

# WHY DID OBAMA KILL THE DAWN JOHNSEN NOMINATION?

✘ Yesterday, when I wrote about 34 Obama Nominees Not Named Dawn Johnsen being confirmed by the Senate on the heels of the healthcare vote, and before they left town, I was not aware, in addition (h/t earlofhuntingdon), the nomination was now completely dead. From Main Justice:

The Senate approved a unanimous consent request today to hold over several nominees for the second session of the 111th Congress, which begins in January.

But nominees to head three DOJ offices: Dawn Johnsen, for the Office of Legal Counsel, Mary L. Smith, for the Tax Division, and Christopher Schroeder, for the Office of Legal Policy, were returned to the White House before the Senate recessed for the holidays.

Johnsen, who was nominated in February, was approved by the Senate Judiciary Committee in March on a party line vote.

Several Senate Republicans, joined by Democratic Sens. Arlen Specter (Pa.) and Ben Nelson (Neb.), have voiced concerns about Johnsen's vocal opposition to the Bush administration's national security policies and her past work for an abortion rights group.

The nomination of Dawn Johnsen to be the head of the Office of Legal Counsel at DOJ, a critical post, is now truly dead. If Ms. Johnsen is to serve, she will have to be renominated by Barack Obama and start over. She never got the up or down vote promised as soon as the Senate had done healthcare, she never got an ounce of support from the Administration that nominated

her, and a year of her life was taken in what certainly appears to be a cowardly and demeaning political ploy.

There is a bit more than meets the eye to unpack here. Harry Reid held over several nominations for the return to session in January, but Dawn Johnsen was not one of them. The implication is that he could only do so by a “unanimous consent” approval by the Senate and that, golly gosh, he just could not get it. That does indeed appear to be the case from the Senate Rules on Nominations. Rule XXXI(6) provides:

Nominations neither confirmed nor rejected during the session at which they are made shall not be acted upon at any succeeding session without being again made to the Senate by the President; and if the Senate shall adjourn or take a recess for more than thirty days, all nominations pending and not finally acted upon at the time of taking such adjournment or recess shall be returned by the Secretary to the President, and shall not again be considered unless they shall again be made to the Senate by the President.

Even assuming Harry Reid had no alternative but to return the nomination, the better question is how did it get to this point, and why has the White House and Senate been so disingenuous about it? The only rational conclusion at this point is that killing Johnsen’s nomination is precisely what the Obama White House desired. The White House intentionally left to rot, and then outright killed, their own nominee.

The evidence of this is pretty damning. Dawn Johnsen’s nomination had languished, twisting in the wind, for 280 days as of the time her nomination was killed by Harry Reid, far longer than any other Obama nominee. The only notable recent support for Johnsen from the White House came in a statement by White House Counsel Greg Craig on October 11, 2009, a weak statement

saying only that the White House “would not withdraw” her nomination. Craig was subsequently fired and, hilariously, attempted to be scapegoated by Rahm Emanuel for – wait for it – not getting nominations like Johnsen’s confirmed.

A typical Rahm Emanuel backhanded opaque play; blame someone (Craig) interested in governmental transparency for not getting another official who favors openness and transparency (Johnsen) confirmed, and all the while Rahm and Obama are choking off openness and transparency. Use the Johnsen nomination as a bone to the liberals and simultaneously use it as cover to betray them with the opposite of what Dawn Johnsen stands for. A perfect political scam on the liberal base who was so thrilled with the nomination of a honest rule of law advocate for the Constitution like Dawn Johnsen. Liberals should have known better, but that is just not who Barack Obama and Rahm Emanuel are.

Moreover, the bleating by Harry Reid and the Obama Administration that it is all the fault of mean old Republican obstructionism simply does not hold water. The Democrats hold a 60 seat caucus block, sufficient to overcome Republican obstruction. Of those, the Main Justice article is quite clear there were only two Democratic problem children, former Republican Arlen Specter and the ever whiny Ben Nelson, who never passes up an opportunity to betray his party. That means there were potentially only 58 Democratic votes for Johnsen’s nomination. But Republican Richard Lugar firmly supported Dawn Johnsen, so that makes 59 votes, only one shy of confirmation.

In addition to Lugar, both Republican Senators from Maine, Susan Collins and Olympia Snowe, have refused to rule out voting for Johnsen and were being lobbied hard by extremely influential women’s groups and liberal constituents. Both Collins and Snowe have a history of agreeing, when pressured, to allow up or down votes on Presidential nominees, even from Democrats.

Barack Obama and Rahm Emanuel had 59 votes in favor of Dawn Johnsen's nomination, a distinct possibility of picking up Collins, Snowe or both, and are more than aware Arlen Specter needs big help in his reelection campaign in Pennsylvania and that Ben Nelson can always be bought. And despite all of the above, the Obama White House did not ever request Harry Reid to call a vote. The only rational conclusion from this is the Obama White House did not want Dawn Johnsen, their own nominee, to be confirmed.

In the end, it is likely Barack Obama, Rahm Emanuel and the servants of the status quo simply did not really want a true advocate for governmental transparency, a critic who excoriated Bush/Cheney policies on warrantless wiretapping, torture, indefinite detention, ignoring international treaties and conventions, and concentration of power in a unitary executive; all policies the Obama Administration has substantially co-opted as its own. So Dawn Johnsen was a pawn, a shiny object, catnip for a desperate liberal base; but in the end, as always, Barack Obama and Rahm Emanuel just didn't really care about their liberal base who put them in office.

There is a lot of detritus in the wake of the Obama White House duplicity on the Dawn Johnsen nomination. They humiliated Dawn Johnsen by letting her twist in the wind, wasted a year of her life, disrupted the faculty and student body of the Indiana University School of Law and sold out a huge block of liberal and progressive voters who were the very voters and ground organizers carrying Obama to election in the first place.

Barack Obama and Harry Reid owe an explanation to both Dawn Johnsen, and the voters who worked so hard to elect them, as to why they intentionally left Johnsen's critical nomination out in the cold so long, and then killed it outright. The main media in the United States owe their readers the duty to ask the questions and demand answers. That much, at a minimum, is

owed to the citizens.