

U.S. Dist. Judge Bernice Donald of Memphis breezes through confirmation hearing

Michael Collins / Scripps Howard News Service

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WASHINGTON -- A federal judge from Memphis who has been nominated to the Sixth U.S. Circuit Court of Appeals breezed through her confirmation hearing before a congressional panel on Wednesday.

U.S. Dist. Judge Bernice B. Donald fielded questions about her experience on the bench, whether her race influences her decisions, and her ruling in a local schools case that was later overturned by the appeals court on which she soon may sit.

Responding to a question from Sen. Chuck Schumer, D-N.Y., Donald said her 28 years of judicial experience, including nearly 16 as a federal judge for the Western District of Tennessee, have given her an opportunity to examine litigation up close, apply the federal principles of law and watch "the drama" of trials unfold.

"I believe that experience will help inform decisions that I would make as an appeals court judge," she said during her 20-minute hearing before the Senate Judiciary Committee.

Schumer noted that Donald, who is black and was picked for the appellate court position by President Barack Obama, has given a number of speeches over the years in which she has referenced the need to be conscious of one's own race and the perspective it brings.

Donald was even quoted in one report as saying she would apply "a vastly different" standard than her white counterparts in discrimination cases.

But Donald said her remarks were taken out of context. The comments were made during a panel discussion, she said, and were referring to a specific case on which she worked. Donald said she was merely making the point that her own experiences allowed her to bring a different background to the facts of that case.

"I've always applied precedent and principles of law" when deciding cases, Donald said. "I would certainly never apply a different standard" because of race.

Schumer, the only senator to question Donald during the hearing, pointed out that the Sixth Circuit had reversed her 2007 ruling in a school desegregation case in Shelby County and asked whether she had any hesitation in applying the appeals court's decision.

Donald assured the senator she would never have "any problem" applying an appellate court ruling.

Though the hearing went smoothly, the Judiciary Committee did not decide whether to send Donald's nomination to the full Senate for approval. The committee usually votes on judicial nominations a few days or weeks after the nominee's hearing.

Neither of Tennessee's two U.S. senators -- Republicans Lamar Alexander and Bob Corker -- has indicated whether they will vote to confirm Donald to the federal appeals court.

But Alexander introduced Donald at her confirmation hearing and noted in his remarks that her professional credentials "are considerable" and that she has an "extraordinary record of community service and personal achievement."

The Cincinnati-based appellate court handles cases from Tennessee, Ohio, Kentucky and Michigan.

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