

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Jack Quinn et al. to POTUS re: Nomination of Judicial Candidates [partial] (1 page)	12/19/1996	b(6)

COLLECTION:

Clinton Presidential Records
Staff Secretary
Todd Stern
OA/Box Number: 8788

FOLDER TITLE:

Chron Files: Tuesday, December 24, 1996

2019-0774-S

rs3345

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]

Chron

Carol -

Toodah saw

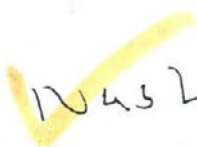
12/24/96

Chron

put it back in the files

THE WHITE HOUSE
WASHINGTON, D.C. 20500

DATE: 12.24

TO: Bob  Wash

FROM: Staff Secretary

you think
Potus should
make this call?



THE WHITE HOUSE

WASHINGTON

'96 DEC 24 PM2:00

December 24, 1996

RECOMMENDED TELEPHONE CALL

TO: The Honorable Parris Glendening
Governor of Maryland

DATE: During the next week.

RECOMMENDED BY: Marcia Hale
Director of Intergovernmental Affairs

PURPOSE: Governor Glendening would like to discuss his interest in securing a Commissioner position at the FCC for his wife, Frances Anne.

BACKGROUND: Governor Glendening placed a call to you Monday, December 23, 1996. Frances Anne Glendening is presently a staff member at the FEC. I have asked that Bob Nash work on the Governor's request.

TOPICS OF DISCUSSION: 1. FCC Commissioner position for Frances Anne Glendening.

CONTACT PERSON AND
TELEPHONE NUMBER(S): (301) 699-1244 Residence
(410) 974-3901 State House

DATE OF SUBMISSION: December 24, 1996

ACTION: _____

THE PRESIDENT HAS SEEN

3-24-96

22 December 1996

MEMORANDUM TO

THE PRESIDENT
THE VICE PRESIDENT

CC

LEON PANETTA
EVELYN LIEBERMAN
MAGGIE WILLIAMS
RON KLAIN
DEBBIE WILLHITE

FROM

HAROLD ICKES *HI*

RE

Proposed inaugural lithograph by George Rodrigue

URGENT
Pls call me - I'll explain the legal necessity
BC

Attached is a photocopy of the artist's sketch of the proposed lithograph and a copy of a 23 December 1996 memorandum to Debbie Willhite from Bud Brimberg of Pro Creations describing the proposed lithograph.

Under the terms of the agreement with the agent for the artist, approval of the attached lithograph or comment by you must be submitted to the agent no later than 6 p.m. 24 December.

No later than 6 p.m., 26 December, the second "draft" of the proposed lithograph will be submitted to you, if needed.

No later than 6 p.m., 27 December, you must give final approval.

If the Presidential Inaugural Committee ("PIC") is unable to reach an agreement on the artwork, the project can be cancelled, but PIC will forfeit \$70,000.

I will call you midday tomorrow (Tuesday) to discuss.

THE 53RD PRESIDENTIAL INAUGURAL



ProCreations**fax.**

Date: Monday, December 23rd, 1996	Fax Number: 202-222-1799
To: DEBBIE WILLHITE	Company: PIC
From: Bud Brimberg Sender's Phone: 1.212.252.0002 Sender's Fax: 1.212.252.0004	
Total Number of Pages: 2 Re: INAUGURAL POSTER - SKETCH SUBMISSION	

Dear Ms. Willhite:

I am pleased to enclose George Rodrigue's sketch for the 1997 Inaugural print & poster for your approval.

The President & Vice-President are portrayed as vigorous and strong as they stride purposefully on the path of their American Journey. With the Capitol in the background, they symbolically lead the Congress as the sun rises on the new millennium.

The colors include greens with glints of golden yellow and blue on the ground and a variegated blue sky above foliage and streaks of sunlight at the top. The men are wearing dark business suits with conservative color in their ties. The dog, of course, is blue. She is a witness to history who balances both the blue sky and the mass of the Capitol. The overall effect is powerful and elegant, yet playful. We can sell this print.

I recommend that you consider the following editions: The Artist Signed and the Unsigned (Numbered) editions remain at 2,500 and 5,000, respectively. They are reproduced with the lettering shown and sold as "posters." The "Presidential" edition is distinguished by several features: There is no lettering, making this edition an "art print." Art prints command higher prices in the market than do posters. The print bears the pencil signature of Rodrigue, a hand-stamp of the Inaugural Seal and reproductions of the signatures of the President and the Vice-President as well as a number in the format 1/1000, etc. Overall, I think the effect of all this will be quite impressive.

The approximate size of the image will be 23" x 35" printed on a 24" x 38" sheet. This leaves 1/2" of paper on the top and sides and 2 1/2" at the bottom for the signatures. These dimensions, and the placement of the elements on the page, may vary slightly as Rodrigue turns his sketch into the finished painting.

If the image is acceptable, or if there are changes you require, please fax them to me ASAP. Although our Agreement gives you until tomorrow at 6 p.m. to respond, the more time Rodrigue has to paint and we have to print, the better the finished product will be.

Regards,

Bud Brimberg

If we stop tomorrow do
we forfeit artwork?
Has anyone explained
the Blue Dog Problem to
Rodrigue? - Do we
need this money?

