

Environment News Service

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25 GROUPS OBJECT TO APPEALS COURT NOMINEE

WASHINGTON, DC, February 4, 2002 (ENS) - The nomination of a Pennsylvania district court judge by President George W. Bush to the U.S. Court of Appeals for the Third Circuit is being challenged by 27 national environmental and community groups. They claim that as a district court judge, D. Brooks Smith handed down rulings that favored industry interests over environmental protection and public health.

Smith is the chief judge of the U.S. District Court for the Western District of Pennsylvania. He has served as a judge of that court since November 1, 1988 when he was appointed at age 36, one of the youngest federal judges in the country. He must now be confirmed by the Senate before taking his seat on the Third Circuit Court of Appeals.

Earthjustice and Community Rights Counsel, along with 25 other national organizations today sent a letter to the Senate Judiciary Committee expressing their "serious concerns" about Judge Smith's record.

"Judge Smith's rulings in illegal toxic dumping, environmental crimes, and other cases show a bias for polluters and against victims and the environment," said Glenn Sugameli of Earthjustice's Judging the Environment project.

One ruling cited by the groups was in the criminal case against Action Mining, Inc., a coal company that illegally built a pipe to carry untreated acid mine drainage to nearby Coal Run, a tributary of Casselman River in Pennsylvania. During the four years the pipe was in operation, acid mine drainage killed 60,000 stocked trout and left a stretch of the river dead.

Earthjustice says the company estimates that this Clean Water Act violation saved it \$5 million in treatment costs. Judge Smith imposed a \$50,000 criminal fine, one percent of their profit from the violation.

"A ruling like that sends a simple message - illegal pollution can pay," Sugameli says.

Environmentalists also express concerns about Judge Smith's participation in junkets for judges. Funded by corporations and special interests, these trips to luxury resorts and dude ranches allow those with stakes in federal litigation to pitch judges on their viewpoints while playing a round of golf or riding horseback. According to research by Community Rights Counsel, Judge Smith took 12 of these special interest trips from 1992 through 2000.

"Judge Smith is one of the most junketed federal judges in America, and his rulings suggest that the corporations funding these trips are getting a great return on their investment," said Doug Kendall, of Community Rights Counsel.

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