one temporary judgeship into a permanent one.

This shortage is exacerbated by the fact that we are one of the busiest district courts in the nation. Our district had 10,556 new filings in both criminal and civil cases in 2010, an increase of 6.7% over the year 2000. The latest national statistics (FY 2010) are attached and show that our district is first in "weighted filings" in the Eleventh Circuit.

In sum, the judicial shortage with three vacancies in our district is becoming acute. For this reason, I ask your assistance in expediting both confirmations. The Judiciary Committee has found the nominees qualified and the people of South Florida eagerly await their service.

Please call me if I can provide any additional information. I thank you in advance

for your consideration of this important matter.

Sincerely,

FEDERICO A. MORENO,
Chief U.S. District Judge.

Mr. LEAHY. I suggest the absence of a quorum, and I ask unanimous consent that the time be equally charged to both parties.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, today the Senate will vote on the nomination of Paul Engelmayer to be United States District Judge for the Southern District of New York and Ramona Villagomez Manglona to be Judge for the District Court for the Northern Mariana Islands. The seat to which Mr. Engelmayer is being considered has been deemed a judicial emergency. With this vote, we will have confirmed 29 article III judicial nominees. Eighteen have been for such judicial emergencies. Ms. Manglona's confirmation vote marks the second article IV judicial confirmation this year. I am pleased we are moving forward with filling two more vacancies.

We continue to make great progress in processing President Obama's judicial nominees. As of today, the Senate has confirmed 60 percent of President Obama's nominees since the beginning of his Presidency. That is not including the two Supreme Court Justices nominated by President Obama. As I am sure my colleagues recall, those nominations consumed a considerable amount of time in the committee and on the Senate floor.

During this Congress, the Judiciary Committee has held hearings on more than 72 percent of the President's nominees. Another hearing is scheduled to take place this Wednesday. During the comparable time period for President Bush, only 64 percent of President Bush's nominees had hearings by this time. We have also reported 64 percent of the judicial nominees, compared to only 56 percent of President Bush's nominees.

Let me say just a few words about Mr. Engelmayer and then Judge Manglona. Mr. Engelmayer graduated summa cum laude from Harvard University in 1983. He then graduated magna cum laude from Harvard Law School in 1987. Following law school, the nominee clerked for Judge Patricia Wald on the U.S. Court of Appeals for the District of Columbia and then for Justice Thurgood Marshall of the Supreme Court of the United States.

After his clerkships, Mr. Engelmayer joined the U.S. Attorney's Office for the Southern District of New York as an assistant U.S. attorney. In 1994, he became an assistant to the Solicitor

General of the United States. In 2000, the nominee entered private practice with Wilmer Hale and was later named Partner-in-Charge of the New York office.

The ABA Standing Committee on the Federal Judiciary has given Mr. Engelmayer a unanimous "Well Qualified" rating. I support this nomination and congratulate him on his professional accomplishments.

Now I have a few words about Judge Manglona. Judge Manglona received her bachelor of arts degree from the University of California at Berkeley in 1990. In 1996, she graduated from the University of New Mexico School of Law. Following law school, the nominee clerked for the Superior Court of the Commonwealth of the Northern Mariana Islands. She then worked in the Attorney General's Office and in 2002, the Governor appointed her attorney general for the Northern Mariana Islands. In 2003, she was appointed to serve as an associate judge for the Northern Mariana Islands Superior Court. During her time on the superior court, she has also served as a judge pro tem on the Guam Superior Court and the Guam Supreme Court.

The ABA Standing Committee on the Federal Judiciary has rated Judge Manglona unanimously "Qualified." I also support this nomination and congratulate her on her professional accomplishments.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. We have an unusual situation. It looks nice outside today. The Sun is shining. But earlier today, if someone looked out the window, we had some violent storms. They are all over the area. We have Senators stuck in airplanes trying to get out of New York. We have one Senator traveling from the Midwest stuck in Richmond, VA, now. I think it would be in everyone's interest—and I apologize to people who worked hard to get back here today—but I think it is in everyone's interest that we not have a vote tonight. We have a lot of people who simply would miss the vote unless we keep it open for a matter of hours. I again apologize to people who came here to vote, but I think this is the best thing to do. I have spoken to the Republican leader and this is what we should do.

I ask unanimous consent the votes scheduled for tonight be vitiated, and that on Tuesday, July 26, at 12:15 p.m., the Senate proceed to executive session and resume consideration of the nominations, Calendar Nos. 83 and 84, that there be 2 minutes for debate, equally divided in the usual form; that upon the use or yielding back of time, the Senate proceed to vote without intervening action or debate on Calendar Nos. 83 and 84, in that order; the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order; that any related statements be printed in the

RECORD; and that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each. We will be in morning business until 7 o'clock tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBT CEILING EXTENSION

Mr. WICKER. Mr. President, I ask to speak as in morning business. I certainly will not take 10 minutes that the majority leader has requested because I know the Senator from Alabama is eager to speak. I wish to make sure I understand where we are with regard to the debt ceiling.

I have an article from The Hill, dated yesterday. It points out—it heard the same thing in the speech the rest of the Nation heard when the President spoke—the President said he would be willing to work on any plans lawmakers brought to him over the weekend. The President went on to say:

The only bottom line I have is that we have to extend this debt ceiling through the next election, into 2013.

I ask my colleagues what does the election of 2012 have to do with the debt ceiling? What does it have to do with deciding to pay our obligations after August 2? What does it have to do with avoiding the calamity we have all heard about from both sides of the aisle and certainly from the administration? It strikes me as very odd that most debt ceiling extensions have been about 7 months during a decade-long period, and for some reason because of the election of 2012, the President of the United States wants to extend the deadline past that election into 2013. I think it makes Americans wonder if the President is playing politics with this very important issue.

The President went on to say in the press conference that we all listened to that he wondered if the Republicans were able to say yes to any agreement. That was the President on Friday evening. Now we come to Washington, DC today with the clock ticking, 8 days away from a supposed debacle, and I read in today's Wall Street Journal