THE PRESIDENT HAS SEEN

12-18-96

17 December 1996

'96 DEC 17 PM6:42

MEMORANDUM TO THE PRESIDENT
THE VICE PRESIDENT

CC: Leon Panetta
Evelyn Lieberman
Maggie Williams
Ron Klain
Skila Harris
~~Julie W. White~~

From: Harold Ickes (H)

Re: Proposed Inaugural lithograph by George Rodrigue

Handwritten notes:
If we stop tomorrow do
we forfeit artwork? Has anyone
explained the Blue Dog Problem
to Rodrigue? - Do we need this
money?
BC

The proposed Inaugural lithograph by George Rodrigue will be approximately 34 inches high and 22 inches wide. The President will be seated and the Vice President will be standing behind him. The "blue dog" will be sitting near the President. It is proposed that the dog will be approximately 6 inches high and 3 and a half inches wide.

If you agree that we should go forward with this project (approximately 1,000 posters to be signed by the President, the Vice President and the artist to sell at \$2,500 per; 2,500 posters to be signed by the artist to sell at \$400 per and 5,000 posters to sell at \$100 per) the paper stock must be ordered tomorrow (Wednesday). Therefore, you need to make a decision by noon tomorrow.

You will have the right to approve the proposed lithograph, but the approval timelines will be very tight.

No later than 6:00 PM, 23 December, the artist will provide to you rough sketches showing elements of art work and approximate layout.

No later than 6:00 PM, 24 December, you must approve the rough sketches or request alterations.

No later than 6:00 PM, 26 December, the second "draft" of the artwork will be submitted to you, if needed.

No later than 6:00 PM, 27 December, you must give final approval.

If PIC is unable to reach an agreement on the artwork, the project can be cancelled, but PIC will forfeit \$70,000.

I would greatly appreciate your letting me know no later than noon tomorrow whether PIC should go forward with this project.

THE PRESIDENT HAS SEEN

12-24-96



Fine Cigars

35 St James's Street London SW1A 1HD

Tel: 0171-930 3079

Fax: 0171-930 5887

Douglas Elliot

*Doyle
taken*

JIM DORSKIND:

Please coordinate
the reply.

*12/24
sent in
the original
S.*

THE PRESIDENT HAS SEEN
12-24-96

20 December 1996

MEMORANDUM TO THE PRESIDENT
THE VICE PRESIDENT

CC: Leon Panetta
Evelyn Lieberman
Erskine Bowles
Maggie Williams
Ron Klain
Skila Harris
Bruce Lindsey
Nancy Hernreich
Ann Stock
Ann Jordan
Terry McAuliffe
Craig Smith
Deborah Willhite

From: Harold Ickes 

Re: Selling Inaugural memorabilia through QVC
television

QVC, Inc. is the leader in American in the electronic retailing with 2 televised shopping services. It is the largest electronic retailer in the United States transmitting 24 hours a day, 7 days a week and reaching over 80% of all U.S. cable homes and 3 million homes with satellite dishes for a total of over 57 million households.

The Presidential Inaugural Committee ("PIC") recommends that Inaugural memorabilia be offered for sale on QVC. PIC receives approximately 15% on the gross of the sales of all such merchandise except for license plates for which PIC receives 25% of the gross sales price.

Among the items that would be offered for sale over QVC would include:

- a CD (yet to be produced by PIC)

but can we still book

- the proposed lithograph by George Rodrigue
- the Inaugural medallion
- Inaugural china ware
- Inaugural pen
- Inaugural mug
- Between Hope and History

In addition, people familiar with this operation think that Mrs. Kelly's book could also be sold over QVC with the profits to go to the breast cancer center.

I would appreciate your reaction to this proposal.

THE WHITE HOUSE

WASHINGTON

December 20, 1996

THE PRESIDENT HAS SEEN

12.24.96

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM:

SAMUEL R. BERGER

SUBJECT:

Chinese Names and Spelling

'96 DEC 20 PM 6:02

You asked about conversion of the spelling of Chinese names and places. Romanization/alphabetization of the Chinese language has been a problem since the earliest contact with the West two centuries ago. Multiple tones, unfamiliar phonics and a complex writing system make Chinese a very difficult language for Westerners to learn. Although the written language is universal, regional dialects vary amazingly and are often not mutually intelligible. So although all Chinese will agree on the meaning of a particular character, they will not agree on its pronunciation.

The first efforts to romanize Chinese were undertaken by Western missionaries, most of whom resided in the southern port city of Canton, which has a very distinctive dialect. The Western assignment of spelling to China's principal cities therefore reflected the pronunciation more common to that region. For example, "Peking" was the rendering of the Cantonese pronunciation (phonetically "Buk-ging") of the characters for "northern capital," pronounced "Bay-jing" in the north.

Two British officials established a more uniform romanization system in the late 19th century, and it was named for them (Wade-Giles) and used widely until 1949. Its colonial origins disqualified it for official adoption by the new regime, however, which experimented with different systems until the mid-1970s. Early on, the Communist Party declared the northern or Mandarin dialect the official language of China. In 1978, it officially adopted the "Pin-yin" romanization system of Mandarin (developed by a committee) and began using it in all publications. Reluctantly, Western mapmakers, libraries, publishers and finally the U.S. Government converted to "pinyin" at a cost of millions of dollars.

