

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NORTH CAROLINA  
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TERRENCE W. BOYLE  
DISTRICT JUDGE

July 5, 2006

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The Honorable William H. Frist, M.D.  
Majority Leader  
United States Senate  
509 Hart Senate Office Building  
Washington, D. C. 20510

The Honorable Arlen Specter  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D. C. 20510

Dear Senators Frist and Specter:

I am writing in response to your joint letter of June 23, 2006. I thank you for the opportunity to respond and comment on the recent claims regarding my nomination.

The claims that I ruled in cases where I may have had a conflict of interest surprised and upset me, as I consistently have made the effort to be proactive and diligent in screening for actual and apparent conflicts in my cases. I can state categorically and truthfully that I never have accepted or maintained a case assignment, whether criminal or civil, while knowing that I had an actual or apparent conflict of interest. Over the course of my twenty-two years of service as a federal district judge, during which time I have presided over more than 16,000 cases, I have taken my duties seriously and have strived to observe the judicial canons and ethics rules, including those on conflicts of interest. Never during my tenure as district judge have I received a complaint or a question from any party suggesting that I may have had a financial conflict in a case.

Case assignments in this district are random and occur without the judges' prior knowledge or involvement. I always have made a conscientious effort, as has my chambers, to screen cases, once they have been assigned to me and the docket is received, for conflicts. Additionally, I have provided the Clerk's Office with information about my financial interests so that they can screen my cases for conflicts at the time of assignment. The screening process has regularly worked, and

cases have been reassigned upon the discovery of the appearance of a conflict. This method was the best practice available over time, but it was not flawless. Some cases were missed by the screening process. This mistake was inadvertent and unknown to me, my chambers, the Clerk's Office, and the various parties in the cases, until the recent conflict of interest allegations were raised.

As soon as I became aware of the conflict of interest claims, I undertook a vigorous review of all of my cases, including the nine mentioned in the allegations. I immediately responded to the allegations and summarized the cases at issue for the Administration and Senate Judiciary Committee staff. Additionally, I wrote a letter of explanation to the Chief Judge of the Fourth Circuit and to President Bush. It is my understanding that copies of my financial disclosures, and other information about the relevant cases have been made available to Senators in a reading room.

My review indicates that of the nine cases cited, the allegation in one case is categorically untrue. I did not own the stock, Quintiles, as alleged, at any time when I had a case involving the company as a party. Additionally, in three cases cited by opponents, the stock at issue, Midway Airlines, actually was owned by one of my children's trusts, of which I was a trustee with no financial interest. Due to the bankruptcy of the corporation, the stock was virtually valueless with a total value of \$2.50, or less.

In approximately four cases, the screening system in place at the Clerk's Office and in my chambers missed the appearance of a potential conflict. Accordingly, I unknowingly and unintentionally participated in these cases while I held a minimal number of shares in one of the parties. The stock holdings involved in these cases were ten shares of CSX Corporation; 25 shares of America Online; and 50 shares of General Electric Company. While my stock holdings were relatively insignificant, I regret that the oversight occurred. It certainly was not my intention to participate in a case where I held stock in one of the parties.

These situations were an oversight, an inadvertent mistake. Whenever a potential conflict was detected, each case immediately was reassigned to a different judge. I can assure you that where reassignment was missed, whatever minor financial interest I may have had in the case in no way affected my decision-making or the outcome of the case. I believe that a review of the cases demonstrates that. Further, it is clear that my rulings in these cases in no way whatsoever could have affected the value of the stock in the company at issue.

Since the conflict of interest allegations surfaced, I have been in close consultation with the Clerk's Office to determine how the oversights occurred and to ensure that future mistakes do not occur in the screening of my cases and the cases of other judges in this district. Electronic data-based conflict screening was not available in this district until recent weeks, and screening was conducted manually. I can report that I am the first judge in this district to adopt the electronic screening, and it is in place now.

As you have provided me the forum, I also would like to comment on two other allegations frequently raised about me: (1) that my rulings have an above-average reversal rate; and (2) that I am unfavorable to law enforcement. Neither of these allegations is based in fact.

With regard to the issue of reversal rates, as I mentioned above, I have presided over more than 16,000 cases as trial judge. The Clerk's Office in the Eastern District of North Carolina has worked with majority and minority staff of the Judiciary Committee to provide them with information on cases that have received negative treatment. It is my understanding that the Committee staff determined that my reversal rate was lower than the national average. I decide each case that comes before me, to the best of my ability, based upon the facts and the law as presented. In every case, I have made a conscientious effort to find the facts fairly, where the facts were for my consideration, and to take the law as it exists and apply it evenly to each case.

Inevitably, things happen upon appellate review from the trial court. Sometimes the law changes during the interim period, or quite understandably, a different group of judges may interpret close issues of law differently than a trial judge. Were this not the case, there would be no need for reviewing courts.

I can assure you that my decisions as a trial judge are not based on ideology, nor do I use the bench to set policy. I apply the law to each case to the best of my ability.

With regard to the concerns of state and local law enforcement, I can state unequivocally that the concerns are unfounded. I believe they stem from a misinterpretation of a small number of decisions I have issued in cases where a police officer has sued a police department in an employment dispute. I have the utmost respect for the men and women who have dedicated their lives to law enforcement. However, as in any other case before me, I must rule on the facts and the law. I can assure

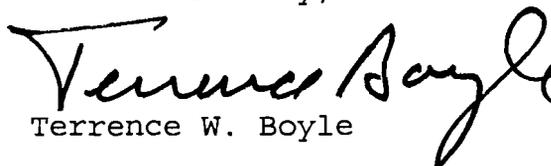
you that the identity of the parties in a case has never influenced my decision.

The cases upon which these allegations are derived are cases in which an individual police officer, having received some discipline or adverse employment action, sued the police chief, the police department, or the government employer seeking to recover damages and other relief from the discipline imposed. These cases involved state or local police officers as parties on both sides. For example, the Supreme Court recently addressed the issue of public employees making statements in their official capacity and came to the same conclusion I did in a similar case. Garcetti v. Ceballos, 2006 WL 1458026. Additionally, all of these cases involved the clear application of binding appellate and Supreme Court law.

As for the criminal cases that come before me, these cases are handled predominantly by federal law enforcement officers, not city, county, or state police officers. Throughout my service as a trial judge, I have presided over thousands of criminal cases and have never received any complaints from federal law enforcement officers.

I appreciate the opportunity to provide this information. I pledge my commitment to maintain the highest standards of integrity and professional conduct in my continued service as judge. Thank you for your continued support.

Yours sincerely,

A handwritten signature in black ink that reads "Terrence Boyle". The signature is written in a cursive style with a large, sweeping initial "T".

Terrence W. Boyle

TWB:gb