



NINTH JUDICIAL COMMITTEE

Box 70, Gedney Station
White Plains, New York 10605-0070
Tele: (914) 997-8105 / Fax: (914) 684-6554

By Fax and Mail
703-276-5548

July 6, 1992

Sheila Gibbons, Director
Public Affairs
Gannett Newspapers
1100 Wilson Boulevard
Arlington, Virginia 22234

Dear Ms. Gibbons:

This fax confirms our conversation of earlier today wherein I informed you that your affiliate, "Gannett Suburban Newspapers" has followed a pattern and practice of disregarding documentary evidence in: (a) suppressing major news stories; and (b) running stories which it knows to be false and defamatory and/or in reckless disregard for the truth.

You informed me that Gannett does not exercise any supervision over its affiliates bearing the "Gannett" name. However, you stated that you would send an internal memo to "Gannett Suburban Newspapers" apprising it of our complaints.

So that there is no mistake as to the most recent example of suppression of significant news affecting the public interest by your affiliate, I enclose a copy of our May 18, 1992 letter to Senate Majority Leader George Mitchell.

Said letter, as well as the critique referred to therein, have been in the possession of "Gannett Suburban Newspapers" since May. Nevertheless, despite the fact that several stories have since appeared reporting that the O'Rourke nomination "still languishes" (i.e., as recently as July 1, 1992)--not a word has been published about our critique--let alone our contention that the documentary evidence which our critique sets forth is the very reason why Mr. O'Rourke's "hopes for judicial seat" have "fade[d]" (see: May 26, 1992 front-page headline).

July 6, 1992

It should also be noted that "Gannett Suburban Newspapers" has continued to deny readers this documented story even after New York Magazine ran an item based upon our critique. As shown by the enclosed item "Credentials Gap: The Case of the Missing Cases", New York Magazine featured it as the lead piece on the "Intelligencer" page (p. 7) of its June 22, 1992 issue. That issue hit the newsstand on June 15th.

As discussed, the suppression of this story by "Gannett Suburban Newspapers" may well be linked to the fact that its Vice-President and Executive Editor, Lawrence Beaupre, and its Editorial Page Editor, Milton Hoffman, both previously endorsed Mr. O'Rourke's judicial nomination--Mr. Beaupre going so far as bestowing upon Mr. O'Rourke the "Man of the Year Award" jointly with Boris Yeltsin.

To the extent that the Gannett "mothership" is responsible for affiliates bearing its name, we hereby put you on notice of the on-going serious violation of journalistic responsibility and standards by "Gannett Suburban Newspapers".

As always, we are ready to substantiate the foregoing complaints concerning your affiliate's deliberate distortion and denial of proper coverage.

Very truly yours,



ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

Enclosures:

- (a) 5/18/92 ltr to Senate Majority Leader Mitchell
- (b) "Intelligencer" (p. 7), New York Magazine, 6/22/92
"Credentials Gap: The Case of the Missing Cases"

cc: Catherine Black, President
American Newspaper Publishers Association
Gary F. Sherlock, President and Publisher
Lawrence K. Beaupre, Vice-President and Executive Editor
Milton Hoffman, Editorial Page Editor
Ed Tagliaferri, County Government Reporter
Tony Brown, Columnist
David McKay Wilson, Political Reporter
FAIR: Fairness & Accuracy in Reporting



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By Fax and Mail

May 18, 1992

Hon. George J. Mitchell
Senate Majority Leader
U.S. Senate
Washington, D.C. 20510-1902

RE: Confirmation of Judicial Nominees

Dear Senator Mitchell:

We are a non-partisan citizens' group, formed in the Ninth Judicial District of New York, dedicated to a quality judiciary.

Since November 1991, when President Bush nominated Andrew O'Rourke to a federal judgeship, we have tracked that nomination. Last week, the Senate Judiciary Committee received from us a critique of the public portion of Mr. O'Rourke's Senate Judiciary Committee questionnaire.

