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Judicial Selection

2013-0534-S

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RESTRICTION CODES

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P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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file Judicial Selection

United States Senate

WASHINGTON, DC 20510-1804

January 8, 1999

Ms. Melanne Verveer
Assistant to the President
and the Chief of Staff to the First Lady
The Old Executive Office Building
Room 100
The White House
Washington, D.C. 20500

Dear Ms. Verveer:

I very much appreciate your taking the time to discuss the status of judicial candidates for the Middle District of the Federal District Courts in Louisiana.

I thank you for the insight which you shared with me. As promised, I am enclosing information which provides the current ethnic and gender composition of the Middle District. Also included are similar descriptions of the Western and Eastern Districts, as well as the U.S. Fifth Circuit Court of Appeals.

As these figures show, out of a total of 22 federal district court judges in Louisiana, only 5 are women and only 2 are African Americans. Clearly, the federal bench in my State can be much more reflective of the general population without sacrificing merit. The list of potential nominees that I submitted to the White House on December 16, 1998, represents both diversity, and distinguished achievement in the legal profession.

I hope you find this information of value. Please do not hesitate to contact my office if I can be of additional assistance.

With warmest regards, I am

Sincerely,

Mary L. Landrieu
United States Senator

MLL/bec

UNITED STATES DISTRICT COURT
LOUISIANA

MIDDLE DISTRICT

Judges:

John V. Parker
Frank F. Polozola
Ralph E. Tyson

Race:

White
White
Black

Gender:

Male
Male
Male

WESTERN DISTRICT

Judges:

Rebecca Doherty
Richard Haik
Robbert James
F.A. Little, Jr.
Tucker Melancon
James T. Trimble, Jr.
Donald E. Walter

Race:

White
White
White
White
White
White
White

Gender:

Female
Male
Male
Male
Male
Male
Male

EASTERN DISTRICT

Judges:

Carl J. Barbier
Ginger Berrigan
Edith Brown Clement
Stanwood R. Duvall, Jr.
Eldon E. Fallon
Martin L.C. Feldman
Ivan L.R. Lemelle
Mary Ann Vial Lemmon
A.J. McNamara
G. Thomas Porteous, Jr.
Morey L. Sear
Sarah S. Vance

Race:

White
White
White
White
White
White
Black
White
White
White
White
White

Gender:

Male
Female
Female
Male
Male
Male
Male
Female
Male
Male
Male
Female

UNITED STATES COURT OF APPEALS

FIFTH CIRCUIT

Circuit Judges:	States:	Race	Gender
Henry A. Politz, <i>Chief Judge</i>	Shreveport, LA	White	Male
Carolyn Dineen King	Houston, TX	White	Female
E. Grady Jolly	Jackson, MS	White	Male
Patrick E. Higginbotham	Dallas, TX	White	Male
W. Eugene Davis	Lafayette, LA	White	Male
Edith H. Jones	Houston, TX	White	Female
Jerry Edwin Smith	Houston, TX	White	Male
John M. Duhe, Jr.	Lafayette, LA	White	Male
Rhesa H. Barksdale	Jackson, MS	White	Male
Jacques L. Wiener, Jr.	Shreveport, LA	White	Male
Emilio M. Garza	San Antonio, TX	Hispanic	Male
Harold R. Demoss, Jr.	Houston, TX	White	Male
Fortunado P. Benavides	Austin, TX	Hispanic	Male
Carl E. Stewart	Shreveport, LA	Black	Male
Robert M. Parker	Tyler, TX	White	Male
James L. Dennis	New Orleans, LA	White	Male
(1 Vacancy)			

United States Senate
WASHINGTON, DC 20510-1804

December 16, 1998

The Honorable William Jefferson Clinton
President
The White House
Washington, D.C. 20500

Dear Mr. President:

I would like to recommend Mary Hotard Becnel, Bonnie Jackson, H. Alston Johnson, and Christine Lipsey for a federal judgeship in the Middle District of Louisiana.

I feel that all of these candidates would make excellent additions to the federal bench. They have all been noted for their outstanding work and have earned the admiration of their colleagues as well as the respect of members of the bar.

Should a position become available on the Fifth Circuit Court of Appeals before the nomination process concludes, it is my desire that H. Alston Johnson be considered as a potential candidate for this seat, rather than the Middle District.

I have enclosed a copy of their resumes for your review and I hope you will contact me if I can provide any further information regarding their candidacy. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary L. Landrieu", written in a cursive style.

Mary L. Landrieu
United States Senator

MLL:tas

file judicial selection

*for NABL
Speech
Judges prize*

I. PRESIDENTIAL STATEMENTS

A. STATEMENT BY THE PRESIDENT OCTOBER 5, 1999

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 5, 1999

STATEMENT BY THE PRESIDENT

Today the Senate defeated the nomination of Ronnie White for the federal district court in Missouri. This vote was a disgraceful act of partisan politics by the Republican majority, and creates real doubt [about] the ability of the Senate to fairly perform its constitutional duty to advise and consent. By voting down the first African American judge to serve on the Missouri Supreme Court, the Republicans have deprived both the judiciary and the people of Missouri of an excellent, fair, and impartial federal judge.

