

Judge David L.

**BAZELON CENTER**  
for Mental Health Law

## **ACTION ALERT**

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### **Beat Back a Double-Barreled Assault on Disability Rights**

April 22, 2005—The stage is set for a double-barreled assault on the rights of tens of millions Americans with disabilities as early as next week. Once again, the Bazelon Center and ADA Watch/National Coalition for Disability Rights need your help to stop the confirmation of two radical judges whose decisions have undermined bedrock civil rights laws that protect people with disabilities from discrimination.

Yesterday the Senate Judiciary Committee delayed its vote on the confirmation of controversial judicial nominee Terrence Boyle to the Fourth Circuit Court of Appeals and promised swift action on former Alabama Attorney General William Pryor's nomination to the Eleventh Circuit Court of Appeals. Both have long and disturbing records on disability rights and other important civil rights concerns:

- As a result of Pryor's arguments in *Garrett v. Board of Trustees of Univ. of Alabama*, the Supreme Court ruled to limit dramatically the ADA's application to employment discrimination. His reasoning in *Garrett* has since been used in attempts to further limit the scope and enforcement of the Americans with Disabilities Act (ADA).
- Boyle has ruled that Congress overstepped its authority in providing certain protections to people with disabilities under the ADA. His reasoning in these decisions was rejected last May by the Supreme Court's decision in *Tennessee v. Lane*. In fact, an extraordinary number of Boyle's decisions have been reversed or overruled by higher courts and many of his positions have been so extreme that even judges on the conservative Fourth Circuit criticized his reading as too narrow.

These actions have had terrible consequences for Americans with disabilities:

- Because of Bill Pryor's efforts, former nurse Pat Garrett was unable for years to have any court review her claim that she was demoted because she developed breast cancer. Garrett, and thousands more, ultimately lost the right to seek monetary damages from their public employers for discrimination on the basis of disability.
- In *Butler v. Burroughs Wellcome, Inc.*, Terrence Boyle required a plaintiff whose psychiatric disability allegedly resulted from past physical and sexual abuse to allow defendants unlimited access to her entire medical history.
- Discussing his efforts to abandon court-ordered improvements in Alabama's child welfare system, Pryor stated publicly that "[i]t matters not to me" whether his actions would leave children unprotected. He continued, "My job is to make sure that the state of Alabama isn't run by federal courts. . . . My job isn't to come here and help children."
- Boyle used questionable reasoning to reduce housing options for people with mental disabilities with his ruling in *Oxford House v. City of Raleigh*, ruling that a city's requirement that limited the number of supported housing residences in a given area constituted discrimination **in favor of** people with disabilities.

If confirmed, Boyle and Pryor would have lifetime appointments to two of the most important courts in the land—powerful positions that would allow them to further erode key civil rights protections for tens of millions of Americans with disabilities and others.

Don't let these extremists undermine hard-won protections from discrimination. Please take action now.

### **Take Action Now!**

Fifteen years ago, Republicans and Democrats worked together to pass the Americans with Disabilities Act. Once again, it is the time for politicians of all political stripes to fight to protect the rights of Americans with disabilities. Please contact your Senators and urge them to oppose confirmation of Terrence Boyle to the Fourth Circuit Court of Appeals and Bill Pryor to the Eleventh Circuit.

- **Make the Call:** Call the Capitol switchboard at 202-224-3121 to be connected to your Senators. Once you've been connected to one of your Senators, ask to speak to the Legislative Assistant handling judicial nominations and urge him/her to oppose Terrence Boyle and Pryor's nominations.
- **Send an Email:** Use our e-advocacy system to send a loud, clear message that you oppose Boyle and Pryor and that your Senators should, too.