

**Tamargo, Mauricio J**

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**From:** Tamargo, Mauricio J  
**Sent:** Monday, February 9, 2004 10:37 AM  
**Subject:** FW: from Manny Miranda  
**Attachments:** tmp.htm; February 9 final.doc

February 9, 2004

Departure Statement of Manuel A. Miranda

Today I announce my departure as Counsel to the Senate Majority Leader, Dr. Bill Frist. I have departed so as not to distract the Leader from pursuing a needed legislative agenda for the American people. My departure will also allow me to speak freely and seek to return the focus of the Democrat documents investigation where it should have stayed --- on the substance of the Democrat documents themselves and the abuse of the public trust that they spell out, both the few that are public and the many that remain unpublished and are now in the possession of the Sergeant at Arms.

I served the Leader as counsel on civil rights, religious liberty, immigration, higher education, as well as an advisor on outreach to the Hispanic, Catholic and Jewish communities. I regret that I will not be working this year to make viable the Leader's commitments to immigration and in these other areas.

I served also as his counsel on judicial nominations and I walk away with pride in last year's accomplishments in communicating to the American people, in an unprecedented manner, the significance of the Senate's advice and consent role and the importance of an independent judiciary. I am especially proud of my work on three historic Senate floor events, including the planning of the 40-hour grand debate on judges. I am pleased with our teamwork on developing the various 51-vote options that the Leader may some day use to correct the abuse of the filibuster. I am especially glad that I treated the judicial nominees with compassion and not as numbers on the Senate calendar. I expect that the Leader will not diminish the amount of regular, scheduled Senate floor debate spent on judges in the year to come.

I would like to take a moment to thank all those who have expressed their support for me in these past few days, especially the Senators who have called me at home to express support and concern for my family. I am especially grateful to all the GOP Senators with whom I have worked. In particular, I am grateful to each of the Republican members of the Judiciary Committee and their counsels and staff. These Senators and their staff share with me both passion and compassion for the well-meaning public servants who fall victim to carefully planned distortions and lies as their reward for accepting a nomination to serve on our federal courts.



\* \* \*

A number of reporters have sought in the past few days to gain an insight into Bill Frist and the Leader's office. I take this rare opportunity to address that. As with all clients, the Leader sometimes took my counsel and sometimes did not. I certainly had the opportunity to take the measure of the man. I have had the privilege of working with all 51 GOP Senators and they fall into many categories. Senator Frist falls into the category of a statesman and volunteer. He is truly someone not motivated by partisanship or interested in rancor. Dr. Frist is a leader unmoved by base ambition but eager to be of service to the patient before him.

Last year, the Leader asked me to shape a Hispanic agenda for the Senate. I told him that his legislative agenda was a Hispanic agenda: a secure homeland, more jobs, better health care, and lower taxes that help not only families, but also the growing number of Hispanic-owned small businesses that are included in what Democrats often describe as the wealthiest one percent.

I trust that Senator Frist will continue to pursue the politics of passion. Likewise, while colleagues do not always agree, I cannot think of a more talented and hard working group of men and women than the Frist Tennessee and Leadership staffs.

I would like to state also my respect for my former boss, Senator Orrin Hatch. He and I share a passion for religious liberty and toleration. He has bestowed on me honors that I will long recall. But regrettably he and I have disagreed on the propriety of my reading Democrat documents that are the subject of investigation. I believe that he is ill advised on the computer law and legal ethics in question, particularly in the adversarial and non-collegial environment over which he presides. Yet my affection for him is not diminished.

\* \* \*

I would have welcomed the opportunity to make my case before the Senate Ethics Committee and I made that clear. But I look forward to the publishing of the Pickle report so that I can do so more publicly. I came forward over two months ago, even before the Democrat documents investigation formally began to volunteer needed information. I did so to save time and money. I regret that this option was not exercised. I also question why this inquiry was directed (by Democrats initially) at the office of the Sergeant at Arms that has never previously conducted such an inquiry. I question events that have contaminated and stifled the investigation, and certain improprieties of the investigation toward me from the first day I met with the investigators up to most recent times.

And finally, in the time that this investigation has been going on my baby has doubled in body weight, but the Pickle investigators have yet to interview all the staff with access to the computers in question.

In brief, when I worked on the Hatch staff a young colleague brought to my attention that we could freely access documents from the Judiciary shared network on our desktops through an icon called "My Network Places." Although I never discussed this with any other colleagues, I knew that



other Hatch counsels and staff came to know about the glitch and that some had concluded that the access was not unlawful.

I determined for myself that no unlawful, unauthorized hacking was involved in reading these unprotected documents. I knew that in law the duty falls on the other party to protect their documents. I also considered and studied the propriety or ethics of reading these documents. I knew that in legal ethics there is no absolute prohibition on reading opposition documents inadvertently disclosed and that these ethics are stricter than our situation in government service. I knew that there is no privacy expectation to documents on a government server, documents that are regularly backed up and stored in a government facility. I knew that these were not confidential or classified documents. I knew that I was not in a relation of confidence to the Senators or documents in question.

