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Political posturing in judicial nominations damages process

By *BILL FRIST, M.D.*

For three years, Gus Puryear served as the legislative director of my U.S. Senate office, spending countless hours crafting legislation to strengthen our nation and ensure the federal government better served its people.

Gus and I worked closely, and I developed tremendous respect for his intellect, his character, his legal acumen and his devotion to family.

Before joining my office, Gus had graduated with honors from a top-tier law school, clerked on the U.S. 5th Circuit Court of Appeals, and practiced law at a well-respected firm. Gus is a man of unflinching integrity. I was proud when Gus was nominated to the federal bench for the Middle District of Tennessee.

Gus enjoys broad bipartisan support within Nashville and in Washington. Thurgood Marshall Jr., a distinguished lawyer and son of the late associate justice of the U.S. Supreme Court and former senior-level Clinton administration official, supports his nomination. David Randolph Smith, a well-respected plaintiffs' lawyer from Nashville who has litigated against Gus, also supports his nomination.

Despite the fact that the American Bar Association unanimously rated Gus qualified to be a U.S. district judge, some political-interest groups have criticized him. I hope my former colleagues will carefully review Gus' record for themselves, separate politics from fact, and fulfill their constitutional duty of advise and consent by confirming Gus to serve as a federal judge. My larger hope is that my former colleagues will find some way to treat all judicial nominees fairly, so that the best and brightest will seek to serve.

When I served as majority leader of the Senate, I saw firsthand the political circus that can accompany judicial nominations. Some of my colleagues threatened to filibuster obviously well-qualified nominees.

The infusion of political posturing, fed by outside groups, into our nomination process means that nominees are sometimes subject to unfair attack, and they are essentially forbidden from responding, which makes them easier targets than politicians. The toll on nominees and their families cannot be underestimated. The confirmation process has become so brutal that people who want to serve the public no longer do so.

Return to bipartisan model

The judicial confirmation process has not always been this way. Many members of the Senate want to fulfill their constitutional duty without substituting their own judgment for that of the president, who is entitled to nominate judges who share his own judicial philosophy and will follow the law. I worked hard to confirm four of President Clinton's nominees to serve as federal district judges in Tennessee, including helping push through one such nominee during Clinton's final year.

Indeed, one little-known fact is that, while working for me, Gus helped lead the effort to get Judge William J. Haynes confirmed during Clinton's final year in office, enabling Judge Haynes to become the first African-American federal judge in Nashville. The Senate should return to this bipartisan model and not play politics with the federal courts.