Judge White was a casualty of a judicial confirmation process that has lost any pretense of fairness. There was never any doubt about Judge White's ability to apply the law impartially. To defeat the candidacy of Judge White, the Republican majority maligned and distorted White's death penalty record, falsely creating a pretext for his defeat. While serving on the Missouri State Supreme Court, Judge White affirmed the imposition of the death penalty in almost 70 percent of the cases that came before him. Moreover, in ten of the eighteen reported instances in which Judge White voted to not impose the death penalty, he did so with a unanimous court.

The disappointing action of the Senate today provides strong evidence for those who believe that the Senate treats minority and women judicial nominees unequally. This is a sad day for the cause of equal justice.

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B. STATEMENT BY THE PRESIDENT OCTOBER 6, 1999

STATEMENT BY THE PRESIDENT

The Rose Garden

12:10 P.M. EDT

THE PRESIDENT: Good afternoon. I want to say a few brief words about three critical issues now pending before Congress. There have been major developments on all of them in the last 24 hours that demand our attention and

the attention of the American people.

First, yesterday's defeat of Ronnie White's nomination for the Federal District Court judgeship in Missouri was a disgraceful act of partisan politics. Once again this creates a real doubt about the Senate's ability to fairly perform its constitutional duties to advise and consent.

- Unfortunately, by voting down the first African American judge, who was already serving -- the first African American judge to serve on the Missouri State Supreme Court, the Republican-controlled Senate is adding credence to the perceptions that they treat minority and women judicial nominees unfairly and unequally.

I would just point out that that strict party-line vote included Republicans who had previously voted in the Judiciary Committee to recommend him to the full Senate.

I hope the Senate leadership will reverse this course and begin to provide timely and fair consideration of all judicial nominees. In particular, I ask the Senate to act on the nominations of Marsha Berzon and Richard Paez who has been held up for years now. They're both excellent candidates for the 9th circuit and have been waiting for quite some time to receive a vote from the Senate.

Meanwhile, I will continue to fulfill my obligation to nominate and press for the confirmation of the most qualified candidates possible for the federal bench.

* * * * *

END 12:15 P.M. EDT

C. Excerpts from Remarks by the President to the U.S. Hispanic Leadership Conference, 10/09/99

THE WHITE HOUSE

Office of the Press Secretary
(Chicago, Illinois)

For Immediate Release

October 9, 1999

REMARKS BY THE PRESIDENT
TO THE U.S. HISPANIC LEADERSHIP CONFERENCE

McCormick Place
Chicago, Illinois

9:36 A.M. CDT

THE PRESIDENT:

* * * * *

I ask you to take just a few minutes and focus on the outstanding challenges -- places where we haven't made enough progress, and places where we haven't received enough cooperation from this Congress. Let me begin with judicial nominations. I am proud that we have succeeded in appointing more Hispanics to the federal bench than any administration in history. (Applause.)

I am proud that, on the whole, the judges I've appointed are the most diverse group in our history. Nearly half are women or minorities. More than half my current judicial nominees are women or minorities -- and they are good judges. My appointees have garnered the highest ratings from the American Bar Association of any President in 40 years. (Applause.)

Now, I would also say that, unlike previous administrations, there has been article after article after article saying that I have avoided putting ideological extremists on the court, unlike what happened in the previous decade or so. So these people are well-qualified, they're diverse -- you would think the United States Senate would be falling all over themselves to confirm them.

Now, let's look at the facts. Earlier this week I said it was a disgrace that the Senate defeated on a straight party-line vote my nomination of Ronnie White, a highly talented African American jurist from the state of Missouri that was the first African American to serve on the Missouri State Supreme Court, who was endorsed by one of his state's Republican senators, supported by Republican senators on the Judiciary Committee -- but when he came to the floor, for political reasons back in Missouri, 100 percent of the Republicans in the majority voted to deny his confirmation and distorted his record in capital punishment appeals cases. It was wrong. That's the kind of thing that's going on up there that ought to stop. (Applause.)

But, unfortunately, it's not an isolated event. Listen to this: Richard Paez, the first Mexican American ever to serve as a judge in the Federal District Court in Los Angeles I nominated more than three and a half years ago for a seat on the 9th Circuit Court of Appeals. For more than three and a half years he has been waiting for the Senate to confirm his nomination. Is it because he's not qualified? No. The American Bar Association said not that he was qualified, but that he was well qualified. He

received the highest rating from the ABA. He has broad, bipartisan support back in California and in the legal community.

Yet, he still has not been given a Senate floor vote. Why? Well, they don't want to vote him down because they hope that you will vote with them in the next election, but they don't want to vote for him. So this man has been hanging there for three and a half years.

