

# **Rell Pulls Judge's Name**

## **Downey Opts Out Of Appellate Bid**

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Gov. M. Jodi Rell withdrew her nomination of Judge John R. Downey to the Appellate Court on Wednesday, one day after Downey's views on illegal immigrants roiled his confirmation hearing.

Downey asked Rell to withdraw his name in the face of a legislative inquiry about his statements in Superior Court that undocumented immigrants had no right to the state's civil courts.

"I respect Judge Downey's decision," Rell said in a terse statement released shortly before 6 p.m. "I'm sure it was a difficult one for him and his family."

In a letter to the co-chairmen of the legislature's judiciary committee, Downey apologized Wednesday for "any misunderstanding" about his views on the ability of illegal immigrants to use the courts.

"My views of this issue have evolved," Downey wrote. "I would like to state unequivocally that it is my position that all people have the right to access our courts to seek redress for legal injury."

With his eight-year term as a Superior Court judge over in 18 months, Downey may yet face a hostile confirmation hearing over his immigration statements if Rell reappoints him in 2009.

"For better or worse, things that come to the judiciary committee's attention closer to one's renomination period are fresher in our minds," said Sen. John Kissel of Enfield, the ranking Republican on judiciary.

Downey's appellate nomination had become controversial initially because of comments he had made regarding former U.S. Sen. Strom Thurmond, a segregationist before he changed his views later in life.

From the bench, Downey had praised Thurmond on the day after he died in June 2003. Downey spoke about Thurmond because the South Carolina senator had helped Downey in the mid-1970s when he was a law student at the University of South Carolina.

But legislators largely ignored the Thurmond remarks Tuesday and quizzed him on

statements he made in 2006 suggesting that the estate of an illegal immigrant killed in a traffic accident might have no right to pursue a workers' compensation suit. Downey, however, allowed the case to proceed.

On Tuesday, Downey minimized his comments about the rights of illegal immigrants as intellectual jousting.

But legislators suspended the hearing after obtaining transcripts quoting him as telling a lawyer during two divorce hearings in 2002 that he would not hear any case brought by an illegal immigrant.

Downey asked the lawyer of a Latino man if his client had a green card. The lawyer challenged the relevance of the request.

"It's relevant sir, because only people legally allowed in the United States can make use of our court system," Downey said, according to the hearing transcript.

News coverage of Tuesday's hearing prompted calls to legislators Wednesday about other inquiries that the committee might make of the judge about his actions or comments on the bench, said Sen. Andrew McDonald, D-Stamford, co-chairman of the judiciary committee.

"I think the scope of committee's review would have probably expanded substantially," McDonald said. "I think his announcement is the best decision for Judge Downey and his family and the court system."

Rep. Michael P. Lawlor, D-East Haven, the other co-chairman, said Downey's withdrawal shows that the legislature takes seriously its responsibility to examine the qualifications of judicial nominees.

"I think if anything else it demonstrates to everyone in the state the importance of sharing information with judiciary committee on these nominees," Lawlor said. "We will look at it. It has an impact."

Downey, 56, of Redding, said in his letter to McDonald and Lawlor that he asked Rell to withdraw his name "only after somber and thoughtful consideration."

He described his service as a judge as an honor.

"I have always believed that everyone who appears before me has a right to have their issues addressed in a fair and impartial manner, and I have strived to live up to this standard," he wrote.

Downey then struck an optimistic note about his judicial career:

"Being a Superior Court judge has been an incredibly rewarding and challenging

experience - it has, in fact, been the realization of a long-held professional goal - and I look forward to continuing to serve in this capacity."