



NINTH JUDICIAL COMMITTEE

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November 20, 1991

Senator Joseph Biden  
Chairman, Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Honorable Sir:

This letter confirms our November 13, 1991 telephone conversation with the Judiciary Committee staff wherein the Ninth Judicial Committee requested the opportunity to testify against the confirmation of Andrew O'Rourke for a federal judgeship.

By way of background, the Ninth Judicial Committee is a grass-roots organization of lawyers and laypeople dedicated to ensuring a quality judiciary. We were formed in 1989 as a direct response to the increasing politicization of the bench--particularly in the Ninth Judicial District of New York State: Westchester, Putnam, Dutchess, Orange, and Rockland Counties.

Since our formation, we have championed two important legal challenges in the state courts of New York, the cases of Castracan v. Colavita and Sady v. Murphy, and have spearheaded the case of Maxey v. Schaffer now pending in federal court. Those cases address the controlling influence of party leaders in the nomination of judges and the criteria employed in the making of such nominations: political connections and loyalties rather than legal excellence, judicial experience, or even judicial temperament.

We have requested that Senator D'Amato supply us with information as to the basis of his recommendation of Mr. O'Rourke for a federal judgeship--since such nomination appears to us to be wholly political. In that regard, the following two excerpts from the local Gannett newspapers are most illuminating:

Ex "B"

[Gannett newspapers, 10/24/90, Ed Tagliaferri]

"O'Rourke...sought a Yonkers or county judgeship while on the Board of Legislators, from 1973 to 1983, but was blocked by Yonkers GOP officials, who thought he was not enough of a party man. After running unsuccessfully for governor in 1986 against Mario Cuomo, O'Rourke found speculation aplenty that the GOP would reward him with a federal judgeship."

[Gannett newspapers, 6/13/90, Commentary by Tony Brown]

"It is amazing how much stuff Andrew O'Rourke doesn't care about, hasn't cared about and probably will never care about.

In this regard, the state Commission on Government Integrity's report, released yesterday, is most instructive on the county executive's priorities, his goals, his extraordinary disinterests.

O'Rourke, for instance, hasn't cared that his payroll has long been a job bank for unemployed (and, in some cases, unemployable) Republicans. The commission's report recounts a time early in O'Rourke's tenure when then-County Clerk George Morrow approached him about appointment of several deputies. O'Rourke, the elected GOP county executive, responded by saying that 'jobs of that status have to be cleared through Tony.'

Tony is, of course, Anthony Colavita of Eastchester, the county Republican chairman, the man who could apparently tell the county executive what to do and whom to hire...

O'Rourke--never known for his energetic lobbying of the county Board of Legislators anyway--didn't seem to mind Colavita's orchestrating board meetings and shaping county budgets. Republican board member Ed Brady told the commission how 'at Colavita's insistence,' the party boss would go over agendas, item by item, with board members to make sure Republican interests were served in all board decisions.

O'Rourke didn't seem to care much that, as a result of revelations by the press and the commission, public faith in county government had been damaged."

Because of the danger which this political nomination represents, the Ninth Judicial Committee will be submitting an extensive dossier highlighting Mr. O'Rourke's conduct as Westchester County Executive. We believe such conduct should be squarely before the Judiciary Committee when it questions Mr. O'Rourke and evaluates the likelihood of his exercising responsible and "independent" decision-making should he sit on the bench.

So that we can most effectively contribute to your review, please advise us as to the procedures which the Judiciary Committee will be following in processing this nomination, the timetable for same, and the names of the individuals who will be directly in charge. We would appreciate copies of any materials relative to Mr. O'Rourke's qualifications that might be made available to us.

This letter is also being sent to the White House with a similar request for information as to the qualifications and background which were reviewed by the President when he endorsed Senator D'Amato's recommendation of Mr. O'Rourke's name.

We believe the input and involvement of grass-roots groups such as the Ninth Judicial Committee will serve an additional purpose in countering the growing cynicism that our elected officials are responsive to politics--not the public. We hope you'll agree.

Yours for a quality judiciary!

ELENA RUTH SASSOWER  
Coordinator, Ninth Judicial Committee

cc: President George Bush  
Members of the Senate Judiciary Committee  
Senator Alfonse D'Amato  
Senator Daniel Patrick Moynihan