We urge you to immediately review our critique and join us in calling upon the Senate Judiciary Committee to halt any and all further confirmation hearings on President Bush's judicial nominees and to halt any and all judicial confirmations by the full Senate.

Such immediate action is essential since our critique--a document of almost 50 single-spaced pages, supported by approximately 60 exhibits--showed:

"that a serious and dangerous situation exists at every level of the judicial nomination and confirmation process--from the inception of the senatorial recommendation up to and including nomination by the President and confirmation by the Senate--resulting from the dereliction of all involved, including the professional organizations of the bar." (at p. 2)

In a section entitled: "Failure of the Screening Process" (at pp. 29-38), we directly quote from the December 18, 1991 report of the Task Force on the Confirmation Process, which you convened last fall:

"The most critical evaluation of potential nominees occurs before submission to the Senate. If the process functions properly, unsuitable candidates will be screened out by the President before they are nominated. The responsibility for screening nominees lies first and foremost with the President and his administration. Their investigation must be thorough and complete. It is not in the interest of any party for unfit candidates to be nominated, with the Senate left to identify and reject such an unfit nominee." (12/18/91 report, pp. 11-12) (emphasis added)

Our critique details that the nomination of Andrew O'Rourke by President Bush is a case study demonstrating that "the process" does not function "properly" and

"that no reasonable, objective evaluation of Mr. O'Rourke's competence, character and temperament could come to any conclusion but that he is thoroughly unfit for judicial office" (at p. 2).

We have not only shown that President Bush nominated Mr. O'Rourke notwithstanding a "Not Qualified" minority rating of the American Bar Association's Standing Committee on Federal Judiciary, but that there was no basis for any rating of "Qualified" by a "majority" of the ABA's Committee--let alone by a "substantial majority". Indeed, because the public portion of the Senate Judiciary Committee's questionnaire is virtually identical to the questionnaire Mr. O'Rourke was required to fill out for the ABA, we readily established this scandalous fact as part of our critique.

Our critique also outlines the manner in which effective judicial screening has been eroded:

(a) documenting the unhealthy relationship between the ABA and the Justice Department which has made it possible for the Justice Department to pressure the ABA into altering its evaluation procedures and standards as a price for the ABA retaining its premier role in the evaluation process.

(b) documenting the Justice Department's effort to prevent other bar groups--presumably more independent--from sharing in the screening of prospective judicial nominees.

In fact, we have drawn a direct link between Mr. O'Rourke's nomination and the Justice Department's extraordinary letter to the Association of the Bar of the City of New York last year, which stated:

"Your interference in the constitutional process of selecting and appointing Federal judges must end."

Because the Justice Department has so compromised and constricted the screening of judicial candidates--fostering a situation where "unsuitable candidates" are nominated by the President--there is reason to believe that the Senate will be confirming nominees who are as unfit for judicial office as Mr. O'Rourke.

To the extent that the Senate Judiciary Committee relies on the accuracy and thoroughness of screening by the ABA and the Justice Department to report nominations out of Committee--with the Senate thereafter functioning as a "rubber stamp" by confirming judicial nominees without Senate debate--a real and present danger to the public currently exists.

It is not the philosophical or political views of the judicial nominees which are here at issue. Rather, the issue concerns whether present screening is making appropriate threshold determinations of fundamental judicial qualifications--i.e. competence, integrity, and temperament. Our critique of Andrew O'Rourke's nomination leaves no doubt that it is not.

Most Respectfully,



ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

Enclosures

cc: Members of the Task Force on the Confirmation Process
Members of the Senate Judiciary Committee
Senator Daniel Patrick Moynihan
Alliance for Justice
People for the American Way

INTELLIGENCER

BY JEANNETTE WALLS

CREDENTIALS GAP...ANGRY ARTIST...TRUMP IN CONCERT...BADILLO TO RUN...IRAQ FEUD

THE CASE OF THE MISSING CASES

Westchester County Executive Andrew O'Rourke apparently has a sketchy memory when it comes to his own credentials.