Now, I don't know about you, but if I took three and a half years to make a decision, you wouldn't think I was a very good President. And most of you couldn't hold your jobs if you took three and a half years to do your assigned tasks. Can you imagine that? How many times has somebody been on you because you took three and a half hours? (Laughter and applause.)

Another fine candidate for the 9th Circuit, a renowned appellate lawyer, Marsha Berzon, has been waiting for more than 18 months to receive a floor vote. That is, they put these people out of committee and they just never bring them up. They just disappear somewhere in the dark recesses of the calendar of the Senate. Now, I think the treatment of Richard Paez and Marsha Berzon is shameless.

We have also been working to get three other exceptional Hispanic nominees confirmed: Judge Julio Fuentes for the 3rd Circuit, civil lawyer Enrique Moreno for the 5th Circuit, and Judge Ronald Guzman for the northern district of Illinois, here. (Applause.)

I am pleased to announce that Judge Guzman finally received his judiciary committee hearing last week for a vacancy here. But the Senate's treatment of Judge White and its failure to vote on the outstanding Hispanic nominees that are pending creates a real doubt about their ability and their willingness to perform their constitutional duties to advise and consent.

So I urge you to help me. Get a Senate vote on Judge Paez, Judge Fuentes, Judge Guzman, Marsha Berzon, Enrique Moreno. They should be confirmed. They should be confirmed. But they ought to be voted on one way or the other. (Applause.)

* * * * *

II. TALKING POINTS

A. RONNIE WHITE

Judge Ronnie White, the first African American to serve on the Missouri Supreme Court, was defeated on Tuesday, October 5, 1999, when the Republican majority distorted Ronnie

White's death penalty record, going so far as to call Judge White "pro-criminal." In fact, Judge White is very much a mainstream jurist with respect to the death penalty. While serving on the Missouri Supreme Court, Judge White affirmed the imposition of the death penalty in 40 out of the 58 cases in which he participated. In other words, Judge White voted to uphold the death penalty almost 70% of the time. Moreover, in 52 of the 58 cases (90%), Judge White voted along of the majority of the Missouri Supreme Court. In addition, in 2/3 of the instances in which Judge White voted not to impose the death penalty, he did so with a majority of the court; in half of the instances in which Judge White voted not to impose the death penalty, the decision was unanimous. *The St. Louis Post Dispatch* reported on October 8, 1999 that four Missouri Supreme Court Judges voted against the death penalty at a similar rate as Judge White. These judges voted against the death penalty from 22% to 25% of the time; for Judge White the figure was 29%.

- The Senate's treatment of Ronnie White was a disgraceful act of partisan politics. We find it particularly troubling that members who supported Judge White when he was before the Judiciary Committee reversed themselves on the Senate floor. In addition, Senator Kit Bond of Missouri, who voted against Judge White on the floor, had previously expressed support for Judge White, even going so far as to recommend him to the Senate Judiciary Committee. Senator Bond's reversal on this issue is troubling and confusing.

Note:

- Senator Ashcroft focused on the facts of one case in particular, State v. Johnson, to support his charge that White is "pro-criminal." The facts of Johnson are abhorrent and therefore easy to sensationalize. The defendant was convicted of multiple murders, including murdering a state sheriff. Judge White did dissent in the case, because he was persuaded that the defendant's constitutional right to counsel had been violated. But the case far from demonstrates that Judge White is, as Senator Ashcroft put it, "pro-criminal." In fact, Judge White did not question that the defendant committed the murders, nor did White argue that the defendant should be set free; rather, White concluded that the Constitution dictated that the defendant be granted a new trial with a new lawyer. Judge White did not make this decision lightly. In his dissent, White expressed his revulsion for the crimes that had been committed stating: "This is a very hard case.... This is an excellent example of why hard cases make bad law. While I share the majority's horror at this carnage, I cannot uphold this as an acceptable standard of representation for a defendant accused of capital murder."
- Senator Ashcroft's method of focusing on the egregious facts of (rather than the legal analysis underlying) a death penalty case is a disingenuous and inappropriate way of evaluating the qualifications of sitting judges. Ashcroft's own appointees are vulnerable to the type of criticism Ashcroft leveled at White:
 - Judge White authored two opinions -- State v. Taylor, 929 S.W. 2d 209 (1996) and State v. Nunley, 923 S.W. 2d 911 (1996) -- upholding the death penalty against defendants

who had pled guilty to first-degree murder, armed criminal action, kidnapping, and the forcible rape of a fifteen-year-old girl. An Ashcroft appointee, Judge John C. Holstein, dissented in both of these cases. Likewise, in *State v. Skillicorn*, 944 S.W.2d 877 (1997), Judge White joined the majority in affirming the death penalty against Skillicorn, who was convicted of murdering a good samaritan who had pulled over and offered a drive to Skillicorn. An Ashcroft appointee, Judge Ann Covington, dissented, stating that she would have reversed the defendant's conviction. Under Ashcroft's logic, his own appointees to the state bench are unfit to serve in the federal judiciary. Under Ashcroft's logic, his own appointee, Judge Holstein is "soft" on criminals who had kidnapped, raped, and murdered a fifteen-year-old girl; likewise, his own appointee, Judge Ann Covington, is "soft" on a person who had murdered a good samaritan.

