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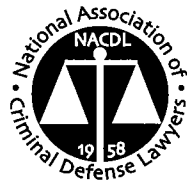
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NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

June 10, 2003

Chairman Orrin Hatch
United States Senate
Washington, D.C. 20510

Senator Patrick Leahy
United States Senate
Washington, D.C. 20510

Re: Nomination of William Pryor

Dear Chairman Hatch and Senator Leahy:

On behalf of the nation's largest bar association for lawyers representing the rights of persons and businesses accused of crime, I write to express our concerns about the nomination of William Pryor for the U.S. Court of Appeals for the Eleventh Circuit. The National Association of Criminal Defense Lawyers is a non-partisan organization committed to preserving fairness within America's criminal justice system. While we generally do not take positions on judicial nominees, an exception is required in this instance because of Mr. Pryor's extreme views regarding criminal justice and the rights of the accused and his intemperate public statements in support of those views.

Of particular concern is Mr. Pryor's unrealistically placed confidence in our nation's patently inadequate capital punishment systems. In opposing the Innocence Protection Act, Mr. Pryor told the Senate Judiciary Committee, "Legislation aimed at setting national standards for defense counsel in capital cases, therefore, seeks to remedy a problem that, at least in my state, does not exist." Such confidence flies in the face of the numerous cases of shockingly poor representation of capital defendants in Alabama. Judy Haney is but one example: In her Alabama trial, Ms. Haney received the death penalty after being represented by one lawyer who was drunk during the trial and was incarcerated overnight at the same jail as Ms. Haney and another lawyer who was later suspended from practicing law.

Mr. Pryor's refusal to acknowledge systemic flaws in his own state's death penalty system are all the more troubling in light of his claim that no innocent person has been executed and his belief that post-conviction proceedings are an abuse of the system. In response to the Judiciary Committee's questions following up on Mr. Pryor's testimony against the Innocence Protection Act, Mr. Pryor stated that post-conviction appeals "are crucial only for Monday-morning quarterbacks who try to second-guess things and create issues that were probably not real in the first place." Despite the fact that over 100 death row prisoners have been exonerated after their trials, and despite the fact that twenty-two percent of Alabama's death row inmates

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lack counsel for state collateral review, Mr. Pryor has endorsed the spurious claim that innocent people are not executed.

These strongly held views bear directly on Mr. Pryor's ability to impartially consider direct and collateral appeals in death penalty cases. United States Circuit Judges sitting in the Eleventh Circuit hear cases from Florida, Georgia and Alabama -- three active death penalty states that account for approximately 14 percent of executions nationwide. As Justice Anthony Kennedy stated, "The essential rule of judicial relations concerning lawyers and litigants is this: a judge must be fair and impartial. All sides to the controversy must be given a full and fair hearing." Anthony M. Kennedy, *Judicial Ethics and the Rule of Law*, 40 St. Louis U. L.J. 1067, 1069 (1996). The consistently one-sided nature of Mr. Pryor's views, and the partisan fervor that has characterized his legal career, however, raise questions about his ability to judge objectively in capital and other criminal cases.

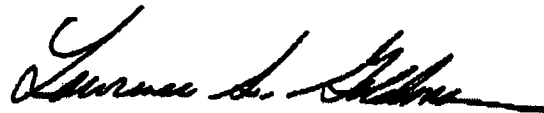
Mr. Pryor's public remarks about criminal defense lawyers reinforce this concern. In the course of his testimony regarding the Innocence Protection Act, Mr. Pryor differentiated between judges and prosecutors on the one hand, and criminal defense attorneys on the other, in the following terms: "Judges are independent. For that matter, so are prosecutors whose ethical duty, in contrast to defense attorneys, is to pursue truth and justice." According to Mr. Pryor, criminal defense lawyers are so inherently biased that they cannot be trusted to establish reasonable standards for competent representation in capital cases.

His past intemperate comments about the U.S. Supreme Court and its Members also call into question his fitness for the federal bench. In a speech three years ago, Mr. Pryor criticized the Supreme Court's decision reaffirming the *Miranda* exclusionary rule as an "awful" ruling that "preserved the worst examples of judicial activism." He concluded this speech by declaring, "Please God, no more Souters." In 2000, when the Supreme Court issued a brief temporary stay of an Alabama death row inmate's execution to consider the constitutionality of the electric chair, Mr. Pryor stated disrespectfully and inaccurately, "[T]his issue should not be decided by nine octogenarian lawyers who happen to sit on the U.S. Supreme Court."

We hope the committee, in deciding whether to consent to this nomination, will explore thoroughly Mr. Pryor's controversial views and past statements suggesting that he lacks the proper temperament a judge must possess. We also respectfully request that the Committee assure itself that Mr. Pryor will fairly and impartially consider post-conviction appeals in death penalty and other criminal cases.

We thank the Chairman and the Members of the Committee for their efforts in reviewing this nomination.

Sincerely,



Lawrence S. Goldman
President

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NACDL is the preeminent organization in the United States advancing the mission of the nation's criminal defense lawyers to ensure justice and due process for persons accused of crime or other misconduct. A professional bar association founded in 1958, NACDL's 11,000 direct members — and 80 state and local affiliate organizations with another 28,000 members — include private criminal defense lawyers, public defenders, active-duty U.S. military defense counsel, law professors and judges committed to preserving fairness within America's criminal justice system.