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Judges: ‘Totally Broken’ Confirmation Process Causing ‘Dire’ Case Backlogs

By Seth Stern, CQ Staff

Two federal judges criticized the slow pace of judicial confirmations Monday, saying cases are backlogged and judges overwhelmed at the trial court level.

Speaking at a Brookings Institution event on judicial nominations, Royce Lamberth, the chief judge of the U.S. District Court for the District of Columbia, said the confirmation process is “totally broken” and that the pattern of “paybacks and the bickering have been thoroughly bipartisan.”

Lamberth, who was appointed by President Ronald Reagan in 1987, raised similar concerns in a speech in March 2009, just after the start of the Obama administration. But he said he was increasingly concerned by the delays in the confirmation of federal trial judges, which has only worsened in the two years since.

“I say to both Democrats and Republicans, you are injuring the country,” Lamberth said.

Lamberth was joined on the panel by William Furgeson Jr., a Texas district court judge who said judges’ growing caseloads resulting from the vacancies in his district in western Texas are a “desperate problem” that results in “assembly-line justice.”

Furgeson called the situation on the border “dire,” adding it was a “giant mystery” why senators now fight over trial court judges.

Chief Justice John G. Roberts Jr. had also emphasized the “persistent problem” of vacancies on the federal bench in his annual report on the state of the judiciary released in December.

“Each political party has found it easy to turn on a dime from decrying to defending the blocking of judicial nominations, depending on their changing political fortunes,” Roberts wrote in the report.

Only 67 percent of Obama’s district court nominees were confirmed during his first two years in office, compared to 92 percent for George W. Bush and 87 percent for Bill Clinton, according to statistics compiled by Russell Wheeler, a visiting fellow at the liberal-leaning Brookings Institution, and 83 of 677 district court seats were vacant as of Feb. 25.

The Senate has confirmed six district court judges so far this year, including two more Monday: Amy Totenberg and Steve C. Jones to the Northern District of Georgia.

On Wednesday, the Senate Judiciary Committee will hold a second confirmation hearing for President Obama’s most controversial judicial nominee: Goodwin Liu, who was first nominated for a seat on the U.S. Court of Appeals for the 9th Circuit in 2009.

The University of California law professor has faced intense criticism from Republicans for his liberal views and for repeatedly amending the materials he has provided to the Judiciary Committee.