- These examples are not intended to impugn Judges Holstein and Covington, who issued reasonably-argued dissents in these cases, but rather to demonstrate the grossly unfair way Senator Ashcroft attacked Judge White's integrity and judgment. Senator Ashcroft's baseless attacks on Ronnie White are demeaning to the Senate. As the President has stated, the Senate's treatment of Judge White casts "real doubt about the Senate's ability to fairly perform its constitutional duties to advise and consent."

B. PRESIDENT CLINTON'S DIVERSITY RECORD

- The President has the best record of appointing women and minority judges of any President in history. Almost half of his judicial appointees have been women and minorities. Moreover, the President's appointees have garnered the highest percentages of top ABA ratings of any president in nearly 40 years, shattering the destructive myth that diversity and quality do not go hand in hand.
- However, the quality of justice suffers when, for partisan political reasons, highly qualified women and minority candidates are denied an opportunity to serve in the judiciary.
- Last year, the average time between nomination and confirmation for judicial nominees was a record 230 days, a dramatic increase from earlier years. In fact, overall President Clinton's judicial nominees have been kept waiting more than twice as long as President Reagan's. Perhaps even more disturbing, the Senate majority is treating women and minority judicial candidates differently than white male judicial candidates. A recent non-partisan blue ribbon study (issued by the Citizens for Independent Courts' Task Force on Federal Judicial Selection) found that women and minorities nominees took significantly longer to be considered than did white male nominees. (According to the study, it took an average of 60 days longer for non-whites than whites and 65 days longer for women than men to be considered by the Senate during the 105th Congress). The independent study also concluded that minority nominations failed at a higher rate (35%) than the nominations of whites (14%).
- The unequal treatment of women and minority judicial candidates is systemic. Three of the four

nominees left on the floor when Congress adjourned last year – Judge Richard Paez, Marsha Berzon, and Ronnie White – were women or minorities. Eight of the eleven nominees who waited longer than nine months to be confirmed last year were women or minorities. This disturbing trend is continuing this year. This year, six of the ten judicial candidates who have waited the longest to be confirmed are women or minorities, with a number of the candidates having waited years to receive a vote from the Senate.

- On September 21, 1999, the Senate Republicans, on a straight party vote, rejected a motion by Senator Daschle that would have allowed for an up-or-down vote on Judge Paez and Marsha Berzon, two extraordinarily talented nominees for the Ninth Circuit. Chief Justice Rehnquist has stated that the Senate has an “obligation” to give judicial candidates a vote. The Senate is failing in that obligation.
- Notwithstanding the Senate’s failure to meet its constitutional responsibilities, the President has continued to nominate large numbers of highly qualified nominees. The President has nominated 68 candidates so far this Congress. There are 45 pending judicial candidates. Twenty-six of the 45, or 57.8%, are women and minorities.
- Women and minorities constitute over 54 % of the President’s nominees in 1999; by contrast, only 43 % of the nominees confirmed this year by the Senate are women or minorities.

C. RICHARD PAEZ

- The Senate’s failure to allow a vote for Richard Paez, a highly-respected Hispanic federal district court judge, is the most egregious example of delay in judicial nominations. Not surprisingly, Paez is a candidate for a seat that has been declared a “judicial emergency” by the Administrative Office of the U.S. Courts. Paez, who was first nominated in January 1996, has been waiting for more than three-and-a-half years for a Senate vote. He was favorably reported out of the Senate Judiciary Committee twice, and is now waiting for a vote on the Senate floor.
- The first Mexican American ever to serve as a federal district judge in Los Angeles, Paez has over seventeen years of judicial experience. Paez was rated “well qualified” by the American Bar Association. He would make an outstanding Ninth Circuit jurist.
- Paez has broad bipartisan support. He has been endorsed by Republicans such as Representative James Rogan, as well as by such law enforcement representatives as LA District Attorney Gil Garcetti, the Los Angeles County Police Chiefs’ Association, the LA County Sheriff, and the National Association of Police Organizations, Inc.
- Because Paez has not received a vote, and Senators’ holds are secret, it is impossible to determine precisely the basis for the opposition to Paez. Given the lack of an open debate on his nomination, it is difficult to believe that any Senator has a credible case against his confirmation.

Note: Some Senators claim to oppose Paez because of a few sentences contained in a lecture at the Boalt Hall Law School given by Paez regarding Proposition 187 (the anti-illegal immigrant initiative). Paez stated that the debate surrounding the initiative could raise concern in the Hispanic community. Only by taking his comments completely out of context can his critics claim that he was commenting on the constitutional issues regarding this Proposition. Paez has made it clear that he would following controlling precedent on this and all issues, and that none of his comments pre-judged any legal issues that could have come before him.

