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NEWS

U.S. SENATOR FOR KANSAS

FROM:

SENATE REPUBLICAN LEADER

FOR IMMEDIATE RELEASE
Monday, April 29, 1996

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CLINTON JUDGES UPDATE

DOLE CONTINUES TO EXPOSE RECORD OF LIBERAL LENIENCY IN CLINTON COURTS; ADMINISTRATION'S TOUGH-ON-CRIME RHETORIC NOT MATCHED BY CLINTON JUDGES AND CLINTON LAWYERS

As the American people know all too well, federal judges can play an enormous role in our daily lives. Through their rulings, federal judges help determine whether criminals walk the streets or stay behind bars; whether racial quotas or merit govern in hiring decisions; whether businesses can function, prosper and create jobs without being subject to baseless litigation; and whether parents can control the content of their children's education.

Legislating from the Bench

Today, federal judges micromanage schools, hospitals, fire and police departments, even prisons. According to one estimate, a staggering one-third of the five hundred largest jails are under some form of federal court supervision.

One notorious example of judge-acting-as-legislator is Carl Muecke, appointed to the federal bench by President Johnson. Judge Muecke has become the de facto administrator of the Arizona state prison system.

In a textbook example of judicial activism run amok, Judge Muecke has declared that Arizona prison libraries must be open at least 50 hours each week, that the state of Arizona must grant each of its 22,000 prisoners the opportunity to make at least three 20-minute phone calls every week to an attorney; that Arizona must provide lengthy legal research classes to inmates; and that Arizona prison officials must give each indigent inmate one pen and one pencil, 10 sheets of typing paper, one legal pad, and four envelopes upon request.

Clinton Administration Boosts Litigation Explosion

Not surprisingly, Arizona's Attorney General Grant Woods has challenged the judge's misguided rulings, appealing all the way up to the Supreme Court. Unbelievably, Attorney General Woods has found himself at odds with a powerful adversary: the Clinton Administration. In a "friend of the court" brief filed with the Supreme Court, the Clinton Administration's top lawyer -- Solicitor General Drew Days -- sided not with Attorney General Woods and the taxpayers of Arizona but with Judge Muecke and the state's litigious inmates.

Let's put this in perspective: While the Justice Department should be working overtime to save the taxpayers money by reducing the number of frivolous inmate lawsuits, the Clinton Administration -- through its lawyers -- is actually contributing to the litigation explosion.

Clinton Solicitor General: Tough on Crime?

In other cases, the Solicitor General has shown that being tough-on-crime is apparently not part of his Justice Department portfolio. In the now-famous Knox case, the Solicitor General's Office actually argued for a weakening of our federal laws against child pornography. And in another case -- United States versus Hamrick -- the Solicitor General's Office decided not to seek a rehearing of a Fourth Circuit ruling overturning the conviction of someone who mailed a defective letter bomb to a U.S. Attorney. Since the letter bomb failed to detonate -- although it scorched the packaging in which it had been mailed -- a Fourth Circuit panel reasoned that the bomb could not be a "dangerous weapon" or a "destructive device" under the relevant federal statute.

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The Solicitor General would normally intervene in such a case, particularly since the recipient of the letter bomb was a U.S. Attorney. Yet Solicitor General Drew Days declined to do so. As Professor Paul Cassell of the University of Utah has explained: "The...decision [by the Solicitor General's Office] is truly hard to fathom. A ruling that otherwise dangerous bombs with defective igniters are not 'dangerous weapons' could be expected to have serious effects on the government's ability to prosecute a number of serious criminals under the relevant federal statutes."

Fortunately, the Reagan-Bush judges on the entire Fourth Circuit stepped in, and on their own initiative, reversed the crazy panel decision. And yes, President Clinton's appointment to the Fourth Circuit, Judge Blaine Michael, joined a dissent insisting that the letter bomb was "nonoperational."

In yet another case -- United States v. Cheely -- a panel of Carter-appointed judges on the Ninth Circuit Court of Appeals struck down the federal death penalty statute. Despite the Clinton Administration's professed support for the federal death penalty, Solicitor General Days declined to appeal the Ninth Circuit panel decision.

Unfortunately, the Solicitor General's actions in the Knox, Hamrick, and Cheely cases appear to be part of a pattern. As Senator Hatch explained last week, and I quote: "the Clinton Administration's Solicitor General generally has ceased the efforts of the Reagan and Bush Administrations to vigorously defend the death penalty and tough criminal laws."

So, what's the lesson here? The lesson is this: Talk is cheap. The President may talk a good game on crime, but the real-life actions of Clinton judges and Clinton lawyers often don't match the President's tough-on-crime rhetoric.

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