Regrettably, "pinyin" is subject to the same limitations as previous systems -- phonics difficult to render in English. But its developers' decision to use "q" to pronounce "ch" and "x" to sound "sh" can only be ascribed to obfuscatory impulses and a desire to keep foreigners from being able to speak the language.

cc: Vice President
Chief of Staff

SHAW PITTMAN
POTTS & TROWBRIDGE
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

2300 N Street, N.W.
Washington, D.C. 20037-1128
202.663.8000
Facsimile 202.663.8007

WELDON H. LATHAM
202.663.9228
weldon_latham@shawpittman.com

New York
Virginia

December 20, 1996

Via Facsimile and U.S. Mail

Hon. William J. Clinton
President of the United States
The White House
Washington D.C. 20500

THE PRESIDENT HAS SEEN

12-24-96

Dear Mr. President:

Congratulations on your nominations of Alexis Herman, Rodney Slater and Federico Peña as Secretaries of Labor, Transportation, and Energy, respectively. As I stated in my December 11th Memorandum, Rodney and Alexis will continue to effectively serve your Administration -- as will Federico. **Again, you have achieved a Cabinet that "looks like America!"**

I had been concerned earlier this week with rumors that neither Alexis nor Rodney would secure positions in the Cabinet as well as with the announcement of several White House appointees -- *with no African Americans*. The optics of the *Post* picture, particularly in light of *your* election victory in the minority and female communities of America, was quite depressing. I received numerous calls from several of your supporters whom I recruited during the Campaign.

I urge you to follow your natural instincts and reach new levels of achievement, opening the White House "ol' boy network" to more of *your* most loyal supporters -- African Americans. Erskine has promoted staff appointees, recognizing their contributions to you in the first term. Please do not fail to recognize the role that both Richard Hayes and Ben Johnson, continue to play on your behalf. Their promotions will provide the minority community with the continuing positive sense that you are protecting our interests.

As you know, do not hesitate to contact me if I can be of any further assistance to you.

Best regards,


Weldon H. Latham

cc: Hon. Erskine B. Bowles
Hon. Bob J. Nash

12-24-96

THE WHITE HOUSE

WASHINGTON

December 19, 1996

MEMORANDUM FOR THE PRESIDENT

FROM: JACK QUINN, BRUCE LINDSEY, JONATHAN YAROWSKY,
PETER ERICHSEN, PAUL CAREY, MELANNE VERVEER,
KUMIKI GIBSON, ELEANOR ACHESON AND ROBERT VAN KIRK

SUBJECT: NOMINATION OF JUDICIAL CANDIDATES -- DECISION
MEMORANDUM

The next four years present you with an historic opportunity to influence the makeup and character of the federal courts. We believe that the initial months of the First Session of the new Congress will be crucial to the success of our efforts to meet this challenge and fill the growing number of judicial vacancies. With the commencement of the 105th Congress in early January -- just three weeks away -- it is essential that we begin preparing candidates for nomination immediately. Because this vetting process -- even for previously nominated candidates -- will take much of that time, we would like your approval to proceed now with those candidates posing the fewest confirmation issues.

For this reason, this memorandum seeks decisions concerning candidates who were nominated, but not confirmed, during the 104th Congress, as well as decisions concerning three of four Court of Appeals candidates who received your approval in that same period but were not nominated prior to adjournment because it was clear they would not be acted upon by the Senate. In the coming weeks, we anticipate sending you additional memoranda discussing individuals that were previously nominated or approved, but who present more serious issues, and several new candidates who have been in the selection process and are now prepared for a final decision.

I. BACKGROUND

By any standard, your first term in office was highly successful in filling judicial vacancies. Overall, 204 appointments to the federal courts were made during your first four years in office. This total exceeds the 195 appointments made by President Bush and the 167 appointments made by President Reagan in their respective first terms. As the last two-term President, President Reagan appointed 385 individuals to the federal courts over eight years, accounting for just over 50 percent of the judiciary by the end of his second term. With over 200 appointments in your first term and a comparable number of vacancies expected during the second term, you are positioned to exceed that total by naming a greater number of federal judges than any President in history.

Must
Do

A. The Task Ahead

The challenges we face in the second term to realize this opportunity are significant, particularly given Republican control of the Senate. The Second Session of the 104th Congress was marked by unprecedented partisanship concerning judicial appointments on the part of the Senate leadership. During the entire session, only 17 nominees were confirmed -- the lowest election year total in over 20 years. In addition, all 17 confirmed nominees were district court judges -- the first time in over 40 years that a session of Congress has ended without a single court of appeals nominee being confirmed by the Senate.

The effect of this partisan approach to vacancies in the federal judiciary has been significant. As a consequence of the shutdown of the confirmation process during this election year, the vacancy level has grown steadily throughout 1996 and now stands at just under 80. Based solely on announced future retirements, it will increase to 92 by the time Congress returns; if retirement announcements continue at a standard rate, total vacancies may well exceed 100 -- approximately the same level as when you took the oath of office on January 20, 1993. In sum, the blocking actions of the Republican Senate have jeopardized the excellent record you achieved in your first three years in office.