D. MARSHA BERZON

- Another Ninth Circuit candidate, Marsha Berzon, who was first nominated in January 1998, has had her nomination pending for more than 18 months. Berzon has been nominated for a vacancy that has been declared a "judicial emergency" by the Administrative Office of the U.S. Courts. Berzon is a labor lawyer of national renown who specializes in appellate and Supreme Court litigation. Berzon clerked at both the Ninth Circuit and at the Supreme Court, and has litigated cases at all levels of the federal and state systems. She has garnered impressive support from Democrats, Republicans, and a wide range of law enforcement agencies.
- The Administration intends to continue to press aggressively for a Senate floor vote on Marsha Berzon and Judge Paez. On September 21, 1999, Senators Daschle and Leahy attempted to obtain a floor vote for Berzon and Paez. This vote was defeated on a straight party-line vote. But there will be other opportunities to bring this issue before the Senate this year.

E. PENDING WOMEN AND MINORITY NOMINEES FOR THE APPELLATE COURTS

- This year, the President has nominated women and minorities to fill vacancies on the Third, Fourth, Fifth, Sixth, Seventh, Ninth, Eleventh Circuits, and the D.C. Circuit. Other than Charles Wilson, an African American man who was confirmed by the Senate on July 30, 1999 to fill a vacancy on the Eleventh Circuit, and Maryanne Trump Barry, who was confirmed by Senate to serve on the Third Circuit on September 13, 1999, the following women and minority candidates are among those still awaiting Senate action:
 - Judge Julio Fuentes, a Hispanic New Jersey state judge, for the Third Circuit
 - Judge James Wynn, an African American man serving on the North Carolina Court of Appeals, for the Fourth Circuit
 - Enrique Moreno, a Hispanic litigator in El Paso, for the Fifth Circuit
 - Kathleen McCree Lewis, an African American appellate litigator, for the Sixth Circuit
 - Ann Williams, an African American federal trial judge in Chicago, for the Seventh Circuit

- Richard Paez, a Hispanic federal trial judge in Los Angeles, for the Ninth Circuit; and
- Marsha Berzon, an appellate litigator, for the Ninth Circuit.
- All of these outstanding candidates are waiting for, and deserving of, a Senate vote. Brief biographies of these candidates are attached.

Judge Julio Fuentes, Court of Appeals for the Third Circuit (New Jersey)

Judge Julio M. Fuentes, of North Caldwell, New Jersey, has been a judge on New Jersey's Superior Court bench in Essex County since 1987. He has rotated through the court's Family Division (1987-90), Criminal Division (1990-92), Civil Division (1992-97; Presiding Judge, 1997), and Chancery Division, and currently sits in the General Equity Division. Prior to becoming a Superior Court judge, he served as a municipal court judge from 1978 to 1987, and was a partner at Fuentes, Plant & Velazquez, where he worked on both civil and criminal litigation matters. A graduate of Southern Illinois University and SUNY-Buffalo School of Law, he also received a masters degree from New York University in Latin American Studies in 1981 and from Rutgers University in Liberal Studies in 1993.

Judge James Wynn, Court of Appeals for the Fourth Circuit (North Carolina)

James A. Wynn, Jr., of Cary, North Carolina, has almost continuously been an Associate Judge on the North Carolina Court of Appeals since 1990. Judge Wynn was appointed to the state Supreme Court in 1998, but returned to the Court of Appeals after his defeat by a narrow margin in the subsequent election. Prior to his appointment to the North Carolina Court of Appeals, he was a partner at Fitch, Wynn & Associates from 1988 to 1990; a partner at Fitch, Butterfield & Wynn from 1986 to 1988; and an Associate at Fitch and Butterfield from 1984 to 1986. Judge Wynn also served as an Assistant Appellate Defender in the Office of Appellate Defender for North Carolina from 1983 to 1984. Finally, since 1979, he has been a member of the Judge Advocate General's Corps for the U.S. Navy where he currently holds the rank of Captain. Judge Wynn received his B.A. in 1975 from the University of North Carolina at Chapel Hill, his J.D. in 1979 from Marquette University School of Law, and his L.L.M. in 1995 from the University of Virginia School of Law.

Enrique Moreno, Court of Appeals for the Fifth Circuit (Texas)

Enrique Moreno, of El Paso, Texas, has been a sole practitioner at the Law Offices of Enrique Moreno since July 1999. Prior to establishing his own practice, Moreno was a partner at

Moreno & Fry from 1987 to 1999; a shareholder at Kemp, Smith, Duncan & Hammond, P.C. in 1987; and an associate at Kemp, Smith, Duncan & Hammond, P.C. from 1981 to 1986. He received his A.B. in 1978 from Harvard College and his J.D. in 1981 from Harvard Law School.

Kathleen McCree Lewis, Court of Appeals for the Sixth Circuit (Michigan)

Kathleen McCree Lewis, of Detroit, Michigan, has been affiliated with Dykema Gossett as an associate and then partner since 1973. She received her B.A. in 1969 from the University of Michigan and her J.D. in 1973 from the University of Michigan Law School.

