

KEN SALAZAR
COLORADO



United States Senate

WASHINGTON, D. C. 20510 - 3903

January 17, 2008

Mr. Fred Fielding
White House Counsel
Office of the President
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. Fielding,

I am writing with regard to the potential nomination of qualified individuals to serve as United States District Court Judges for Colorado. Judge Phillip Figa passed away last week after a valiant struggle against cancer. In April of this year, two other members of the Court, Judges Lewis Babcock and Walker Miller, will assume senior status.

There has been a long history of consultation between the White House and the United States Senate on potential judicial nominations. The Senate's longstanding practices, stated by Republican and Democratic chairmen of the Judiciary Committee, recognize the interests of home state Senators in these important lifetime appointments to the federal bench.

At the outset of President Bush's Administration, the White House wrote in a May 2, 2001, letter to members of the Senate Judiciary Committee, stating that "In all cases, you may be certain that we will work hard to ensure that home state Senators will have a suitable opportunity to express their views concerning possible nominees well in advance of nomination." The letter also states that "...we generally agree with your specific suggestions for keeping home state Senators informed and seeking their advice." Those suggestions from Chairman Leahy, made in an April 27, 2001 letter to the White House and based on similar suggestions made by Republican Chairman Hatch to the Clinton Administration in 1997, included the following:

"The Administration shall consult with home state Senators and the Judiciary Committee (both majority and minority) regarding individuals the President is considering nominating with enough time to allow Senators to consider the potential nominee and provide a meaningful response to the Administration before any formal clearance (i.e. by the FBI) on the prospective nominee is initiated.

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“Should the Administration choose to begin a formal clearance process of a nominee despite a home state Senator’s objection, the Administration shall notify the home state Senators and the Judiciary Committee that this is the case before the clearance process starts.”

I ask that I be consulted directly regarding any individuals you are considering with ample time given for me to evaluate the potential nominees and provide a meaningful response before any formal FBI clearance is initiated. These are vitally important lifetime appointments to our federal judiciary. These judgeships should be filled only by the most highly qualified individuals.

I know names to fill these vacancies have been and are being sent to the White House. In that regard, I also intend to submit the names of highly qualified individuals for your consideration as nominees to fill the three vacancies. I have established an eight member, equally balanced, bipartisan commission to help select the individuals I will forward to you for your consideration. I expect to submit those names to you by March 15, 2008.

Over the last three years, I have worked with the White House and my colleagues in the consideration for confirmation of many judges to the federal courts. For me, filling the three vacancies on Colorado’s United States District Court is a high priority to avoid prolonged vacancies caused by long, extended political logjams. I therefore hope we will find agreement on moving forward.

A review of some of the recent history of Colorado judicial nominations is instructive. During the last two years of the Clinton Administration, when the Senate was controlled by Republicans, three Coloradans were nominated for federal judgeships. None of these nominees received a hearing from the Senate Judiciary Committee.

Patricia Coan was nominated to the Colorado District Court by President Clinton in May of 1999, with about 20 months remaining in the Clinton term. She had been chosen to replace Zita Weinshienk, who went on senior status in April of 1998. She did not receive a hearing, and her nomination was withdrawn in December of 2000. The seat was not filled until Robert Blackburn, nominated by President Bush, was confirmed by the Senate in February of 2002.

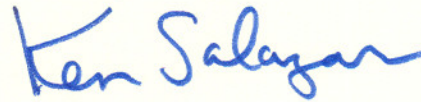
Another Coloradan, James Lyons, was nominated in September of 1999 to the Tenth Circuit Court of Appeals. He, too, was denied a hearing by the Senate Judiciary Committee and his nomination was eventually withdrawn. In his place President Clinton nominated in July of 2000 another Coloradan, Christine Arguello. Ms. Arguello did not receive a hearing before the end of that session of Congress, and she was not confirmed.

I am hopeful that we can find a way forward that avoids these prolonged delays and the problems that occurred in the last two years of the Clinton Administration. Therefore, I ask that you work with me, and Senator Wayne Allard as well, to see if we can find a way forward together.

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Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Ken Salazar". The signature is written in a cursive, flowing style.

Ken Salazar
United States Senator

cc: United States Senator Wayne Allard