O'Rourke, who was a Republican candidate for governor in 1986, was recently nominated by George Bush to be a judge in U.S. District Court. In a Senate Judiciary questionnaire on his professional background, O'Rourke was asked to provide "in detail" the ten most significant cases "which [he] personally handled" as a lawyer.

O'Rourke cited only three, one of which was reversed on appeal.

"Hey, I gave it the best effort I could," says O'Rourke. He says he wasn't able to locate his old legal files because they're with a former partner who had moved to Florida. The partner has, in fact, since moved back to New York. O'Rourke insists the point is moot because the American Bar Association and the city bar have approved him for

THE DONALD AND WACKO JACKO TO TEAM UP?

Donald Trump may team up with Michael Jackson.

A source says the reclusive singer and the not-so-reclusive developer are in talks about Trump's promoting a series of Jackson concerts this fall. The two have known each other for a while, says the source, and met earlier this month at the One to One charity dinner, where the possibility of staging the concerts was discussed.

"It would be four concerts at Giants Stadium," says the source, who is close to Trump. "And Trump is also hoping to arrange a giant, blowout concert in Central Park. It would be called the Unity Concert and would be held to promote the idea that blacks and whites can get along peaceably. Trump is hoping for late summer or early fall."

Trump had no comment. Jackson's spokesman, Lee Solters, says such a concert series "could well be in the discussion stages."

the federal appointment.

"It was unfortunate that I could not come up with more," says O'Rourke. "I haven't practiced law in ten years. You can't do that as county executive. I don't remember every single case. Do you keep your notes after twenty years?"

HERE COMES HERMAN

Herman Badillo is setting the stage to run for mayor against

David Dinkins, his onetime ally, sources say. The former U.S. congressman says it's "premature at this point to be making any announcement," but a source says he's "just waiting until the right time" to declare his candidacy. Badillo, who is now in private law practice, has already been advised by a political-consulting firm, Austin Sheinkopf, and is lining up financial and political backers for the mayoral run.

Badillo is telling associates and potential supporters that Dinkins has turned his back on some groups that helped elect him. "He's certainly vulnerable on Hispanic issues," says Badillo, who was a vocal critic of CUNY black supremacist professor Leonard Jeffries. "And I don't see that [Andrew] Stein or [Rudolph] Giuliani [who are both expected to announce candidacies] are doing any better."

A (DESERT) STORM OF WORDS

A war of words is escalating between *Harper's* publisher John MacArthur and Frank Mankiewicz, the vice-chairman of Hill & Knowlton, the powerful public-relations firm. In



MICHAEL JACKSON, MARLA MAPLES, AND DONALD TRUMP



ANDREW O'ROURKE



ANDRES SERRANO

FORGET HELMS. SERRANO SUES HIS DEALER

Andres Serrano—the artist who has long been a target of conservative lawmaker Jesse Helms—has a new battle, but this time, it's with his dealer. Serrano, the man behind the controversial *Piss Christ*, is suing Linda and Stefan Stux and the Stux Gallery for \$297,000.

Serrano joined the SoHo gallery in 1990 and agreed to let the Stuxes keep 50 percent of the money from his sales. But Serrano says the dealers owe him more than \$250,000. He is also charging that out of friendship, he sold the Stuxes a photograph for \$3,000—far above the market value. "In breach of their agreement," Serrano claims, the Stuxes resold the work for \$50,000.

Says Charles Stillman, who is representing the Stuxes, "We view this as a dispute between an artist and a gallery which we hope will be resolved through good faith and give and take."

"Stux Gallery has consistently failed to honor and recognize its fiduciary and legal obligations to Mr. Serrano," says Peter R. Stern, the lawyer representing the artist. "Mr. Serrano simply refuses to continue to be treated like an indentured slave."