

Judge -
I faxed this
to Brett on
3/29 so he
has it...

Brett

To: Brett (6.1647)



UNITED STATES SENATOR

John Ensign

NEVADA

WASHINGTON, D.C. 20510

PHONE (202) 224-6244

FAX (202) 228-2193

Date: _____

To: Mr. Flanigan & Mr. Gonzalez

Fax Number: _____

From: Scott BensingRe: Nineth CircuitNumber of pages including cover: 2**NOTES:****CONFIDENTIALITY NOTICE:**

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United States Senate
WASHINGTON, DC 20510

March 23, 2001

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As you begin the critical task of filling vacancies on the U.S. Circuit Court of Appeals, we are writing to request that a Nevadan be considered to fill one of the three vacancies on the Ninth Circuit.

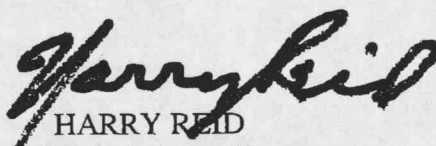
Of the three vacancies, Justice Charles Wiggins, who completed his active service from his chambers in Las Vegas, occupied one seat. Nevada is blessed with many qualified candidates from which to choose an appellate court justice.

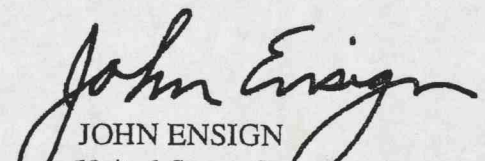
At present, Nevada, the fastest growing state in the country, holds only two active seats on the Ninth Circuit Court. Over the past decade, Nevada's population grew by more than 66 percent to over 2 million. At this rate of growth, the Las Vegas area alone will nearly double to 2.5 million over the next ten years. Unfortunately, along with this growth, Nevada's federal caseload has been increasing as well.

The increased burden on Nevada federal courts is evidenced by the expansion of the district court late last year to include an additional judge. Nevada has a clear need for fair representation at the circuit court level.

It is our hope that this bipartisan request will serve as an indicator of our commitment to work together to gather support for confirmation of a Nevadan to rapidly fill one of the important vacancies on the Ninth Circuit. Thank you in advance for your consideration of this request. We look forward to working with you on this important issue for our state.

Sincerely,


HARRY REID
United States Senator


JOHN ENSIGN
United States Senator

Congress of the United States

Washington, DC 20515

February 26, 2001

Hon. George W. Bush
President of the United States
The White House
Washington, D.C. 20500-0001

Re: Ninth Circuit Judgeship in Washington State

Dear Mr. President:

You have the opportunity to fill a federal judicial position in the state of Washington on the United States Court of Appeals for the Ninth Circuit. We understand that United States Circuit Judge M. Margaret McKeown has announced her intention to move her official duty station from Seattle to San Diego in August 2001 for understandable family reasons. Her husband teaches on the law faculty of the University of California/San Diego and the couple has a twelve-year-old daughter. There are currently three active circuit judges (counting Judge McKeown) with chambers in Seattle.

The purpose of this letter is to ask that you fill one of the pending Ninth Circuit vacancies by appointing another active circuit judge in Washington.

The Ninth Circuit currently has twenty-eight authorized circuit judgeships with three unfilled vacancies. Because the Ninth Circuit handles nearly 10,000 cases annually (accounting for almost 20% of the entire national workload of the federal courts of appeals), staffing all available positions is critical. The Clinton Administration had two nominations pending when you took office: San Francisco attorney Barry Goode (to fill the position created by the death of the late Circuit Judge Cecil Poole) and Honolulu attorney James Duffy (to fill the position created more than ten years ago when Circuit Judge Herbert Y.C. Choy took senior status). The third vacancy was created last September when Circuit Judge James Browning took senior status.

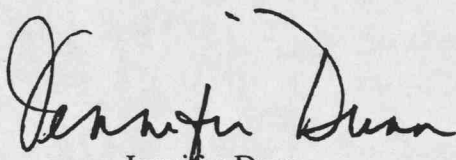
Judge Browning, when appointed, originally resided in Belt, Montana, and later went to San Francisco. Although 28 U.S.C. § 44(c) requires that at least one circuit judge in regular active service be appointed from each state within a circuit, for years Montana had no resident circuit judge until President Clinton appointed Judge Sidney R. Thomas, who resides in Billings, Montana. The statute requires that one of the three vacancies be filled by a nominee from Hawaii.

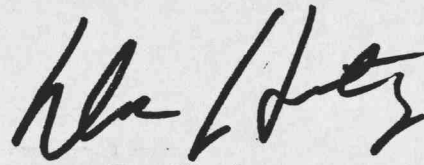
Judge McKeown's transfer to California will add a twelfth active circuit judge to the roster of the eleven active Ninth Circuit judges currently residing in California (where approximately 62% of the cases heard by the Ninth Circuit originate) and will reduce the Washington representation to two. The Judicial Conference of the United States has previously recommended to Congress that five additional circuit judgeships be created in the West. That would bring the authorized positions on the Ninth Circuit to 33. Congress has yet to take action on that recommendation.

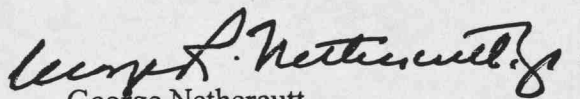
You may be aware that there has been a continuing discussion, and the White Commission issued a report after studying the feasibility, of splitting the Ninth Circuit into two or more smaller circuits. The most recent bill was introduced last year by Senator Frank Murkowski and is currently pending. Some time ago part of the Fifth Circuit was split into a new Eleventh Circuit. Should the states of the Pacific Northwest someday be split into a new Twelfth Circuit, we who represent this part of the country would obviously like to insure that we have a full complement of active circuit judges stationed here to comprise the court. In the meantime, we want to make sure that the state of Washington maintains its current representation on the Ninth Circuit.

We also believe that Former Senator Slade Gorton would make an excellent federal circuit judge and should be a fairly easy nominee to confirm. The Ninth Circuit needs the help. Senator Gorton is a natural choice.

Best regards,


Jennifer Dunn
Member of Congress


Doc Hastings
Member of Congress


George Nethercutt
Member of Congress

cc: Hon. John Ashcroft
Attorney General

Hon. Al Gonzales
White House Counsel