

hearing and his answers to followup questions.

I believe Judge White's opinions have been and, if confirmed, his opinions on the Federal bench will continue to be procriminal and activist, with a slant toward criminals and defendants against prosecutors and the culture in terms of maintaining order; he will use his lifetime appointment to push law in a procriminal direction, consistent with his own personal political agenda, rather than defer to the legislative will of the people and interpret the law rather than expand it or redirect the law.

I believe the law should be interpreted as written, as intended by the legislature, not as amended or expanded by the courts. I believe Judge White will, as Alexander Hamilton so aptly described in Federalist 78, improperly "exercise will instead of judgment." This is particularly true in the area of criminal law.

I am not alone in this view. Judge White's nomination has sparked strong concerns from a large number of Missouri law enforcement officials. Seventy-seven of the 114 sheriffs in the State of Missouri have decided to call our attention to Judge White's record in the criminal law. I do not take lightly the fact that 77 of these law enforcement, ground-zero sheriffs—people who actually are involved in making the arrests and apprehending those who have broken the law—would ask us to look very carefully at this nominee. They cite specific opinions he has written and say these are the kinds of opinions that give them great pause.

Anyone who knows something about Missouri's political system knows that 77 out of 114 sheriffs would be a bipartisan delegation. As a matter of fact, over 70 percent of all the public officials in Missouri who are nominated and elected are Democrats. So you have 77 of the 114 sheriffs of Missouri on record saying: Look carefully. Evaluate very carefully this nominee to the federal bench.

The Missouri Federation of Police Chiefs, an organization of police chiefs that spreads all across the State of Missouri, has indicated to us that we ought to tread very lightly here. As a matter of fact, they express real shock and dismay at the nomination. Prosecutors have contacted me with their public letters. And, frankly, other judges in the State have suggested to me I should think and consider very carefully whether or not we proceed in this matter.

The letter from the Missouri Federation of Police Chiefs is very direct. It says:

We want to go on record with your offices as being opposed to his nomination and hope you will vote against him.

I want to express that the concern about Judge Ronnie White is far broader than some of us in the Senate; it goes to a majority of the sheriffs in the State, with an official letter of expression from the Missouri Federation of

Police Chiefs. There are prosecutors who have come to me and asked me to think very carefully about the qualifications and the philosophy expressed by this nominee.

This opposition stems largely from Judge White's opinions in capital murder cases. These opinions, and particularly his dissents, reflect a serious bias against a willingness to impose the death penalty.

Judge White has been more liberal on the death penalty during his tenure than any other judge on the Missouri Supreme Court. He has dissented in death penalty cases more than any other judge during his tenure. He has written or joined in three times as many dissents in death penalty cases, and apparently it is unimportant how gruesome or egregious the facts or how clear the evidence of guilt. He has been very willing to say: We should seek, at every turn, in some of these cases to provide an additional opportunity for an individual to escape punishment.

This bias is especially troubling to me because, if confirmed, Judge White will have the power to review the death penalty decisions of the Missouri Supreme Court on habeas corpus. In the seat of district court, Judge White's sole dissents are transformed into a veto power over the judicial system of the State of Missouri. I do not think that should happen.

Let me give you an example of Judge White's sole dissent in the highly publicized case of *Missouri v. Johnson*.

James R. Johnson was a brutal cop killer. He went on a shooting rampage in a small town called Carolina, MO. It sent shock waves across the entire State in 1991—during the time I had the privilege to serve as Governor of the State. At that time, James Johnson stalked and killed a sheriff, two sheriff's deputies, and Pamela Jones, a sheriff's wife.

Johnson first shot a deputy who had responded to a call about a domestic dispute at Johnson's house. He shot the deputy in the back and then walked over, as the deputy lay on the ground, and shot him in the forehead, killing him.

Johnson then reloaded his car with guns and drove to the local sheriff's home. There the sheriff's wife, Pamela Jones, was having a Christmas party. Johnson fired a rifle repeatedly through the window, hitting Mrs. Jones five times. Mrs. Jones died of those wounds in her home in front of her family.

Then Johnson went to another deputy sheriff's home and shot him through a window as the deputy spoke on the phone. That deputy was lucky and survived.

Johnson then went to the sheriff's office, where other law enforcement officers had assembled to try to address the ongoing rampage that was terrorizing the town. Johnson lay in wait until officers left the meeting and then opened fire on them, killing one officer.

Then as another officer arrived on the scene in her car, Johnson shot and killed her. It was then that Johnson fled to the house of an elderly woman who he held hostage for 24 hours. She eventually convinced Johnson to release her, and she notified the authorities who apprehended Johnson. He was tried and convicted on four counts of first degree murder and given four death sentences, convicted on all counts, received four separate death sentences. In a sole dissent urging a lower legal standard so that this convicted multiple cop killer would be allowed a second bite at the apple to convince a different jury that he was not guilty, Ronnie White sought to give James Johnson another chance.

Sheriff Jones, obviously, opposes this nomination. He is urging law enforcement officers to oppose it because he believes there is a pattern of these kinds of decisions in the opinions and dissents of Judge White. He believes there is a pattern of procriminal opinions, and I think if one looks carefully, one might see that pattern.

Judge White was also the sole dissenter in a case called *Missouri v. Kinder*. In that case, the defendant raped and beat a woman to death with a lead pipe. White voted to grant the defendant a new trial, despite clear evidence of guilt, including eyewitness testimony that Kinder was seen leaving the scene of the crime at the time of the murder with a pipe in his hand, and genetic material was found with the victim. White dissented based on the alleged racial bias of the judge, which he urged was made evident by a press release the judge had issued to explain his change in party affiliation. The judge changed parties at sometime prior to this case, and the judge, in explaining his change of party, said he was opposed to affirmative action, discriminating in favor of one race over another race. He left the one party he was in because he disagreed with their position on affirmative action. That was the only basis for Judge White to provide a new opportunity for this individual to get a second bite at the apple, not the evidence about his conduct, the genetic material, or the eyewitness testimony.

Judge White's procriminal jurisprudence is not limited to murder cases. It extends to drug cases as well. In the case of *Missouri v. Damask*, Judge White's sole dissent in a drug and weapons seizure case, I think, reveals this same tendency on the part of this judge to rule in favor of criminal defendants and the accused in a procriminal matter and procriminal manner.

This was a case, *Missouri v. Damask*, about a drug checkpoint set up by the Missouri State police. The State police had erected a traffic sign on the highway in the middle of the night indicating "drug checkpoint ahead." The sign was placed just before a remote exit, one which only local residents would have cause to use. Those seeking