B. The Current Political Climate

At the moment, the Republican leadership is sending conflicting signals on the subject of judicial nominations. On the one hand, Majority Leader Trent Lott and others have mentioned judges as an issue that they will continue to monitor closely as conservative interest groups warn of the profound effect your second term of office could have on the face of the judiciary. Moreover, recent statements by Senator Hatch at a meeting of the Federalist Society carried a sharp partisan edge as he warned that liberal nominations would not be welcome at the Senate Judiciary Committee. On the other hand, members of the Republican leadership continue to repeat their post-election mantra that the American public expects the divided government elected on November 5 to work together. And Senator Hatch, in a call to wish Jack Quinn well in his future endeavors, specifically asked that Jack let you know that he wishes you well and is looking forward to working with you in the new Congress.

We thus need to make clear to both the Republican and Democratic leadership in the Senate that bi-partisan work in filling the growing number of vacancies in the federal judiciary will be one of the criteria by which to judge whether the government is indeed working together.

II. PREVIOUSLY NOMINATED CANDIDATES

A. Court of Appeals

Seven of the eight court of appeals nominations that were returned by the Senate pose either no confirmation issues or issues that we believe are surmountable and worth the effort. As to each of these candidates, no new issues have been raised since you gave your initial approval to nominate. As noted below, we recommend at least deferring the renomination of Judge Richard Leonard of North Carolina, one of your two nominations to the Fourth Circuit, pending further discussions with the North Carolina Senators.

Accordingly, we recommend that you renominate the following seven individuals:

✓ 1. Eric Clay -- Sixth Circuit (Michigan)

Clay, a private practitioner in Detroit, had a hearing before the Senate Judiciary Committee on March 27, 1996 and was approved unanimously by the Committee on April 25. No floor vote was taken. Senator Abraham (R. Mich.) was supportive of the nomination last session and already has called to express his continuing willingness to assist Clay. There are no significant issues surrounding Clay's nomination.

✓ **Recommendation:** We recommend that you renominate Clay.

2. Merrick Garland -- DC Circuit

Garland, currently the Principal Associate Deputy Attorney General, was approved by the Committee on December 14, 1995, by a vote of 14 to 2. No issues have arisen relating to Garland's qualifications for the bench; he is nearly universally regarded as an able, politically moderate nominee. Senator Grassley has based his opposition to Garland on his argument that the DC Circuit does not need a twelfth judge. While this argument lost some of its force when Judge James Buckley announced his retirement in August -- leaving only ten active judges on the court -- Senator Grassley has indicated that he will continue to oppose the Garland nomination until legislation he has introduced eliminating the twelfth seat has been passed.

Senator Hatch told us last term, and has confirmed recently, that, having shepherded Garland through the Committee, he would work to secure Garland's confirmation. We continue to believe that despite Senator Grassley's objections, we should be able to win Garland's confirmation. But, in the meantime, we view it as advisable to engage Grassley in a dialogue about his views on the judiciary since he will be a major player for the Republicans on judicial nominations.

Recommendation: We recommend that you renominate Garland.

✓ 3. William Fletcher -- Ninth Circuit (California)

The nomination of William Fletcher, a law professor at the University of California at Berkeley, presents only one issue -- the nepotism problem that Senator Hatch and other Republican members of the Committee claim arises from the fact that Fletcher's mother, Betty Fletcher, is an active Ninth Circuit judge. Fletcher had his hearing before the Senate Judiciary Committee on December 19, 1995 and was approved by a closely divided vote on May 16, 1996 after his mother agreed to take senior status to obviate concerns Republicans had raised about an obscure anti-nepotism statute that has never previously been thought to apply to the appointment of federal judges.

It is unclear how Senator Hatch and his colleagues will handle this issue in the new Congress. Judge Fletcher's agreement was conditioned on her son's being confirmed before the election, so there currently is no understanding with Senator Hatch. Although we would like to avoid the necessity of Judge Fletcher's taking senior status, Professor Fletcher has informed us that his mother is willing to retire under the same conditions if it is required. You should know that Professor Fletcher was the subject of escalating attacks from conservative activists prior to the election and may yet again come under scrutiny for some of his academic opinions, none of which is particularly problematic in our view.

Recommendation: We recommend that you renominate Fletcher.

✓ 4. Richard Paez -- Ninth Circuit (California)

Paez, whom you appointed to the Central District of California in 1994, was nominated to the Ninth Circuit on January 25, 1996, and had a hearing before the Committee on July 31. He would be your first Hispanic nominee to the Ninth Circuit. The Committee did not vote on Paez prior to adjournment, but the failure to do so was apparently unrelated to any concerns about Paez' nomination. While Paez attracted little controversy after his nomination, he may be targeted because of his early career as a legal aid lawyer or on the ground that his relatively brief stint on the District Court does not qualify him for the Court of Appeals (he served prior to his federal appointment as a municipal court judge in Los Angeles). Paez, however, has the support of the Hispanic Bar and should be well positioned to withstand any attacks.

Recommendation: We recommend that you renominate Paez.

