

## **With Senate Away, Bush Appoints Pryor to Appeals Court**

**By J.R. Pegg**

**WASHINGTON, DC**, February 23, 2004 (ENS) - President George W. Bush took advantage of the Senate's recess on Friday and appointed one of his most controversial judicial nominees, Alabama Attorney General William Pryor, to a seat on the U.S. Court of Appeals for the 11th Circuit.

The recess appointment escalates the controversy over the President's judicial nominees and is a blow to Democrats, who see Pryor as an extreme conservative ideologue far removed from the mainstream.

In his statement announcing the recess appointment, Bush said Pryor's record "demonstrates his devotion to the rule of law and to treating all people equally under the law."

Senate confirmation of judicial nominees requires a simple majority, but Senate Republicans had failed to muster the 60 votes need to end a Democratic filibuster of Pryor's nomination and force a vote on the 41 year old Alabama Attorney General.

Republicans say Pryor would have won a straight up or down vote and Bush accused Democrats of "playing politics with the American judicial system."

**Alabama Attorney General William Pryor.** (Photo courtesy [Alabama Attorney General's office](#))

"A minority of Democratic Senators has been using unprecedented obstructionist tactics to prevent [Pryor] and other qualified nominees from receiving up-or-down votes," Bush said. "Their tactics are inconsistent with the Senate's constitutional responsibility and are hurting our judicial system."

The 11th Circuit oversees cases from Alabama, Georgia and Florida - the recess appointment puts Pryor on the court through the end of 2005, when he will have to be renominated by the White House.

Democrats argue the Republicans blocked more than 100 of President Bill Clinton's judicial nominees and say the recess appointment does nothing to change the contentious and partisan tone of debate over the issue.

"The President has divided the American people and the Senate with his controversial judicial nominees, and none is more controversial than Mr. Pryor," said Senator Patrick Leahy, a Vermont Democrat and ranking minority member of the Senate Judiciary Committee. "Actions like this show the American people that this White House will stop at nothing to try to turn the independent federal judiciary into an arm of the Republican Party."

Massachusetts Senator John Kerry, the frontrunner for the Democratic party's presidential nomination, said Pryor is "not the kind of judge we need to be adding to our federal judiciary."

"Mr. Pryor has a history of partisanship and pursuing an ideological agenda that does not represent mainstream views," Kerry said.

Much of the Democratic criticism of Pryor has center on his views on abortion, civil rights and the separation of church and state, but environmentalists have rung alarm bells about his environmental record.

"Pryor has taken extreme stances against the role of government in protecting the environment," said Glenn Sugameli, senior legislative counsel for the nonprofit environmental law firm Earthjustice.

As Alabama Attorney General, Pryor challenged the constitutionality of two major federal environmental statutes - the Clean Water Act and the Endangered Species Act (ESA).

Regarding the Clean Water Act, Pryor argued that the Constitution's Commerce Clause does not give Congress the authority to protect waters and wetlands that provide habitat for migratory birds.

Pryor urged the Supreme Court to declare unconstitutional federal efforts to protect wildlife on private lands under the ESA. His unsuccessful argument was based on a position previously rejected by a federal appeals court because it would "place in peril the entire federal regulatory scheme for wildlife and natural resource conservation."

**President George W. Bush called Pryor an outstanding lawyer worthy of a spot on the federal bench.** (Photo courtesy [White House](#))

In addition, Pryor testified before Congress that the U.S. Environmental Protection Agency "invaded the province of the States" by enforcing the Clean Air Act to prevent uncontrolled pollution increases at coal-burning power plants and oil refineries.

"Appointing a judge like this to a federal appeals court shows that President Bush has no respect for the rights of American citizens to challenge polluters and other lawbreakers," said Sugameli said.

Rising concerns about nominees to federal courts has coincided with increased documentation of the key role these courts play in the protection of the nation's environment.

Seldom does an environmental rule or regulation move forward without a lawsuit by environmental groups or by affected industries. Federal appellate courts very often provide the final decision on legal challenges to environmental rules and regulations.

This is the second time this year Bush has used a recess appointment to install one of his nominees on a federal appellate court - in January the President appointed Mississippi federal judge Charles Pickering to the 5th U.S. Circuit Court of Appeals.

Democrats had also successfully filibustered Pickering's nomination.

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