



NINTH JUDICIAL COMMITTEE

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June 26, 1992

Ronald L. Olson, Chairman
ABA Standing Committee on
Federal Judiciary
c/o Munger, Tolles & Olson
355 So. Grand Avenue, 35th Floor
Los Angeles, California 90071

Dear Mr. Olson:

Thank you for your kind letter recognizing our investigative efforts, as reflected by our critique of Mr. O'Rourke's nomination.

We note your letter does not respond to our request that the Standing Committee on Federal Judiciary retract its approval of Mr. O'Rourke's qualifications. Such retraction is appropriate in view of the documentary proof we presented--dispositive of the fact that Mr. O'Rourke's own representation of his credentials to the Senate Judiciary Committee manifests a pattern of falsification, evasion, and concealment.

Under such circumstances, it is incumbent upon your Committee to withdraw its favorable rating. To do otherwise brings the ABA into disrepute--suggesting to the public that the ABA does not view fraudulent conduct as disqualifying.

As can be seen from the enclosed item, appearing in the June 22nd issue of New York magazine, Mr. O'Rourke is already touting the ABA endorsement as a means of deflecting the serious matters revealed by our investigation. That item, entitled "Credentials Gap--The Case of the Missing Cases", is based on our critique.

Ex "C"

As to our call for a moratorium on Senate confirmation of pending judicial nominations, we believe your Committee's stated commitment "to the process of evaluating prospective nominees" mandates its support for such decisive action.

In light of our critique, the inexorable conclusion to be drawn from the favorable rating of the O'Rourke nomination by both the ABA and the City Bar is that the "process" is not working and that threshold determinations as to competence, integrity, and temperament are not being made.

The consequent danger to the public interest is analogous to that presented by the discovery that medical screening had failed to prevent transmission of contaminated blood to a patient. There is no question but that such discovery would result in an immediate emergency halt of all blood transfusions--until the source of contamination was isolated and safeguards put in place. Likewise, the Senate must halt confirmation of nominations which are the product of plainly deficient screening.

The ABA is not being called upon to involve itself in "the political processes". It is only being asked to recognize the irreparable consequences of "approved" ratings being given to unfit nominees for life-time federal judgeships.

Yours for a quality judiciary,



ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

Enclosures:

- (a) your letter of 6/18/92
- (b) New York Magazine, 6/22/92, "Intelligencer", p. 7

cc: Talbot S. D'Alemberte, President, ABA
Senate Majority Leader George Mitchell
Chairman Joseph Biden, Senate Judiciary Committee
Senator Daniel Patrick Moynihan
People for the American Way
Alliance for Justice

INTELLIGENCER

BY JEANNETTE WALLS

CREDENTIALS GAP...ANGRY ARTIST...TRUMP IN CONCERT...BADILLO TO RUN...IRAQ FEUD

THE CASE OF THE MISSING CASES

Westchester County Executive Andrew O'Rourke apparently has a sketchy memory when it comes to his own credentials.

O'Rourke, who was a Republican candidate for governor in 1986, was recently nominated by George Bush to be a judge in U.S. District Court. In a Senate Judiciary questionnaire on his professional background, O'Rourke was asked to provide "in detail" the ten most significant cases "which [he] personally handled" as a lawyer.

O'Rourke cited only three, one of which was reversed on appeal.

"Hey, I gave it the best effort I could," says O'Rourke. He says he wasn't able to locate his old legal files because they're with a former partner who had moved to Florida. The partner has, in fact, since moved back to New York. O'Rourke insists the point is moot because the American Bar Association and the city bar have approved him for

THE DONALD AND WACKO JACKO TO TEAM UP?

Donald Trump may team up with Michael Jackson.

A source says the reclusive singer and the not-so-reclusive developer are in talks about Trump's promoting a series of Jackson concerts this fall. The two have known each other for a while, says the source, and met earlier this month at the One to One charity dinner, where the possibility of staging the concerts was discussed.

"It would be four concerts at Giants Stadium," says the source, who is close to Trump. "And Trump is also hoping to arrange a giant, blowout concert in Central Park. It would be called the Unity Concert and would be held to promote the idea that blacks and whites can get along peaceably. Trump is hoping for late summer or early fall."

Trump had no comment. Jackson's spokesman, Lee Solters, says such a concert series "could well be in the discussion stages."

the federal appointment.

"It was unfortunate that I could not come up with more," says O'Rourke. "I haven't practiced law in ten years. You can't do that as county executive. I don't remember every single case. Do you keep your notes after twenty years?"

HERE COMES HERMAN

Herman Badillo is setting the stage to run for mayor against

David Dinkins, his onetime ally, sources say. The former U.S. congressman says it's "premature at this point to be making any announcement," but a source says he's "just waiting until the right time" to declare his candidacy. Badillo, who is now in private law practice, has already been advised by a political-consulting firm, Austin Sheinkopf, and is lining up financial and political backers for the mayoral run.

Badillo is telling associates and potential supporters that Dinkins has turned his back on some groups that helped elect him. "He's certainly vulnerable on Hispanic issues," says Badillo, who was a vocal critic of CUNY black supremacist professor Leonard Jeffries. "And I don't see that [Andrew] Stein or [Rudolph] Giuliani [who are both expected to announce candidacies] are doing any better."

A (DESERT) STORM OF WORDS

A war of words is escalating between *Harper's* publisher John MacArthur and Frank Mankiewicz, the vice-chairman of Hill & Knowlton, the powerful public-relations firm. In



MICHAEL JACKSON, MARLA MAPLES, AND DONALD TRUMP



ANDREW O'ROURKE



ANDRES SERRANO

FORGET HELMS. SERRANO SUES HIS DEALER

Andres Serrano—the artist who has long been a target of conservative lawmaker Jesse Helms—has a new battle, but this time, it's with his dealer. Serrano, the man behind the controversial *Piss Christ*, is suing Linda and Stefan Stux and the Stux Gallery for \$297,000.

Serrano joined the SoHo gallery in 1990 and agreed to let the Stuxes keep 50 percent of the money from his sales. But Serrano says the dealers owe him more than \$250,000. He is also charging that out of friendship, he sold the Stuxes a photograph for \$3,000—far below the market value. "In breach of their agreement," Serrano claims, the Stuxes resold the work for \$50,000.

Says Charles Stillman, who is representing the Stuxes, "We view this as a dispute between an artist and a gallery which we hope will be resolved through good faith and give and take."

"Stux Gallery has consistently failed to honor and recognize its fiduciary and legal obligations to Mr. Serrano," says Peter R. Stern, the lawyer representing the artist. "Mr. Serrano simply refuses to continue to be treated like an indentured slave."