Finally, I was told that the Leahy staff had been informed of their negligence, which solved the only possible ethical consideration left to me. In short, they did nothing to protect their documents, as the law requires, either before or after being informed, and in an obviously adversarial context.

I have recently studied the Code of Ethics of Government Service. In my opinion, a prohibition on the reading of such documents would signify duties and obligations antithetical to the letter and spirit of the Code.

While Democrats are using colorful analogies, I concluded that these unprotected documents were virtually placed on our desks. From a technology point of view, they were at most left in a common area. Although I came to learn how to access two or three of these files easily enough, I did so few times and initially to ascertain that Democrats could access Republican files as well. I learned that my young friend could take steps to protect our files locally while the Democrat staff got around to protect all files system wide.

I have recently come to learn that the young staffer preserved perhaps thousands of documents on his hard drive. I did not. I believe that his intention was personal and benign. I understand that he actually read less than 5% of the material he preserved. My understanding is that I read only a small percentage of that 5%. My interest was solely in nominations-related documents so as to learn when hearings would be held so that we could prepare. This was information needlessly withheld from us from the Leahy staff but communicated freely to liberal outside groups so that they could prepare distortions and plan their attacks on judicial nominees.

Almost all the material I came to read was historical and already a matter of record. Some documents, however, recorded collusive, partisan considerations in the confirmation process, and much worse. Only a small amount of these have been made public. The ones made public are the least indicting of the documents I came to see.

From its outset, I have considered the second prong of the Hatch investigation on who disclosed these documents to newspapers ridiculous and a great waste of government resources. That moment of disclosure occurred through the inadvertence of technology staff. But more importantly,

Senate rules do not protect these sorts of documents. Democrats were clever in turning this matter into a Washington "leak investigation" and even now the press continues to misuse the word. Someone should have researched the rules before spending taxpayer money.

The Senate disclosure rule, carefully expanded in the aftermath of the unlawful Democrat disclosures in the Clarence Thomas nomination, makes it clear what is and is not subject to protection. The expanded language was well explained by then Majority Leader Mitchell in his October 8, 1992 statement in the Congressional Record. In that statement, Senator Mitchell begins: "it is the fundamental policy of the Senate to favor openness and public access to information." The legislative history then goes on to list the three carve-outs to this policy, and the offices expressly covered by this rule. Protection against leaks applies to national security, investigations, and internal inquiries only.

This was never a leak situation. Rather than a few newspapers, it would have been entirely proper to make these documents amply available to the press and hide nothing from the American people. Collusive, partisan documents of individual Senators or the party caucuses were oddly enough not covered by the 1992 rule expansion because violating the public trust is not the business of the United States Senate.

Finally, among the great ironies in this matter is that the two Senators most vocal on this matter are currently under investigation for unlawfully leaking truly classified material, while Senator Leahy's history of leaks is pandemic.

Again, thanks to all those who understand the nature of the fight for the independence of the judiciary and the reputations of unfairly treated men and women.

**Tamargo, Mauricio J**

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**From:** Tamargo, Mauricio J  
**Sent:** Wednesday, January 28, 2004 12:36 PM  
**Subject:** Memo-Leak Probe Expands to Frist's Office; Manuel Miranda

FYI

**Mauricio J. Tamargo**  
**Chairman**  
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[washingtonpost.com](http://washingtonpost.com)

## **Memo-Leak Probe Expands to Frist's Office**

By JESSE J. HOLLAND  
The Associated Press  
Tuesday, January 27, 2004; 4:20 PM

WASHINGTON - An aide to Senate Majority Leader Bill Frist has been put on leave during an investigation into how Republicans gained access to Democratic memos concerning opposition to President Bush's judicial nominees.

Manuel Miranda, who works for the Tennessee Republican on judicial nominations, is on leave pending the outcome of the inquiry by the Senate sergeant-at-arms, Frist spokesman Nick Smith said Tuesday. In the matter under investigation, Democratic memos stored on a computer server shared by Judiciary Committee members ended up in GOP hands.

Miranda told The Knoxville News-Sentinel that investigators were looking at work he performed for the Judiciary Committee before he joined Frist's office. "There was no stealing," he said. "No systematic surveillance. I never forwarded these memos - period."

Asked about the investigation Tuesday, Frist refused to talk about it.

Senate Judiciary Chairman Orrin Hatch, R-Utah, began the investigation in November after Sens. Dick Durbin, D-Ill., and Edward Kennedy, D-Mass., protested what they said was the theft of the memos from their servers. The memos, concerning political strategy on blocking confirmation of several of President Bush's judicial nominations, were



obtained and reported on by The Wall Street Journal and The Washington Times.

Republicans and Democrats on the committee got separate servers during the just-completed year-end recess, officials said.

Conservatives have talked up the memos as proof the Democrats colluded with outside liberal groups in their choices of which Bush appellate nominees to block.

