



Media Ignore GOP Senators' Change Of Heart On Up-Or-Down Votes For Federal Court Nominations

Blog » January 4, 2013 6:34 PM EST » SERGIO MUNOZ

As President Obama seeks to fill judicial vacancies, the media have failed to acknowledge the unprecedented obstructionism of his nominees by Republican senators, a complete reversal of their former insistence that then-President George W. Bush's judicial nominees receive up-or-down votes.

On January 3, Obama **re-nominated** 33 previously-stalled judicial nominees to the federal courts, in an attempt to fill the **75 vacancies** in the federal judiciary - 20 more than when Obama **took office**. Chief Justice John Roberts, a conservative appointed by Bush, described 27 of the vacancies as presenting "**judicial emergencies**" in his annual **report** on the judiciary.

Media coverage of the re-nominations **continues** to fail to contrast GOP obstruction of Obama's nominees to Senate Democrats' treatment of Bush's nominees. CNN.com **described** the nominations as "likely to reignite the political battle over judges," particularly due to the re-nomination of NRA-opposed former Solicitor General of New York, Caitlin Halligan. But CNN.com failed to note that Bush **similarly** resubmitted his preferred judicial nominees in bulk following the Congressional elections of 2002. At that time, the Democratic-controlled Senate allowed an up-or-down vote and **confirmed** 20 judicial nominees -- including controversial picks -- in five days.

The Washington Times also ignored the unprecedented Republican treatment of Obama's nominees. Instead, the *Times* obscured the fact that Senate Republicans have made filibustering of all judicial picks routine, and **described** as commonplace the current situation wherein "60 [Senate votes] are needed to proceed to a floor vote." In fact, all-out Congressional obstructionism is a development **unique** to the Obama presidency, and the hypocrisy of Republicans attacking Senate Majority Leader Harry Reid's efforts to limit the use of a filibuster for judicial nominations is apparent in light of their **exact reverse position** after Bush's re-election.

Furthermore, both CNN.com and the *Times* highlight Halligan as an example of the judicial picks Republicans have denied an up-or-down vote, and uncritically repeat Sen. Mitch McConnell's accusations that Halligan -- the current General Counsel for the Manhattan District Attorney's office -- is the sort of "**activist**" vulnerable to the "**extraordinary circumstances**" test, which allows for filibusters of judicial nominees in extreme cases. But this coverage fails to note that Republicans are now engaged in **unprecedented** filibustering of all nominees, not just Halligan, even **noncontroversial** ones who have bipartisan support.

More importantly, the attacks on Halligan have been repeatedly **debunked** as cover for the NRA's opposition to the lawsuits Halligan was involved in prior to the passage of the **Protection of Lawful Commerce in Arms Act**, when she successfully pressured the gun industry to accept responsibility for business practices that funnel guns to criminals. Far from an "activist," Halligan was instead fulfilling her responsibilities as the legal representative of New York in her attempts to protect the state's citizens from illegal gun violence.

The right-wing media, however, is already dredging up this discredited NRA attack, even **recycling** Republican Sen. Charles Grassley's opposition to Halligan because she supported current constitutional law - such as affirmative action - with which he personally disagrees. CNSNews.com's **repetition** of Sen. Grassley's confused description of Halligan's support for recent Supreme Court precedent as "not a mainstream position," is an example of how the right-wing media have stretched in support of their blanket opposition to Obama's judicial nominees.

As **reported** by legal expert Linda Greenhouse of *The New York Times*, the Halligan example reveals the opposition is certainly not because of the nominees' qualifications:

[T]he N.R.A. has begun to involve itself in lower court nominations as well, where it can work its will in the shadows. It has effectively blocked President Obama's nomination of Caitlin J. Halligan to a seat on the United States Court of Appeals for the District of Columbia Circuit that has been vacant since September 2005, when John G. Roberts Jr. moved to a courthouse up the street. The president has submitted the name of the superbly qualified Ms. Halligan to the Senate three times.

[...]

When I **wrote a year ago** about the fate of Caitlin Halligan's appeals court nomination, I tried to puzzle out the basis for the opposition. Silly me, I thought it had something to do with Republicans not wanting a young (she had just turned 45), highly qualified judge sitting in the D.C. Circuit's famous launch position (hello, John Roberts, Ruth Bader Ginsburg, Antonin Scalia, Clarence Thomas, Warren Burger . . .)

Now I realize it's not about anything so sophisticated. It's about the N.R.A.,

which **announced its opposition** days before the cloture vote last December...In a previous job as New York State's solicitor general, Ms. Halligan, a former Supreme Court law clerk who is now general counsel to the Manhattan district attorney, had represented the state in a lawsuit against gun manufacturers. So much for her.

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