

# U.S. Senate schedules confirmation vote for Fresno judge nominee

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In Fresno's federal courthouse, there is a stir of excitement and optimism. The U.S. Senate has scheduled a Monday confirmation vote on U.S. District Court judge nominee Dale A. Drozd.

"When credit is due, credit is given," said U.S. District Court Judge Lawrence J. O'Neill, currently the only full-time federal judge in Fresno. "I am thankful to the United States Senate for moving the vote of Magistrate Judge Drozd to the top of the stack. We so need the help."

Just a few days ago, Drozd's confirmation vote was languishing along with other federal judicial nominees. Local officials were despairing because there is a feeling that no judges will be confirmed next year because it is an election year.

Sen. Patrick Leahy, a Vermont Democrat and ranking member of the Senate Judiciary Committee, on Tuesday made a lengthy statement on the stalemate in judicial nominations.

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One of the judges Leahy cited was Drozd, currently a federal magistrate judge in Sacramento.

Referencing a local case brought by Latino migrant farmworkers for wage theft, Leahy said the workers "have waited more than three years to learn whether they can proceed with their claim. As years go by, the workers' attorney worries that her clients will have moved and be impossible to reach if and when she is able to recover their stolen wages. This is another heartbreaking example that justice delayed is effectively justice denied."

Leahy said confirmations have been "blocked by the Republican leadership's virtual shutdown of the judicial confirmation process since they took over the majority in January."

He said there have been just six votes for judges this year. "At this rate, the Senate this year will confirm the fewest number of judges in more than a half century."

Then, late Thursday came word of a Drozd confirmation vote.

Leahy called Drozd a "non-controversial pending nominee." In June, the Senate Judiciary Committee easily approved Drozd's nomination on a voice vote.

For those reasons, full Senate approval is expected.

University of Richmond Law School professor Carl Tobias said media attention to Drozd's languishing nomination and Democratic senators, specifically California's Barbara Boxer, helped move things along for a Drozd vote.

Tobias said Drozd and the others awaiting confirmation votes are well-qualified consensus nominees, and wondered about the delay: "If you can't move faster for the crying need in Fresno, no one will move fast."

Almost a year ago, President Barack Obama nominated Drozd to replace Anthony W. Ishii, who retired and moved to senior (part-time) status in October 2012. But Congress adjourned in December without taking action on his nomination. In January, Obama renominated him.

The caseload crunch in Fresno is so bad that attorneys in civil actions are asked if they will allow a magistrate judge to hear the case. A magistrate judge is below a district judge and is chosen by local district judges, not nominated by the president and confirmed by the U.S. Senate.

If the parties don't consent, their case will likely be sent to a Sacramento judge, which could be an inconvenience for Fresno attorneys and those involved in the case. The Fresno court sends 3 of every 4 civil cases where parties don't agree to be heard by a local magistrate judge to Sacramento. O'Neill takes every fourth civil case filed in Fresno.

O'Neill said that if Drozd is confirmed, it's up to him when he starts in Fresno. But, O'Neill added, Drozd "is diligent and well aware of the needs of the court, and will be in Fresno very soon."

Despite the good news for Fresno, Tobias thinks it is "a one-shot deal, or even worse, just the new normal."

That means others awaiting confirmation may or may not get a vote.

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