

# THE INEVITABLE SACKING OF THE DAWN JOHNSEN NOMINATION

There was never any question but that the nomination of Dawn Johnsén to be head of the Department of Justice Office of Legal Counsel would be withdrawn. None. Much to the dismay of progressives everywhere who believe in the principles Professor Johnsén has written and stood for, early on in the Obama Administration it was crystal clear Mr. Obama and his Administration had retreated completely from the what has turned out to be empty rhetoric of his campaign and short term in the Senate.

As dday and Sam Stein have already alerted, Professor Johnsén's nomination has been withdrawn. I want to focus on a later part of Stein's piece in the Huffington Post, not to pick on Sam who is a fantastic reporter, but to knock back the bullshit meme that is going to be pervasive in the media:

The withdrawal represents a major blow to progressive groups and civil liberties advocates who had pushed for Johnsén to end up in the office that previously housed, among others, John Yoo, the author of the infamous torture memos under George W. Bush.

But the votes, apparently, weren't there. Johnsén had the support of Sen Richard Lugar (R-Ind.) but was regarded skeptically by Sen. Ben Nelson (D-Neb.) – primarily for her positions on torture and the investigation of previous administration actions. A filibuster, in the end, was likely sustainable. Faced with this calculus, the White House chose not to appoint Johnsén during Senate recess, which would have circumvented a likely filibuster but would have kept her in the position for

less than two years.

In a statement accompanying Johnsen's letter, White House spokesman Ben LaBolt said her credentials were "exemplary and her commitment to the rule of law has been proven time and again."

"After years of politicization of the Office during the previous administration, the President believes it is time for the Senate to move beyond politics and allow the Office of Legal Counsel to serve the role it was intended to – to provide impartial legal advice and constitutional analysis to the executive branch," LaBolt added. "He will work now to identify a replacement and call on the Senate to move swiftly to confirm that nominee in order to achieve those goals."

It is indeed a serious blow to progressives; but far more than that, it is a serious blow to the country and its desire to bring common sense, morality and the rule of law back to the tattered United States Department of Justice. No division of the DOJ has more symbolized the rot, moral and legal decay brought on by the Bush/Cheney Administration than the OLC where the sick and despicable opinions of John Yoo, Jay Bybee and Steve Bradbury emanated from. This is why Dawn Johnsen was both symbolically and pragmatically so critical and so welcomed. But it was not to be; it was never to be.

But Stein, and the rest of the major media that has had their head in the sand and not been paying attention need to wake up and realize that the failure of the Johnsen nomination is NOT and NEVER WAS about a lack of votes. No, it is completely and unequivocally about the failure of Barack Obama and his Administration to support their own nominee and stand up for the values she proffered which led them to select her in the first place. This is about Obama, not the Senate, not Republicans and not

about obstruction. From an earlier post:

If one needed any more confirmation of the stunts Obama and his Administration have been pulling without the strong and principled leadership at the OLC (and there really should be no question after the wholesale adoption of Bush policies on surveillance and torture that are at complete odds with Johnsen's long-stated beliefs), it came like a ton of bricks with the recent revelation that Obama brazenly used the OLC to retroactively immunize serial and repetitive illegal and unconstitutional violation of Federal wiretapping laws by the FBI and telecom companies.

By the way, we have now seen the OPR Report on the "Torture Memos"; did you know that there has been a parallel OPR investigation going on all along over the OLC illegal warrantless wiretapping memos?? You have to wonder where that report is and how it played into the refusal to support Dawn Johnsen. You also have to wonder why nobody else is asking that question.

I wrote about this previously here and here and demonstrated the point with evidence. Yet no matter what my effort, the point refused to gain traction in the greater media. Will the major media continue to flail with their head in a dark place? You can bet on it.