✓ 5. **Margaret McKeown -- Ninth Circuit (Washington)**

McKeown, a partner with the Perkins Coie firm in Seattle, was nominated on March 29, 1996 after considerable pre-nomination efforts to resolve concerns raised by Senator Hatch and conservative activists. Just before her nomination, we were finally able to secure a meeting between McKeown and Hatch. The meeting went extremely well. Although Hatch did not express his support for McKeown, they held a frank and substantive discussion about the issues likely to bedevil her nomination -- her representation of the plaintiffs in a legal challenge to an anti-gay-rights ballot initiative in Washington, the fact that she signed the ABA resolution supporting abortion rights, and her participation in the 9th Circuit gender bias task force. At Hatch's suggestion, we arranged meetings with Senators Specter and Abraham and with Senator Thompson's staff, all of which were less substantive than the Hatch meeting but went well.

We can expect that the McKeown nomination will draw fire from conservative activists. To date, one very negative op-ed on McKeown has appeared in the *Washington Times*, and we can expect further opposition if she is renominated.

Recommendation: McKeown may well become a controversial nominee, but we believe this is a candidate we should fight for both because she is superbly qualified and because the issues on which she has been criticized (reproductive freedom and gender equity), are generally favorable to us. Moreover, those who have criticized the Administration's judicial appointments in the past are looking to this nomination (as well as the nomination of James Beaty discussed below) as a sign that we will defend perceived "liberal" nominees from Republican attacks. Because McKeown has considerable support from within the 9th Circuit bar, from her business clients, and from Senator Murray, she is well-situated to fight and win a confirmation struggle. We recommend that you renominate her.

✓ 6. **Arthur Gajarsa -- Federal Circuit**

Gajarsa, a private practitioner here in Washington, was nominated on April 18, 1996 and was voted out of Committee on June 27. Although Senator Hatch was not overly pleased with this nomination, Gajarsa acquitted himself well at his hearing and faces little opposition. He also has the considerable support of the Italian-American community.

Recommendation: We recommend that you renominate Gajarsa.

7. James Beaty -- Fourth Circuit (NC)

The only other appellate nominations that were returned were your Fourth Circuit candidates, James Beaty, a district court judge in North Carolina whom you appointed in 1994, and Richard Leonard, a bankruptcy court judge in North Carolina. Both men were nominated on December 22, 1995, but neither Senator Helms nor Senator Faircloth ever returned a "blue slip" on either nomination. We should note that Leonard was nominated, in part, to help us get Beaty through the confirmation process with Helms and Faircloth; but we had no strong stake in Leonard's nomination during the last Congress, and none now.

Throughout the year, Senator Helms made clear through intermediaries and in press comments that he would prevent the Committee from holding a hearing on either nominee until his candidate, U.S. District Judge Terry Boyle, was nominated to one of the vacancies. (You will recall that we reviewed Judge Boyle's record last term to determine his suitability and recommended, based on that review and strong opposition from your North Carolina supporters, that you not consider appointing him.) Senator Faircloth had cordial meetings with both nominees but also made clear that he would follow Senator Helms' lead in all respects. The most recent public comments from Senator Helms suggest that he intends to adhere to this position next term.

The situation has been complicated by the fact that Senator Hatch has criticized severely and publicly a recent decision joined (but not written) by Judge Beaty while sitting by designation with the 4th Circuit. Hatch included lengthy and gory descriptions of the facts of the case -- a per curiam grant of a habeas petition to an alleged double murderer -- in two of the floor speeches that he delivered against Clinton judges last spring; and he mentioned the case again last month in a speech to the Federalist Society. The *Wall Street Journal* and others have also criticized the decision.

Although the critics made a strong effort to turn Beaty into "another Judge Baer", they were not successful. Beaty did not receive widespread negative publicity; in fact, the *Winston-Salem Journal* ran two favorable editorials and a highly complimentary front-page profile of Beaty in mid-February, quoting numerous local lawyers and prosecutors contradicting the "soft-on-crime" label.

Recommendation: Our pre-election thinking for these 4th Circuit vacancies included a re-examination of the situation if Helms and Faircloth held firm, with the possibility of moving one of the vacancies to West Virginia or Maryland. With Senator

Helms' reelection and the Senate even less friendly than last session, we are concerned that moving a judicial seat, even one never expressly assigned to North Carolina and one that has never been filled, would create a potential backlash in the Committee and indeed in the Senate as a whole, especially if we failed to first renew our efforts to negotiate a solution with Senators Helms and Faircloth.

Although the controversy around Beaty has complicated the situation, we recommend sticking with this nominee, in part to demonstrate our resolve in fighting for embattled candidates and in part as a matter of principle because the criticism of this candidate is so unfair. However, because a return to the status quo is likely to again bog down the process of filling these seats, we recommend not renominating Judge Leonard, at least initially, to hold open the possibility that we might move the seat to another state and, more positively, to create an avenue for negotiation with Senator Helms about candidates other than Judge Boyle. Hopefully, Erskine Bowles can help with Senator Helms on this issue.

