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19 ESTRADA: What Next?

The New Republic's Crowley writes, In "the most important judicial battle of the Bush administration to date" -- over Miguel Estrada's nomination -- the GOP has "few good options. Thanks to the careful spadework of" Sen. Min. Leader Tom Daschle, Dems "are prepared to sustain their filibuster indefinitely -- or at least until" GOPers "meet their one key demand": the Bush admin "must release dozens, perhaps hundreds, of internal memos Estrada wrote as a top lawyer in the solicitor general's office" from '92 to '97. Dems "covet those memos," containing Estrada's "recommendations and legal opinions about a range of" SCOTUS cases involving the federal gov't, "because they're the only way to assess this genial cipher." Just 41, Estrada "has never been a judge and has hardly published an opinionated word. Because he is such a blank slate," many Dems are "convinced" Estrada is a "'stealth' ideologue who could wind up" on the SCOTUS as a Hispanic Clarence Thomas.

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Their "favorite example" is the DoJ's release of memos during Robert Bork's '87 confirmation battle, "written by a lawyer in the solicitor general's office who held precisely the same job as Estrada." Also, "instructive are memos written by" Justice William Rehnquist when he was a SCOTUS clerk in the '50s, "made available to the Senate" for his '71 and '86 hearings. Dems "don't know just what cases Estrada might have had a hand in," but they believe "he concentrated primarily on criminal cases" and may have "questioned or criticized a lot of landmark criminal decisions," according to one Judiciary Cmte aide.

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