

**Remarks of Republican Leader Mitch McConnell
On the Nomination of Judge Leslie Southwick
August 1, 2007**

Mr. President, in 1992 a Mississippi lawyer named Leslie Southwick wanted to serve his country in the armed forces. At forty-two, he was too old to do so. But service to others is a duty that Leslie Southwick had always taken seriously, whether in the Justice Department, or on the state bench, or with Habitat for Humanity, or in doing charity work for inner-city communities.

So in 1992, forty-two year old Leslie Southwick sought an age-waiver to join the U.S. Army Reserves. The country had the good sense and good fortune to grant his request.

Leslie Southwick continued to serve in the armed forces after he was elected to the state court of appeals in 1994. He conscientiously performed his military and judicial duties, even using his “vacation time” from the court to satisfy the required service period in the Mississippi National Guard.

In 2003, Lieutenant Colonel Southwick volunteered for a line combat unit, the 155th Separate Armor Brigade. His commanding officer, Major General Harold A. Cross, notes that his decision “was a courageous move; as it was widely known at the time that the 155th was nearly certain to mobilize for overseas duty in the near future.” Colleagues like Attorney Brian Montague were not surprised: “Despite love of wife and children,” Leslie Southwick volunteered for a line combat unit over a safer one “because of a commitment to service to country above self-interest.”

In August of 2004, Leslie Southwick’s unit mobilized in support of Operation Iraqi Freedom. His commanding officer states that he distinguished himself at forward operating bases near Najaf. Another officer, Lieutenant Colonel Norman Gene Hortman, Jr., described his service in Iraq:

“Service in a combat zone is stressful and challenging, often times bringing out the best or worst in a person. Leslie Southwick endured mortar and rocket attacks, travel through areas plagued with IEDs, extremes in temperature, harsh living conditions . . . –the typical stuff of Iraq. He shouldered a heavy load of regular JAG Officer duties, which he performed excellently. He also took on the task of handling the claims of the numerous Iraqi civilians who had been injured or had property losses due to accidents involving the U.S. military . . . This involved long days of interviewing Iraqi civilian claimants, many of whom were children, widows and elderly people to determine whether the U.S. Military could pay their claims. Leslie always listened to these Iraqi claimants patiently and treated them with the utmost respect and kindness. He did this not just out of a sense of duty but because he is a genuinely good and caring person. His attitude left a very positive impression on all those that Leslie came in contact with, especially, the Iraqi civilians he helped. This in turn helped ease tensions in our unit’s area of operations . . . and ultimately, saved American lives.

Lieutenant Colonel Hortman concludes that Leslie Southwick “has the right stuff” for the Fifth Circuit Court of Appeals: “profound intelligence, good judgment, broad experience, and an unblemished reputation.” He adds, “I know him and can say these things without reservation. Anyone who says otherwise simply does not know him.” Stuart Taylor writes in the *National Journal* that Leslie Southwick “wears a distinctive badge of courageous service to his country,” and that he “is a professionally well-qualified and personally admirable” nominee to the Fifth Circuit.

Judge Southwick does not seek thanks or notoriety or charity for his military and other civic service. He asks to be judged fairly--to be judged on the facts, to be judged on his record. It is the same standard he has applied to others as a judge, a military officer, a teacher, and a mentor.

It is a standard for which he is well known and admired. By *that* standard, he is superbly fit to continue serving his country, this time on the Fifth Circuit.

- His colleagues know this, as do his home-state senators.
- His peers with the State Bar know this; they honored him as one of the state’s finest jurists, declaring him “an example of judicial excellence; a leader in advancing the quality and integrity of justice; and a person of high ideals, character and integrity.”
- The American Bar Association knows this; it has twice given him its highest rating, “well-qualified,” and in so doing found him to be exemplary in the areas of “compassion,” “open-mindedness,” “freedom from bias and commitment to equal justice under law.”
- Even Democrats on the Judiciary Committee know this; just last Fall all of them—again, all of them—looked at his record and approved him for a lifetime position on the federal bench.

But it appears Democrats on the committee may now apply a different standard to Judge Southwick. A member of the Democratic Leadership who serves on the committee states that what is “determinative” is whether a judicial nominee is *perceived* to be fair.

The notion that *perception* rather than *reality* will be dispositive in evaluating a nominee is at odds with the principle of the rule of law. And it is not fair to manufacture a false impression of someone through insinuation and innuendo and then use that falsehood to defeat him. In the case of Judge Southwick, the sudden “perception” about his fairness is driven by those who do not even know him, and it is disproved by his long record and by those who know him well.

All nominees deserve to be treated with dignity. But a selfless public servant and veteran like Leslie Southwick deserves to be treated with respect. And it is disrespectful for the same Members of the Judiciary Committee who unanimously supported his nomination last fall to now turn around and unanimously oppose him. The only change in Judge Southwick’s credentials between then and now is that the American Bar Association, hardly a conservative group, has *increased* its rating of him from “well-qualified” to “*unanimously* well-qualified.”

A party-line committee vote would not be a “perceived” flip-flop or a “perceived” injustice, but an actual one. It would make clear that despite the promise of a new start on judicial nominations, the Senate Majority will, when push comes to shove, treat judicial nominees unfairly based only on a manufactured perception.

This sad standard is not only unjust but unwise. As we all know, once established, precedents in the Senate are difficult to undo. Establishing a “third party perception” standard on the Southwick nomination will be bad for this Congress and future ones, regardless of who is in the White House and which home-state senators support a nomination.

Because such a decision will affect us all—and for the worse—it is appropriate for the Senate collectively to express its view on whether it wishes to go down this path, whether it wishes to undo the good work and good will that brought us back from the precipice a few years ago. It is for that purpose that I have offered the Sense of the Senate on the Southwick nomination. I encourage my colleagues to review it, to review the record, and to think long and hard about what they want to do.

I thank the Chair, and I yield the floor.