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Kwon's Failure to Withdraw Makes History

Judicial nominees who withdraw their names when they know they don't have the votes for confirmation are never remembered very long. Philip Kwon, on the other hand, has made his mark on New Jersey legal history by either becoming the first or one of very few nominees to the [New Jersey Supreme Court](#) who was rejected by the Senate Judiciary Committee since the Constitution of 1947.

The New Jersey Senate Judiciary Committee failed to confirm Kwon in March by a vote of 7 to 6. Fortunately for Kwon, the facts that led the Senate to reach its negative vote are likely to be forgotten by the end of the year. The fact that he was voted down, however, will likely now become a consideration by all Governors and for all New Jersey judicial nominees from this point forward.

During Kwon's [judicial confirmation hearing](#), Democratic members of the Senate committee raised concerns about his past affiliation with the Republican Party and his family's liquor store business. They questioned why Mr. Kwon's mother and wife had regularly deposited cash from the business to its bank account in varying amounts just under \$10,000—the threshold for reporting deposits to the Internal Revenue Service. Kwon claimed he didn't know about the deposits until they were flagged by the store's bank. He further maintained that the deposits were not structured to avoid taxes, although several members of the committee appeared unconvinced. The family paid \$160,000 to settle civil charges brought by the federal government.

The New Jersey Senate Judiciary Committee also called Kwon's political affiliation into question. Kwon registered as an independent last year after moving to New Jersey. He had previously been registered as a Republican for over ten years. Kwon's political leanings were relevant because a partisan balance has historically been maintained on the state's highest court. The court is currently comprised of two Democrats, two Republicans, and one Independent. Kwon was appointed to fill one of two vacancies, and Christie's second nominee, Bruce A. Harris, is a Republican.

Ultimately, the committee's decision may have also been an attempt to thwart Christie's attempt to shape the court in his own image. Kwon worked under Christie at the U.S. Attorney's Office. The governor has also frequently complained that the activist court acts like "a superior branch of government, not a co-equal branch."

Following the hearing, Republicans characterized the hearing as a “lynch mob.” Meanwhile, Democrats maintained that they were simply doing their job to carefully vet New Jersey Supreme Court nominees.

The truth to what really happened is more likely attributed either to bad staff work or to a political double cross. Either someone on the Governor’s staff did not know that they lacked the votes to get Kwon through the committee, or they thought they had a commitment for the votes and one of the Democrats reneged. Not even Chris Christie would be so reckless to tarnish someone’s reputation for the rest of his career on a hope that bullying a nomination for the Supreme Court would get it passed in a Democrat controlled New Jersey Senate Judiciary Committee.