Ann Williams, Court of Appeals for the Seventh Circuit (Michigan)

Ann Claire Williams, of Chicago, Illinois, has served as a judge on the U.S. District Court for the Northern District of Illinois since 1985. Prior to her appointment, Judge Williams served in the U.S. Attorney's Office as Chief of the Drug Task Force from 1983 to 1984. From 1980 to 1983, she was the Deputy Chief of the Criminal Receiving and Appellate Unit in the U.S. Attorney's Office. Judge Williams was also an Assistant U.S. Attorney in the Criminal Litigation Division from 1978 to 1980 and in the Criminal Receiving and Appellate Unit from 1976 to 1978. She received a B.S. degree in 1970 from Wayne State University, an M.A. degree in 1972 from the University of Michigan, and a J.D. degree in 1975 from the University of Notre Dame Law School. Following law school, she clerked for the Honorable Robert A. Sprecher on the U.S. Court of Appeals for the Seventh Circuit from 1975 to 1976.

Richard Paez, Court of Appeals for the Ninth Circuit (California)

Paez was appointed to the U.S. District Court for the Central District of California in July 1994. From 1981 to 1994 he served as a judge on the Los Angeles Municipal Court. He earned his B.A. from Brigham Young University and his J.D. from Boalt Hall School of Law. Paez was the first Mexican-American to ever serve as a federal district judge in Los Angeles, and was rated "well qualified" by the American Bar Association.

Paez was first nominated on January 25, 1996 and had his first hearing on July 31, 1996. He was renominated on January 7, 1997, and had another hearing on February 25, 1998. He was voted out of the Senate Judiciary Committee 11 to 6 but never received a full Senate vote. Paez was renominated on January 26, 1999 and was voted out of committee again this session. Paez is awaiting a floor vote.

Marsha Berzon, Court of Appeals for the Ninth Circuit (California)

Berzon is a partner in the law firm of Altshuler, Berzon, Nussbaum, Berzon & Rubin. Before joining the firm, she practiced at the Washington, D.C. firm of Woll & Meyer for two years. Berzon clerked for Ninth Circuit Judge James Browning (1973-94), and Justice William Brennan (1974-75). She received her B.A. from Radcliffe College in 1966, and her J.D. from Boalt Hall School of Law in 1973.

Berzon was nominated on January 27, 1998, had a hearing on July 30, 1998, but was not voted out of committee. She was renominated on January 26, 1999, had a hearing on June 16, 1999, and was voted out of committee on July 1, 1999. Berzon is awaiting a floor vote.

JUDGE RONNIE WHITE

Summary

Judge Ronnie White, the first African American to serve on the Missouri Supreme Court, was defeated on Tuesday, October 5, 1999, when the Republican majority distorted Ronnie White's death penalty record, going so far as to call Judge White "pro-criminal." In fact, Judge White is very much a mainstream jurist with respect to the death penalty. According to statistics compiled by the Department of Justice, Judge White, while serving on the Missouri Supreme Court, affirmed the imposition of the death penalty in 40 out of the 58 cases in which he participated. In other words, Judge White voted to uphold the death penalty almost 70% of the time. Moreover, in 52 of the 58 cases (90%), Judge White voted along with the majority of the Missouri Supreme Court. In addition, in 2/3 of the instances in which Judge White voted not to impose the death penalty, he did so with a majority of the court; in half of the instances in which Judge White voted not to impose the death penalty, the decision was unanimous.

Statistical Analyses

Department of Justice

The Department of Justice has analyzed all death penalty decisions available on the Westlaw database issued by the Missouri Supreme Court since Judge White joined the court in October 1995. All death penalty cases are heard by the Missouri Supreme Court en banc. Since October 1995, there have been 63 such cases. Judge White has sat on 58 death penalty cases. He voted along with the majority 90% of the time (52 times); on only six occasions was he in the minority against the imposition of the death penalty. His voting record indicates that he is well within the mainstream of other judges on the court. Judge White voted to uphold the death penalty almost 70% of the time. One judge, appointed by Governor Carnahan in August 1998, has upheld the death penalty at a lower rate (approximately 63%); Judge White's rate is within 10-15% of the remaining five judges.

Missouri Democratic Party

The Missouri Democratic Party states that it has gone back further historically, comparing Judge White's death penalty record with those of all Ashcroft appointees. According to these statistics, Ashcroft appointee Judge Ellwood Thomas had a much higher percentage of votes to reverse the death penalty than did White: Thomas voted to reverse the death penalty almost half the time (47%), while, according to these figures, White has voted to reverse 29% of the time. Moreover, four Ashcroft appointees voted against the death penalty at a similar rate as

As compiled by DOJ, since Judge White ascended to the court, the judges sitting on the court today voted to uphold the death penalty as follows: Judge Wolff (appointed by Governor Carnahan) 62.5%; Judge White 69.0%; Judge Holstein (appointed by Governor Ashcroft) 78.3%; Judge Covington (appointed by Governor Ashcroft) 78.7%; Judge Price 80.7% (appointed by Governor Ashcroft); and Judge Limbaugh (appointed by Governor Ashcroft) 83.6%.

