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(2004-05)

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Senator Bill Frist, M.D.
Majority Leader
509 Hart Senate Office Building
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VIA FACSIMILE—(202) 228-1264

Senator Arlen Specter
Chairman, Senate Judiciary Committee
711 Hart Building
Washington, DC 20510
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RE: Judge Terrence W. Boyle

Dear Senator Frist and Senator Specter:

As individuals who had the privilege of working closely with Judge Terrence W. Boyle as his law clerks, we urge you to continue to support Judge Boyle's nomination to the United States Court of Appeals for the Fourth Circuit. Until now, we have honored Judge Boyle's express wish that his clerks not get involved in the nomination process. But, in light of the most recent personal attacks on Judge Boyle's character and integrity, we must speak out.

We are neither partisans nor ideologues. We are young lawyers lucky enough to have had the opportunity to study under a thoughtful, pragmatic trial judge. We strenuously object to the mischaracterization of Judge Boyle's character and integrity. Like all of the attacks over the past five years, the most recent attacks are baseless and deserve no serious consideration. To claim Judge Boyle, at any time, acted for his own benefit is demeaning to his long history of service.

During our clerkships, we were challenged by Judge Boyle to approach each case, civil or criminal, with an open mind and a keen eye toward the true issue driving the dispute. We quickly learned Judge Boyle is not committed to any special interest or rigid ideology. Judge Boyle takes extraordinary efforts to impartially uphold the law, as any lawyer who appears before him can attest. Judge Boyle is a demanding but fair judge who at all times expects lawyers, his law clerks, and himself to practice law at the highest level.

In addition to other letters sent to members of the Senate in support of Judge Boyle, we write to you separately because we helped draft some of the very opinions at issue in Mr. Will Evans' article published on Salon.com. You can imagine our surprise to read Mr. Evans' assertion that Judge Boyle ruled against Mr. Bursell in the case of Bursell v. General Electric Company, when we knew Judge Boyle, in fact, ruled for Mr. Bursell on the majority of his claims and granted him short-term disability benefits. Unfortunately, such a mischaracterization of Judge Boyle's rulings is nothing new. Since Judge Boyle's nomination, ideologically-driven groups committed to derailing Judge Boyle's nomination have leveled numerous specious allegations against him. These most recent claims, like their predecessors, simply are without merit.

An objective survey of Judge Boyle's twenty-two year record reveals he is a judge, who carefully reviews each case before him, and believes each case, no matter how seemingly routine, deserves his full attention. What is underappreciated by those who view Terrence Boyle as simply one more nominee sent to the Senate by President Bush is the care and excellence Judge Boyle brings to each case he hears--whether a case of national interest or a case that affects only the individual parties in the courtroom. It is this disconnect, between the alleged ideologue portrayed in the larger national political battle and the well-reasoned, thoughtful trial judge that he is, that troubles so many of us who have worked with him.

Judge Boyle is one of few federal district court judges who frequently hold hearings on Social Security disability benefit cases, ensuring that individual claimants have the fullest opportunity to be heard in open court. Judge Boyle also stringently reviews all employment discrimination lawsuits to ensure no employee is wrongfully discriminated against by his or her employer. To this end, Judge Boyle often allows cases to proceed through discovery and to trial so that claimants receive a full opportunity to have their cases heard.

Judge Boyle is willing to grant downward departures in criminal sentencings where the facts and circumstances of the case indicate the sentence prescribed by the United States Sentencing Guidelines is excessive. Indeed, some of the reversals for which he has been so regularly criticized by his opponents arise from these downward departures. Judge Boyle also is willing to impose sentences higher than those recommended by the Sentencing Guidelines. Like his downward departures, Judge Boyle's upward departures do not come from bias or prejudice, but instead from the specific facts of the case.

Judge Boyle has stayed executions and granted habeas petitions in capital cases, not because he favored a particular side but because the law demanded it. In a recent case, Judge Boyle ruled against the State of North Carolina, finding that in the capital case context, modern-day testing standards for mental retardation cannot be applied retroactively to penalize defendants who as children were IQ-tested using methods considered substandard today. Judge Boyle, in a fine example of his pragmatism, ruled that excluding the test in that case would penalize that particular prisoner for the quality of psychological testing available to him as an African-American student in a segregated public school.

Judge Boyle's impartiality is further illustrated by his repeated willingness to balance the needs of national security with the Environmental Protection Act. On multiple occasions, he has instructed military and civilian litigants alike that federal environmental law must be obeyed.

Judge Boyle's excellent service as a judge is common knowledge amongst those who know him and practice before him. Such knowledge is not readily available to members of the Senate and the public, who learn about Judge Boyle only from those who seek to oppose his nomination.

As you know, Judge Boyle's nomination has followed a long and tedious path towards a floor vote. Senator Specter, you were able to bring his nomination before the Committee in the spring of 2005. We trust that you and Senator Frist, as voices of reason, will lead the United States Senate in stopping the slander and vicious partisanship surrounding Judge Boyle's nomination. Please continue to support Judge Boyle's nomination and ensure that he receives an up or down vote. He deserves to be judged on his true record by the full Senate.

Sincerely,

/s/ Wes J. Camden
Wes J. Camden

/s/ Lora M. Taylor
Lora M. Taylor

/s/ Andrew T. Tripp
Andrew T. Tripp

CC: Offices of Senator Richard Burr (via electronic mail)
Offices of Senator Elizabeth Dole (via electronic mail)
Offices of Senator Lindsey Graham (via electronic mail)