

Private Corrections Institute, Inc.

April 14, 2008

SENT VIA FAX

The Honorable Patrick Leahy, Chairman
Senate Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Letters in support of Mr. Puryear's nomination from David Randolph Smith, Thurgood Marshall Jr., Wallace W. Dietz, Michael L. Dagley, Jonathon Cole, Gary C. Shockley, Robert J. Walker, Hannah K.V. Cassidy, James F. Sanders and Lisa Ramsey Cole

Dear Chairman Leahy:

According to a recent news report, there has been a "renewed public relations push highlighting the support" of both Democrats and Republicans who have endorsed the pending nomination of Mr. Gustavus A. Puryear IV.

These supporters include attorneys with the firms of Bass Berry & Sims, Baker Donelson et al., Neal & Harwell, Walker Tipps and Malone, and Lewis King Krieg & Waldrop, as well as CCA Board member Thurgood Marshall, Jr. and plaintiff's attorney David Randolph Smith.

Frankly it is good to see bipartisan support for any nominee. I am of the personal opinion that partisan politics should play no part in the selection of judicial candidates, whose nominations should be based primarily on qualifications, experience and fitness for a lifetime appointment to the federal bench. Those who support Mr. Puryear, however, tend to share financial, political and/or professional relationships with his employer, Corrections Corp. of America (CCA).

Wallace W. Dietz and Michael L. Dagley, of Bass Berry & Sims, have endorsed Mr. Puryear's nomination. Bass Berry & Sims lists CCA among the firm's clients, and has represented CCA in connection with public securities offerings. The firm hired former CCA senior director Leslie Hafter to head its lobbying efforts. Also, Bass Berry & Sims partner Lee Barfield II is a brother-in-law of former Senator Bill Frist, who employed Mr. Puryear as his legislative director.

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Gary C. Shockley and Jonathon Cole of Baker Donelson, et al. have submitted letters in support of Mr. Puryear's nomination. Baker Donelson represents CCA as a client. Representatives from both CCA and Baker Donelson sit on the boards of Bethlehem Centers and You Have the Power, two Nashville non-profit agencies. The law firm, which includes former Senator Howard Baker, Jr. as senior counsel, also has strong connections with Senator Lamar Alexander – in fact, Baker Donelson is listed as Sen. Alexander's 4th largest campaign contributor from 2003-2008. CCA was the Senator's second largest contributor over the same period of time. Senator Alexander in turn has very strong connections with CCA that go back over 20 years, including a longstanding relationship with CCA co-founder Tom Beasley, who once served as his campaign manager.

Robert J. Walker, a partner with Walker Tipps and Malone, has endorsed Mr. Puryear. Walker Tipps and Malone has represented CCA as a client, including in the Estelle Richardson lawsuit as well as securities litigation. It was another partner at the firm, J. Mark Tipps, formerly with Bass Berry & Sims, who recruited Mr. Puryear to work for then-Senator Fred Thompson. Mr. Tipps later recommended Mr. Puryear to then-Senator Bill Frist and subsequently introduced Mr. Puryear to CCA CEO John Ferguson, who hired him as CCA's general counsel. Both Mr. Puryear and a Walker Tipps and Malone attorney serve on the board of the Exchange Club.

Hannah K.V. Cassidy, of Reno & Cavanaugh, is supportive of Mr. Puryear. According to the D.C. office of Reno & Cavanaugh, the firm represents CCA as a client. Until several months ago Ms. Cassidy was a partner at Stites & Harbison, and knew Mr. Puryear from his employment at that firm in the 1990's. CCA is listed as a client of Stites & Harbison. Another former partner at the firm, Steve Groom, currently serves as CCA's deputy general counsel. Stites & Harbison and CCA both have representatives who serve on the board of CASA, a Nashville non-profit.

Attorney James F. Sanders of Neal & Harwell provided the Committee with a supportive letter on February 26. As noted in his correspondence, Mr. Sanders represented CCA in the Estelle Richardson lawsuit. Additionally, Neal & Harwell and CCA both have representatives on the advisory board of the Nashville chapter of the Salvation Army.

Lisa Ramsey Cole of Lewis King Krieg & Waldrop has sent a letter to the Committee in support of Mr. Puryear. CCA is a client of Lewis King; further, the firm has a representative on the board of Love Helps Inc., a Nashville-based non-profit that receives financial support from CCA.

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In regard to Thurgood Marshall, Jr., who also has endorsed Mr. Puryear's judicial nomination, Mr. Marshall joined CCA's board of directors in 2002. According to SEC filings, as of August 2007 he owned 7,000 shares of CCA stock either directly or through options to purchase. He thus has a substantial financial stake in CCA's continued success and, of course, has a duty as a board member to be supportive of the company and its officers, including Mr. Puryear.

I am sure that the persons discussed above, who have expressed support for Mr. Puryear, have a genuine liking for him both personally and professionally as indicated in their correspondence. However, to the extent that they *all* also have interconnected professional, financial or business ties with CCA, including paid client relationships, their support of Mr. Puryear, which serves to strengthen those ties, should be taken into consideration by the Committee members.

Further, much has been made of a letter sent to the Committee by David Randolph Smith, the plaintiff's attorney in a lawsuit filed against CCA by Estelle Richardson's family. Mr. Smith, a Democrat, strongly endorsed Mr. Puryear's nomination; further, Mr. Puryear cited Mr. Smith's comments in his written answers submitted to the Committee.

I spoke with Mr. Smith last February and we had a candid conversation as to why he wrote his letter. As that was a private discussion, until recently I have not disclosed Mr. Smith's underlying motivation as it was relayed by him to me. In fact, when PCI provided the Judiciary Committee with its Response to Mr. Puryear's written answers in a March 7 letter, I stated as follows:

"Mr. Puryear cited a letter from David Randolph Smith, one of the attorneys who represented Ms. Richardson's family in the lawsuit against CCA. I spoke with Mr. Smith and he related to me the underlying reasons why he sent his letter to the Committee. I am not at liberty to disclose those reasons as communicated to me during our private conversation; it is up to Mr. Smith to inform the Committee as to the true motivation behind his letter."

On April 10, the *Nashville City Paper*, a free local daily, published an article which cited Mr. Smith's letter and, based on an interview, quoted his stated reasons for endorsing Mr. Puryear's nomination. As Mr. Smith went on the record, I am now free to do so myself.

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In my conversation with Mr. Smith, he stated to me – twice – that he supported Mr. Puryear's nomination because he did not want a "right-wing religious nutjob" confirmed in his stead. He felt that Mr. Puryear was more of a moderate and feared who might be endorsed by Tennessee's Republican Senators if Mr. Puryear was not confirmed. Mr. Smith made it clear to me that he preferred not to have a Republican judicial nominee period, but that Mr. Puryear was the least objectionable candidate.

Mr. Smith has acknowledged that he used the phrase mentioned above – which was, in part, a motivating factor for the letter he sent to the Committee – in an on-the-record conversation with the managing editor of the *Nashville Scene*, an independent local weekly publication. Mr. Smith further stated that he liked Mr. Puryear both personally and professionally.

Certainly, the Committee members should look at the totality of the statements and evidence they have received relative to Mr. Puryear's nomination, and weigh it accordingly. In order to do so with accuracy, I believe the information presented in this letter will be helpful.

Sincerely,



Alex Friedmann
Vice President, PCI

cc: Senator Arlen Specter, Ranking Member

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