Judge White. These judges voted against the death penalty from 22% to 25% of the time, as opposed to the 29% for Judge White. The notion that Judge White's death penalty jurisprudence is outside the mainstream in Missouri is refuted by the facts.

"Horror Stories"

Ashcroft's Criticisms of a Specific White Decision is Unreasonable and Unfair

Senator Ashcroft focused on the facts of one case in particular, State v. Johnson, to support his charge that White is "pro-criminal." The facts of Johnson are abhorrent and therefore easy to sensationalize. The defendant was convicted of multiple murders, including murdering a state sheriff. Judge White did dissent in the case, because he was persuaded that the defendant's constitutional right to counsel had been violated. But the case far from demonstrates that Judge White is, as Senator Ashcroft put it, "pro-criminal." In fact, Judge White did not question that the defendant committed the murders, nor did White argue that the defendant should be set free; rather, White concluded that the Constitution dictated that the defendant be granted a new trial with a new lawyer. Judge White did not make this decision lightly. In his dissent, White expressed his revulsion for the crimes that had been committed stating: "This is a very hard case.... This is an excellent example of why hard cases make bad law. While I share the majority's horror at this carnage, I cannot uphold this as an acceptable standard of representation for a defendant accused of capital murder."

Ashcroft's Appointees are Vulnerable to the Same Type of Criticism

Senator Ashcroft's method of focusing on the egregious facts of (rather than the legal analysis underlying) a death penalty case is a disingenuous and inappropriate way of evaluating the qualifications of sitting judges.

Judge White authored two opinions -- State v. Taylor, 929 S.W. 2d 209 (1996) and State v. Nunley, 923 S.W. 2d 911 (1996) -- upholding the death penalty against defendants who had pled guilty to first-degree murder, armed criminal action, kidnapping, and the forcible rape of a fifteen-year-old girl. An Ashcroft appointee, Judge John C. Holstein, dissented in both of these cases. Likewise, in State v. Skillicorn, 944 S.W.2d 877 (1997), Judge White joined the majority in affirming the death penalty against Skillicorn, who was convicted of murdering a good samaritan who had pulled over and offered a drive to Skillicorn. An Ashcroft appointee, Judge Ann Covington, dissented, stating that she would have reversed the defendant's conviction.

Under Ashcroft's logic, his own appointees to the state bench are unfit to serve in the federal judiciary. Under Ashcroft's logic, his own appointee, Judge Holstein is "soft" on criminals who had kidnapped, raped, and murdered a fifteen-year-old girl; likewise, his own appointee, Judge Ann Covington, is "soft" on a person who had murdered a good samaritan. These examples are not intended to impugn Judges Holstein and Covington, who issued reasonably-argued dissents in these cases, but rather to demonstrate the grossly unfair way Senator Ashcroft attacked Judge White's integrity and judgment. Senator Ashcroft's baseless attacks on Ronnie White were demeaning to the Senate. As the President has stated, the

Senate's treatment of Judge White casts "real doubt about the Senate's ability to fairly perform its constitutional duties to advise and consent."

JUDICIAL SELECTION MEETING

12/04/97

CONFIRMATIONS THIS YEAR	36
NOMINATIONS THIS YEAR (Does not include withdrawn nomination of James Ware)	80
CURRENT VACANCIES • Includes 2 Article I (Claims Court) vacancies	85
PENDING NOMINEES • 13 circuit, 28 district, 2 claims	43
CURRENT VACANCIES WITHOUT PENDING NOMINEES • 9 circuit, 30 district, 3 cit	42

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. list	Pipeline (4 pages)	n.d.	b(6)

COLLECTION:

Clinton Presidential Records
First Lady's Office
Melanne Verveer
OA/Box Number: 20039

FOLDER TITLE:

Judicial Selection

2013-0534-S
ry1595

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

December 02, 1997

FEDERAL JUDICIAL VACANCIES

SUPREME COURT

None

CIRCUIT COURTS

DC	James L. Buckley, ret 8/31/96
1st	Conrad Cyr, ret 01/31/97
2nd	Frank X Altimari, ret 12/31/95 J. Daniel Mahoney, dec 10/23/96 Roger J. Miner, dis ret 01/01/97 Jon O. Newman, ret 7/1/97 Joseph McLaughlin, ret 3/20/98 H. Lee Sarokin, ret 07/31/96
3rd	New Position
4th	J. Dickson Phillips, Jr., ret 7/31/94 William Garwood, ret 1/23/97
5th	Damon J. Keith, ret 5/1/95
6th	Frank Magill, ret 4/1/97
8th	William A. Norris, ret 7/7/94
9th	Jerome Farris ret 3/4/95 William C. Canby, Jr., ret 5/23/96 Cecil Poole, ret 1/15/96 J. Clifford Wallace, ret 04/8/96 Robert R. Beezer, ret 7/31/96 John T. Noonan, Jr., ret 12/27/96 Charles Wiggins, ret 12/31/96 Edward Leavey, ret 5/19/97 Cynthia Holcomb Hall, ret 8/31/97
Fed	Glenn L. Archer, Jr. ret 12/24/97

