

Confirmation hearing gets testy for Nashville federal judge nominee

By BILL THEOBALD • *Tennessean Washington Bureau* • February 13, 2008

WASHINGTON — The expected smooth confirmation of Gustavus "Gus" Puryear IV to be a federal judge in Nashville hit some bumps Tuesday during a sometimes-tense congressional hearing that raised questions about his role as chief lawyer for Corrections Corporation of America.

Sen. Dianne Feinstein, D-Calif., and Sen. Arlen Specter, R-Pa., quoted letters from civil rights and other groups opposing Puryear's nomination.

Despite Tuesday's tough questioning, the Senate Judiciary Committee hearing could suggest Puryear is on track to win confirmation at a time when Senate Democrats and President Bush are feuding over judicial nominations. Many nominees have never been granted a hearing before the panel.

The groups say Puryear is biased against inmates' rights and was more interested in protecting CCA in 2004 than in finding out why a woman died in a Nashville jail run by the company. They also say Puryear would have to recuse himself from cases involving CCA, which they contend would clog up the court system.

Puryear carefully rebutted each claim and said he has already started to sell off his stock in the Nashville-based company. He promised to sell off all his stock and said he would avoid hearing cases involving the company even after completely divesting. He did not say how long he would wait before he would begin hearing cases involving CCA.

The committee's chairman, Sen. Patrick Leahy, D-Vt., could not attend the hearing but submitted a written statement saying it shows he's trying to fill vacant judgeships.

Tennessee Republican Sens. Bob Corker and Lamar Alexander support Puryear's nomination to U.S. District Court for the Middle District of Tennessee. They introduced him at the hearing.

Various groups opposed

The campaign against Puryear is being led by the Alliance for Justice, a Washington-based umbrella group representing dozens of national civil rights and other groups ranging from Planned Parenthood Federation of America to The Sierra Club Foundation.

The American Federation of State, County and Municipal Employees, which represents workers at CCA prisons, also sent a letter opposing Puryear's nomination.

The Alliance for Justice letter says Puryear "cavalierly dismissed" the legitimacy of civil rights lawsuits filed by prisoners when he said in 2004 that "litigation is an outlet for inmates. ... It's something they can do in their spare time."

"The courts should be open to civil rights lawsuits of all types," Puryear said when Specter asked him about the comment.

Puryear said he was referring to "frivolous" lawsuits filed by prisoners, prompting Specter to demand what he meant by frivolous.

Jail death is an issue

Feinstein asked about allegations on an anti-Puryear Web site claiming Puryear was more concerned in 2004 with protecting CCA than with finding out who killed Estelle Richardson in the Metro Detention Facility in Nashville in 2004. Richardson, 34, had a fractured skull, broken ribs and liver damage. Four CCA guards were charged, but the charges were dropped and Richardson's family ultimately settled a lawsuit against the company.

Puryear said Tuesday that "four innocent correctional officers were exonerated" and that the cause of Richardson's death could not be determined. He suggested her broken ribs and liver damage could have been caused by CPR, which he said is a "common" occurrence during such resuscitation.

"Common?" Feinstein responded, sounding incredulous.

Puryear's opponents say 400 cases involving CCA have been filed in Tennessee's Middle District since 2000. That volume would place a significant burden on other judges if Puryear had to recuse himself from such cases, they said.

Puryear disputed the allegation, saying the correct number is 181 cases. An electronic search of the Middle District's docket since 2000 lists 165 cases with Corrections Corporation of America or CCA named as a party. Few are still active.

Feinstein asked Puryear to respond to some claims in writing. The committee could then hold another hearing and question Puryear more, or the panel could move ahead with a vote on whether to send the nomination to the full Senate with a recommendation for approval or disapproval, or with no recommendation at all.

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