B. District Court

Of the 21 district court nominations that were returned at the end of the session, 14 individuals pose either remediable or no confirmation difficulties. We recommend that you renominate each of these individuals. They are as follows:

1. Anne Aiken -- District of Oregon

Aiken, a state court judge in Oregon, secured a hearing at the very end of the session with the assistance of Senators Hatfield and Wyden. However, no Committee vote was taken before adjournment. Aiken's nomination drew some criticism from conservative quarters based on a few sentencing and criminal law opinions in the early days of her tenure as a state judge. Those issues were addressed in the initial Presidential decision memorandum and seem to have been resolved by the time of her hearing, which went without incident. We also understand that Aiken has the support of Oregon's new Republican senator, Gordon Smith, who flew from Oregon to attend her hearing last fall.

2. Lawrence Baskir -- Court of Federal Claims

Baskir, currently the Principal Deputy General Counsel of the Department of the Army, was nominated on March 29, 1996 but did not receive a hearing. Baskir has no confirmation issues but was held up because Republicans feared you would exercise your statutory authority to appoint Baskir to the Chief Judge

Withdrawal/Redaction Sheet

Clinton Library

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001. memo	Jack Quinn et al. to POTUS re: Nomination of Judicial Candidates [partial] (1 page)	12/19/1996	b(6)

COLLECTION:

Clinton Presidential Records
Staff Secretary
Todd Stern
OA/Box Number: 8788

FOLDER TITLE:

Chron Files: Tuesday, December 24, 1996

2019-0774-S

rs3345

RESTRICTION CODES

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

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- 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]

position, thereby displacing Judge Loren Smith, who has furthered conservative takings theories during his tenure. We resisted attempts to secure an agreement not to name Baskir to the Chief Judge position as a condition of his confirmation last term and would recommend adhering to this position.

✓ 3. Joseph Bataillon -- District of Nebraska

Bataillon, a private practitioner in Omaha, was nominated on March 6, 1996 and received a hearing on July 31. No vote was taken on his nomination. (b)(6)

Republican
investigative staff on the Judiciary Committee had a number of conversations with Bataillon about this issue before his hearing, but no questions were raised during the hearing itself.

✓ 4. John Bingler -- Western District of Pennsylvania

Bingler, a private practitioner in Pittsburgh, was nominated on July 21, 1995, but never had a hearing. He is part of a large block of Pennsylvania nominees/vacancies being held up primarily by Senator Santorum with the acquiescence of Senator Specter. Santorum's specific objection to Bingler is that he supported the campaign of his Democratic opponent then Senator Harris Wofford. More generally, Santorum and Specter are seeking a larger role in the judicial selection process through the creation of an advisory panel that would submit recommendations to you. We have strongly resisted these efforts and will continue to do so. To reinforce our position and signal our determination on this issue, we believe Bingler should be renominated even though there is no guarantee we can broker a larger deal that will win his confirmation.

5. Colleen Kollar-Kotelly -- District of Columbia

Kotelly, a judge on the Superior Court in DC, was nominated on June 29, 1996 had a hearing on July 31, and was the only one of six nominees at that final hearing to be voted out of Committee. Her nomination has been well received by both sides of the aisle, and she should face no confirmation hurdles.

6. Richard Lazzara -- Middle District of Florida

Lazzara, a judge on the Florida state trial court, was nominated on May 9, 1996 but did not receive a hearing. Lazzara faced some staff opposition (but no adverse publicity to date) based on a death penalty case in which he declined to follow the jury's recommendation of death in a particularly brutal murder. Lazzara, however, reached this decision only after concluding that Florida law precluded the death penalty under the facts of the case. He is otherwise known as a tough sentencer and has imposed the death penalty on two other occasions. Moreover, we believe we can count on at least the tacit support of Senator Mack should any issues arise.

7. Donald Middlebrooks -- Southern District of Florida

Middlebrooks, a private practitioner in West Palm Beach, was nominated on September 5, 1996. We do not expect any problems to arise with this nomination.

8. Jeffrey Miller -- Southern District of California

Miller, a state court judge in San Diego, was nominated on July 19, 1996. He is extremely well regarded in California and should pose no confirmation issues.

9. Susan Oki Mollway -- District of Hawaii

Mollway, a private practitioner in Honolulu, was nominated on December 21, 1995 and was approved by the Committee after a hearing on March 27, 1996. She is an American of Japanese descent and her father served in the military with Senator Inouye, who has been a forceful advocate for her nomination. She encountered opposition based largely on her service as a board member of the Hawaii chapter of the ACLU. The issue took on particular significance during debate on the Defense of Marriage Act because the Hawaii ACLU was involved in the same-sex marriage litigation. Mollway, however, was not a board member when the Hawaii gay marriage case was first initiated and did not participate in the case in any manner. Given the outcome of the litigation, however, her nomination may face continued opposition. Despite this possibility, we recommend renominating Mollway.

10. Margaret Morrow -- Central District of California

Morrow, a private practitioner in Los Angeles, was nominated on June 25, 1996. We do not believe her nomination will face significant opposition. While Jack participated in the original recommendation to nominate her in June, he did not participate in the current round of discussions about renomination because Morrow has recently become affiliated with his former law firm as a result of a merger.