The memos also show, conservatives contend, that Hispanic lawyer Miguel Estrada was blocked largely for two reasons:

- Confirmation would have put him in line for a Supreme Court nomination, and Democrats did not want a Republican president to appoint the first Latino to that court.

- Democrats wanted to keep conservative nominees off the 6th U.S. Circuit Court of Appeals until after the University of Michigan affirmative action case was decided.

Hatch, the Judiciary chairman, placed an aide on leave late last year for improperly obtaining data from the computer networks of two Democratic senators. That aide, who has not been identified, has since left government work, officials said.

The leak of the messages "shouldn't have happened. I'd be the first to admit that it shouldn't have happened, and I'm upset that it did," Hatch said Tuesday after being criticized by conservatives for going along with the investigation. Hatch said he hoped to make the final report public.

Senate Sergeant-at-Arms William Pickle has been working with the Secret Service and outside investigators since November to try and determine how the Democratic memos got to Republicans. A report is expected to go to Hatch's Judiciary Committee in about two weeks, officials said.

Pickle will brief Frist and Senate Democratic leader Tom Daschle of South Dakota privately this week. Hatch said he and senior Judiciary Democrat Patrick Leahy of Vermont already have received preliminary briefings.

Democrats have used the threat of a filibuster to block six U.S. Appeals Court nominees this congressional term: Estrada, Mississippi judge Charles Pickering, Alabama Attorney General William Pryor, Texas judge Priscilla Owen and California judges Carolyn Kuhl and Janice Rogers Brown.

Estrada had his nomination withdrawn last year. Bush gave Pickering a temporary appointment to the 5th U.S. Circuit Court of Appeals this month.

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On the Net:

Coalition for a Fair Judiciary's copy of the Democratic memos:  
<http://fairjudiciary.com/cfj-contents/press/judges.pdf>

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Dinh, Viet

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**From:** Dinh, Viet  
**Sent:** Wednesday, December 4, 2002 10:59 AM  
**To:** Willett, Don; Charnes, Adam  
**Subject:** RE: Thursday 3:45 pm

please advise manny. thanks

-----Original Message-----

From: Willett, Don  
Sent: Wednesday, December 04, 2002 10:48 AM  
To: Charnes, Adam; Dinh, Viet  
Subject: RE: Thursday 3:45 pm

Amen.

-----Original Message-----

From: Charnes, Adam  
Sent: Wednesday, December 04, 2002 10:12 AM  
To: Dinh, Viet; Willett, Don  
Subject: RE: Thursday 3:45 pm

I agree completely.

-----Original Message-----

From: Dinh, Viet  
Sent: Tuesday, December 03, 2002 6:11 PM  
To: Charnes, Adam; Willett, Don  
Subject: Fw: Thursday 3:45 pm

In order to (b) (5)

Pls advise if you disagree.

--- Sent from my BlackBerry.

-----Original Message-----

From: Manuel Miranda <Manuel\_Miranda@judiciary.senate.gov>  
To: Willett, Don <Don.Willett@USDOJ.gov>; Dinh, Viet <Viet.Dinh@USDOJ.gov>; John Abegg  
(b) (5); Frank Brown <Frank.Brown@usdoj.gov>; Mark



(b)(6) John Abegg Senate Email ; Frank Brown <Frank\_Brown@specter.senate.gov>; Mark Heilbrun <Mark\_Heilbrun@specter.senate.gov>; Seema Singh <Seema\_Singh@specter.senate.gov>; Thomas Swanton <Thomas\_Swanton@specter.senate.gov>; Joe Jacquot </DDV=Joe\_Jacquot\_at\_UnitedStatesSenate@IMAEXC2.senate.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/>; (b)(6) Barbara Ledeen Senate Email Brooken Smith  
(b)(6) Brooken Smith Senate Email ; Brett\_M.\_Kavanaugh@who.eop.gov  
<Brett\_M.\_Kavanaugh@who.eop.gov>; Heather\_Wingate@who.eop.gov  
<Heather\_Wingate@who.eop.gov>  
Sent: Tue Dec 03 14:16:05 2002  
Subject: Thursday 3:45 pm

Note change, we will begin promptly at 3:45. So be in your seats.

This Thursday afternoon, from 3:45 to 5:30, we will have a series of voter analysis presentations to help the Judiciary Committee and friends better understand the American people, including a very professional presentation from White House staff. The presentations will be in the Utah Room (SH 104). These presentations will help us better understand how some of our issues played in the election, and help us hone our messages in the two years ahead. (If there is a particular question you might want addressed with forethought, please send.)  
You and your colleagues are cordially invited. Please RSVP.

Sales, Nathan

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**From:** Sales, Nathan  
**Sent:** Thursday, September 5, 2002 12:26 PM  
**To:** Manuel Miranda (E-mail)  
**Subject:** Garbage

I knew it. The Dems put Larry Block on the mark-up to make sure that our guys wouldn't boycott the meeting. And then, once they kill off Owen, they hold him over. These people are ruthless.