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Editorial

Geographically incorrect

Given their history, President Bush's nomination of U.S. Attorney Rod J. Rosenstein to the long-vacant Maryland seat on the 4th U.S. Circuit Court of Appeals seems primarily intended as a poke in the eye to Maryland's two senators.

Sens. Barbara A. Mikulski and Benjamin L. Cardin notified the White House as recently as September that they would oppose a Rosenstein nomination - as Maryland senators have done to two previous Bush choices for that seat - because the nominee lacks the critical qualification of a long history in Maryland's legal community. A native of Philadelphia, Mr. Rosenstein was just admitted to the Maryland bar in 2002.

The senators' complaint is not a personal critique of Mr. Rosenstein, whom they supported for U.S. attorney and who, the senators told the White House, is doing such a good job they want him to stay there.

In fact, their strongest argument against the nomination is that with an ongoing gang problem and other serious crime issues, Baltimore needs a full-fledged U.S. attorney, not a caretaker marking time till the end of Mr. Bush's term.

But the Marylanders are also fighting, as they have since the beginning of Mr. Bush's term, to retain genuine Maryland representation in a seat on an appeals court regarded as among the most conservative in the nation.

This also seems a worthy cause. Federal appeals courts are playing an increasingly important role in interpreting federal and constitutional law. The Maryland perspective, in a group mostly dominated by Southern states, should be heard.

At the twilight of the Bush administration, partisan politics are, of course, playing a role. Perhaps the two Democratic senators would prefer to wait until a new president takes office in hopes that the lifetime seat on the Circuit Court would go to someone more in tune with their political philosophies. But they did signal to Mr. Bush that they could be supportive of any Republican judge now serving on Maryland's U.S. District Court.

For his part, President Bush nominated Mr. Rosenstein in the certain knowledge that the Marylanders would use their "blue slip" power to block it, as they did on the two previous nominations to the seat last held by Francis D. Murnaghan Jr., a Baltimore lawyer who died in 2000. Mr. Bush announced the Rosenstein nomination, along with more than a dozen others, Thursday afternoon, then gave a speech that night to the conservative Federalist Society blasting the Senate for politicizing the confirmation process.

By thwarting the Maryland senators in their bid to agree on a consensus candidate in advance, the president has done no favor to Mr. Rosenstein. The U.S. attorney for Maryland just scored a big victory in his prosecution of former state Sen. Thomas L. Bromwell. He deserves better than to be used as a political pawn.