11. Robert Pratt -- District of Iowa

Pratt, a private practitioner in Des Moines, was nominated on August 2, 1996. Pratt's practice is focused on low-income clients and he has a legal services background. He is strongly supported by Senator Harkin and should have the support of Senator Grassley. Accordingly, we do not anticipate any confirmation problems.

12. Christina Snyder -- Central District of California

Snyder, a private practitioner in Los Angeles, was nominated on May 15, 1996. We do not believe her nomination will encounter significant opposition.

13. Clarence Sundram -- Northern District of New York

Sundram, currently the Commissioner of the State Quality of Care for the Mentally Disabled in New York, was nominated on September 29, 1995, and had a hearing before the Committee on July 31, 1996. No Committee vote was taken. Sundram's nomination faced a number of hurdles based on his lack of trial experience and several issues associated with his present post, none of which we regard as significant. These issues appear to have been largely resolved, or at least fully addressed, prior to adjournment. While it is possible that Sundram could face further opposition, Senator Moynihan is very committed to the nomination, and we believe the intensity of the opposition is likely to wane in the wake of the election.

14. Thomas Thrash -- Northern District of Georgia

Thrash, a private practitioner from Atlanta, was recommended by Senator Nunn. He was nominated on May 15, 1996 and had a hearing before the Committee on July 31. Although the Senate has, in the past, expedited consideration of candidates submitted by retiring senators, no Committee vote was taken. Thrash has solid credentials and no confirmation issues. While we intend to consult with newly elected Democratic Senator Cleland prior to making the renomination, we recommend that you resubmit Thrash's name to the Senate unless there is opposition from Cleland.

15. Other Candidates -- The remaining seven

nominations that were returned by the Senate present issues that will be the subject of a subsequent memorandum.

Recommendation: We recommend that you renominate each of the individuals identified in paragraphs 1 through 14.

III. NOMINATIONS OF PREVIOUSLY APPROVED CANDIDATES

A. Court of Appeals

You previously have approved three appellate candidates who were not nominated prior to the adjournment. We recommend that you now nominate all three individuals.

1. Andrew Hurwitz -- Ninth Circuit (Arizona)

Earlier this year, you gave your approval to the nomination of Andrew Hurwitz, a Phoenix lawyer, to the Ninth Circuit. Because it was apparent that Senator Kyl would not support Hurwitz during an election year, we did not make the nomination prior to the adjournment. Hurwitz has outstanding credentials and has the support of Secretary Babbitt, for whom he worked in Arizona. Although he may face opposition based on some of the matters on which he has worked during his career, we do not believe there will be a serious challenge to his nomination.

Recommendation: We recommend that you proceed with the nomination of Hurwitz after we first consult with Senator Kyl as well as Senator McCain, who may wish to play a larger role in nominations in this session of Congress.

2. Marjorie Rendell -- Third Circuit (Pennsylvania)

Rendell, whom you appointed to the federal district court in Philadelphia, was approved for elevation to the Third Circuit earlier this year. Her nomination was delayed due to calls by some interests groups for appointment of an alternative candidate and by the continuing uncertainty over the general situation in Pennsylvania (we now have six district court vacancies in addition to this seat). Rendell has developed an outstanding reputation on the district court in a very short period of time and should face few confirmation difficulties, provided we can resolve the larger issue in the state.

Recommendation: We recommend that you nominate Rendell even in the absence of a global agreement for two reasons: first, nominating Rendell now may help to decouple this appellate vacancy from the district court seats; and second, even if a package deal is necessary, we will emphasize that Rendell must be part of any agreement. Given the past delays in reaching a compromise, we see little benefit in postponing this nomination.

3. Helene White -- Sixth Circuit (Michigan)

White, a judge on the Michigan Court of Appeals, also was approved earlier this year but was not nominated before Congress adjourned. Although White initially was selected because other more qualified candidates posed potential election year risks, Senator Levin asked for and received our commitment to nominate White in the second term. She received a Q/NQ rating from the ABA and has a few problematic decisions from her tenure on the state court, but we do not believe her nomination will face serious obstacles.

Recommendation: Absent Senator Levin's personal intercession, we might have wanted to reconsider this selection at some later juncture. However, based on the express written commitment we made to Senator Levin last Congress, we recommend that you nominate Helene White.

V. CONCLUSION

We recommend that you renominate each of the 24 candidates listed above who were nominated last term, as well as the three candidates listed above who previously received your approval.

APPROVE ALL

DISAPPROVE AS FOLLOWS:

THE WHITE HOUSE
WASHINGTON

December 20, 1996

MEMORANDUM FOR THE PRESIDENT

FROM:

JACK QUINN 
KATHLEEN WALLMAN

We write in response to your note asking about the status of our hiring efforts in the Counsel's Office. As described below, we are making good progress and have hired some terrific people for some of our open positions. However, the key decision of who should become the new Special Counsel in charge of the contributions, Whitewater, Travel Office and FBI files matters has effectively been put on hold until the selection of Jack's successor. It is crucial that those selections be resolved quickly so that we will be in a position to deal with the congressional hearings on the contributions matter that will begin in February, to respond to the grand jury subpoena on the matter that we already have received, and to handle the day to day inquiries that arise on this subject.

