

GUSTAVUS A. PURYEAR IV:

Nashville's Next Federal Judge?



The issue: Gustavus A. Puryear IV, general counsel since 2001 for Corrections Corporation of America (CCA), the nation's largest for-profit private prison company, was nominated on June 13, 2007 for a federal judgeship for U.S. District Court in the Middle District of Tennessee (where CCA's corporate headquarters is located).

Who is Gus Puryear? Mr. Puryear's background includes the following: He received his J.D. degree from the University of North Carolina School of Law in 1993; served as a law clerk to Judge Barksdale for the U.S. Fifth Circuit Court of Appeals from 1993-1994; worked as an associate attorney for the Farris, Warfield & Kanaday law firm from 1994-1997 (now Stites & Harbison); served as counsel for the U.S. Senate Committee on Governmental Affairs, 1997-1998; worked as the legislative director for Senator Bill Frist from 1998-2000; and was hired by CCA as general counsel in 2001. He serves on the National Prison Rape Elimination Commission and is on the board of Nashville Bank & Trust.

What are the specific concerns about his nomination?

Conflict of Interest

1. Mr. Puryear would have a conflict of interest in regard to all litigation involving CCA, his former employer. This is the strongest argument against his appointment. Mr. Puryear's 2006 compensation from CCA included a salary of \$237,308 plus \$602,957 in "other long term compensation," according to forbes.com. Since Nov. 2006 he has sold shares of CCA stock valued at over \$3 million. In short, CCA has made Mr. Puryear a multi-millionaire. Pursuant to 28 U.S.C. § 455, "Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." Under this law, Mr. Puryear presumably would have to disqualify himself from any case in which CCA is named as a party. According to a federal docket search, over **400** cases naming CCA or CCA employees have been filed in federal court for the Middle District of Tennessee. Having to assign such cases to other judges would be a burden on the court and an inefficient use of judicial resources.

Lack of Trial / Litigation Experience

2. Although Mr. Puryear served as a judicial clerk, his time spent in litigation as a trial lawyer has been scanty. He spent only three years working for a Nashville law firm. One of the attorneys at that firm stated that Mr. Puryear was hired right out of law school as a "young lawyer," and mainly assisted other attorneys. According to federal court records, Mr. Puryear has been listed as counsel in 130 cases in U.S. District Court in Tennessee over his legal career, which certainly sounds impressive. However, an examination of each of those cases reveals the following:

- * 85 cases were dismissed by the court without service on the defendants; Mr. Puryear did nothing.
- * 39 cases were handed by another law firm or attorney; Mr. Puryear was not directly involved.
- * 1 case was answered by Mr. Puryear personally; he sent a letter saying the defendant had died.
- * 5 cases included Mr. Puryear's personal involvement; all were in 1994-1998. Only one went to trial.

Thus, according to court records, Mr. Puryear has been personally involved in just five federal cases and only one trial in Tennessee, most recently 10 years ago. He has authored only one law article, in 1992. Apparently Mr. Puryear's qualifications for a federal judgeship are not based on his extensive experience as a trial attorney, nor on his litigation experience. What, then, are his qualifications?

Partisan Political Appointment

3. This is a partisan political appointment. Mr. Puryear is a dedicated Republican supporter, having previously worked under Republican Senators Bill Frist and Fred Thompson. He was one of Vice President Cheney's advisors during the 2000 debates. He has given at least \$13,450 to federal and state Republican campaign committees since 2001; specific donations include \$3,000 to Sen. Bob Corker from 2005-2006, \$1,000 for Mitt Romney in 2007, \$2,000 to President Bush for the primary in 2003, \$1,000 to Sen. Alexander's campaign in 2005, and \$1,000 to Sen. Kit Bond in 2003.

This is par for the course, as most federal nominations for judges and U.S. assistant attorney generals are political in nature. Still, federal judges, who are supposed to be impartial, should not be as partisan as reflected by Mr. Puryear's record, irrespective of party affiliation.

Has Not Acted in the Public Interest

4. As CCA's general counsel, Mr. Puryear has worked to hide damaging information about the company from the public, including from governmental agencies that contract with the company. Such actions are antithetical to the ethical qualities that should be displayed by a federal judge. There are two examples that can be cited. Following a hostage-taking at CCA's Bay County, Florida jail in 2004, which resulted in a prisoner and a nurse hostage being shot by a SWAT team member, CCA refused to release an after-action report related to the incident. Mr. Puryear arranged to have a private law firm conduct the report to protect the company from liability, and stated the report would never become a public record. Also, Mr. Puryear put the company's quality assurance division under CCA's legal department so any quality assurance audits would not be subject to public record laws. Of course he was "just doing his job" as CCA's lawyer. But is this behavior worthy of a federal judicial candidate?

What Steps Can be Taken to Oppose His Nomination?

Contact Senator Patrick Leahy, chairman of the Senate Committee on the Judiciary, which will hold hearings on Mr. Puryear's nomination, and voice your concerns:

Senator Patrick Leahy, Committee Chair
United States Senate
433 Russell Senate Office Building
Washington, D.C. 20510
Phone: (202) 224-4242
Fax: (202) 224-3479

You can also contact your state Senators and other members of the committee, A list of the Senate Judiciary Committee's membership is available at this link: <http://judiciary.senate.gov/members.cfm>

FOR MORE INFORMATION PLEASE VISIT: WWW.AGAINSTPURYEAR.ORG