SPECIAL COURTS

Trade	Nicholas Tsoucalas, ret 9/30/96 Dominick DiCarlo, ret 10/31/96 R. Kenton Musgrave, ret 11/14/97
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DISTRICT COURTS

Ala,N	James H. Hancock, ret 5/1/96 Robert Propst, ret 7/15/96
Ala,S	Alex T. Howard, Jr., 10/21/96
AZ	William D. Browning, ret 5/14/98
AK,W	H. Franklin Waters, ret 8/1/97
Calif, N	Robert P. Aguilar, ret 5/15/96

Calif, S	John S. Rhoades, Sr., ret 11/4/95
Calif, C	Rudi M. Brewster, ret 7/1/98
	Richard A. Gadbois, Jr., dis ret 1/24/96
	Robert M. Takasugi, ret 9/30/96
	Harry Hupp, ret 4/1/97
	James Ideman, ret 4/2/98
CO	Zita Weinshienk, ret 4/3/98
CT	Peter C. Dorsey, ret 1/2/98
DE	Joseph J. Longobardi, ret 6/15/97
DC	Stanley S. Harris, ret 2/1/96
	Charles R. Richey, ret 1/23/97
Fla, N	Maurice M. Paul, ret 7/31/97
Fla,S	Norman C. Roettger, ret 6/17/97
	Stan Marcus, elev 11/97
GA,N	William C. O'Kelley, ret 10/01/96
	Frank M. Hull, elev 9/18/97
HI	Harold Fong, dec 4/20/95
IL,N	William T. Hart, ret 6/1/96
	Brian B. Duff, ret 10/30/96
IL,S	William L. Beatty, ret 11/9/92
	William D. Stiehl, ret 11/30/96
IL,C	Harold A. Baker, ret 10/28/94
	Richard Mills, ret 10/7/97
IN,S	Gene E. Brooks, ret 12/31/96
KS	Sam A. Crow, ret 11/15/96
LA,E	Veronica Wicker, dec 12/10/94
	Okla Jones III, dec 1/8/96
	Marcel Livaudais, Jr., ret 12/31/96
LA,W	John M. Shaw, ret 11/15/96
MI,E	George La Plata, ret 8/3/96
	Julian Abele Cook, ret 12/30/96
	Barbara Hackett, ret 4/8/97
MO,E	George F. Gunn, Jr., ret 12/1/96
NV	Lloyd D. George, ret 12/01/97
NY,N	Extra pos 28USC 372(b) disabled
	re Con G. Cholakis, 10/92
NY,S	Louis L. Stanton, ret 10/1/96
	John F. Keenan, ret 12/31/96
	Peter K. Leisure, ret 3/21/97
	Kevin Duffy, ret 1/10/98
NC,E	W. Earl Britt, ret 12/07/97
NIM (Art I)	Alex Munson, term exp 11/13/98
OH,N	David Dowd, ret 6/30/96
OK,N	Thomas R. Brett, ret 10/3/96
OR	James H. Redden, ret 3/13/95
	Helen J. Frye, ret 12/10/95
	Malcolm F. Marsh, ret 4/16/98
PA,E	Thomas O'Neill, ret 7/6/96
	Edmund Ludwig, ret 5/20/97
	Marvin Katz, ret 8/26/97
PA,M	William W. Caldwell, ret 5/31/94
	Edwin M. Kosik, ret 7/15/96
PA,W	Maurice B. Cohill, Jr., et 11/28/94
	Alan N. Bloch, ret 4/12/97

PR
Tx,N

Tx,S

UT
VA,E
WA,E
WA,W

Raymond L. Acosta, ret 6/1/94
new position
Barefoot Sanders, ret 1/1/96
new position
Norman W. Black, ret 12/06/96
J. Thomas Greene, ret 11/28/97
James Cacheris, ret 3/30/98
Alan A. McDonald, ret 12/13/96
Carolyn R. Dimmick, ret 11/01/97
William L. Dwyer, ret 12/1/98

CLAIMS COURT

Reginald W. Gibson, ret 8/15/95
Wilkes C. Robinson, ret 7/31/97
Lawrence S. Margolis, term exp 12/09/97
Christine Miller, term exp 12/09/97
Moody R. Tidwell, term exp 5/16/98

Note: Bold indicates judicial emergency (18 months or older)

STATUS OF VACANCIES:

CURRENT:

Supreme:	0
Circuit:	22
Trade:	3
District:	58

subtotal:	83
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UPCOMING 1997/1998:

Supreme:	0
Circuit:	2
Trade:	0
District:	11 (include NMI)

subtotal:	13(96)
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SUBTOTAL:	96	Article III
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Claims:

Current	02	Article I
Upcoming	03	Article I

TOTAL:	100
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