For other open positions, we have hired:

Don Goldberg, to assist us with congressional relations. He will join us on January 7 from the minority staff of the House Government Reform Committee. He was a terrific adviser to us during the Clinger Committee's work on the Travel Office matter and is widely respected among our White House congressional people.

We hope also to hire Ann Harkins, currently Deputy Assistant Attorney General for Legislative Affairs, to give us additional depth in the area of congressional relations. We have known Ann for many, many years and believe that her legal talents, her knowledge of the Hill and her sound judgment will make her an enormous asset to us.

Bill Marshall, to replace Elena Kagan. He will join us January 14 and will handle projects such as our work with the religious groups on religious freedom issues and abortion. Bill is a professor at Case Western Reserve Law School. He is known to a number of people around the White House from his work on the campaign and will be a great addition to the office.

Karen Popp, to work on the contributions matter with Cheryl and to work on criminal justice policy issues such as the victims' rights amendment. She will start on December 27. Karen was an Assistant United States Attorney in the Southern District of New York and now

works in the Office of Legal Counsel at DOJ. She comes very highly recommended by Walter Dellinger and others.

We are also working on finding a successor to David Fein who can be available to work on the contributions matter as needed and who can cover criminal justice policy matters and other issues such as the tobacco litigation. We would like to find a successor who, like David, has substantial experience as a prosecutor. We have interviewed a number of candidates, and hope to finalize our selection early in January.

Even after we have filled our open positions, we will need more help. We have been assured by Erskine that we will be allowed to expand our staff by three new slots to get the needed help to handle the contributions matter.

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To S. Buge

Fyl-

cc VP / Leon Fuent

BC

THE PRESIDENT HAS SEEN

12-24-96

COUNCILMAN NOACH DEAR

December 11, 1996

THE PRESIDENT HAS SEEN

12-24-96

The President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Mr. President:

I am writing to you to provide further input regarding the Middle East, particularly yesterday's fatal attack on a Jewish family near Ramallah. This terrible shooting is shaking all of Israel and will cause problems for Prime Minister Netanyahu.

Yassir Arafat surely knew this attack was coming and it is part of his overall plan to stall any agreement with Israel. He thought this would work to his advantage until after the election, stating openly that he expected you to exert more pressure on Israel after your victory.

He is also doing this to put Netanyahu in as difficult position as possible. The Prime Minister is being squeezed by the right, which will turn on him as it becomes more disillusioned, and by world opinion, which is blaming him for the failure of the two sides to produce the stalled Hebron agreement.

The truth is that Prime Minister Netanyahu and Chairman Arafat have reached an agreement on Hebron. But Arafat is listening to President Mubarak, who is telling him not to sign it and is harshly criticizing Israel. The time is ripe for the United States to step into the breach and bring the two sides out into the open together to sign this long-awaited pact.

Otherwise, if tensions continue to simmer as the agreement is stalled, there could be violence between Israelis and Palestinians much worse than what occurred in September.

This is a good time for the United States to jump in and continue the work you did in the region during your first term.

Sincerely,



Noach Dear

THE WHITE HOUSE

WASHINGTON

December 21, 1996

PRESIDENT HAS BEEN
12-24-96

Tab E not returned

MEMORANDUM FOR THE PRESIDENT

FROM: TODD STERN
HELEN HOWELL

SUBJECT: Recent Information Items

See letter
on 12/21/96

We are forwarding the following recent information items:

- (A) **Sec. Peña follow-up on DOT budget.** The Secretary thanks you for discussing the Department's budget, and underscores the need to: 1) honor the resource levels OMB agreed to for the FAA (\$83 million in outlays above passback for safety inspectors and air traffic controllers) and the Coast Guard (\$73 million in outlays above passback for safety and environmental protection); and 2) propose an ISTEA bill at an appropriate level, i.e., one that will "pay dividends in jobs, economic productivity and growth."
- (B) **"Riverboat Gambling with Government," Richard Darman, December 1 NY Times Magazine.** Via Larry Summers. Darman's main point is that domestic policy making too often involves large-scale gambles rather than smaller, pilot projects whose results are then seriously evaluated before taking the idea to a national level. Darman argues that if you care about your place in history, you need to recognize that the benefit of serious policy research accrues to future politicians and citizens. Summers agrees. He suggests that conducting evaluations of existing Federal programs while working with governors on policy innovations at the state level could provide you with a legacy of policy initiatives based on solid evidence of success, and suggests that this is worth thinking about as you consider proposals for job creation for welfare recipients.
- (C) **Rasco follow-up on liver transplants.** Watson Bell's wife had a transplant several years ago, and he has since been very active in United Network for Organ Sharing (UNOS), the private entity that oversees transplantation activity in the U.S. In a meeting with Carol and Chris Jennings, Mr. Bell expressed concern about the HHS hearings on transplantation, and he wants to meet with you. Carol would like you to, at least, call Mr. Bell (with Chris Jennings in attendance). Carol believes that the most important thing you can do on this issue is urge people to become organ donors, and she suggests that you direct HHS to organize a campaign for organ donors as part of the overall announcement when HHS resolves the current allocation issues.
- (D) **Myers follow-up on partial birth.** Betsy reports that the pro-choice community has

Loon/SB

Gar S/B
Rasco

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We also received the following:

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DB Reporting
AR