

DISTRICT OF COLUMBIA COMMISSION
ON JUDICIAL DISABILITIES AND TENURE

515 FIFTH STREET, N.W., BUILDING A, ROOM 246
WASHINGTON, D.C. 20001
(202) 727-1363

April 4, 2014

The Honorable Barack H. Obama
President of the United States
The White House
Washington, D.C. 20500

Re: Evaluation of the Honorable Eric T. Washington

Dear Mr. President:

The term of the Honorable Eric T. Washington, Chief Judge of the District of Columbia Court of Appeals, expires on June 6, 2014. He is seeking reappointment to another term as an Associate Judge.

Pursuant to the District of Columbia Self-Government and Governmental Reorganization Act, P.L. 93-198, 87 Stat. 774 (“The Home Rule Act”), as amended by the District of Columbia Judicial Efficiency and Improvement Act of 1986, P.L. 99-573, 100 Stat.3228. Section 433(c) (“the Commission”) hereby submits this evaluation of Judge Washington’s performance during his present term of office and his fitness for reappointment. Section 433 (c) provides:

Not less than six months prior to the expiration of his term of office, any judge of the District of Columbia courts may file with the Tenure Commission a declaration of candidacy for reappointment. If a declaration is not so filed by any judge, a vacancy shall result from the expiration of his term of office and shall be filled by appointment as provided in subsections (a) and (b). If a declaration is so filed, the Tenure Commission shall, not less than sixty days prior to the expiration of the declaring candidate’s term of office, prepare and submit to the President a written evaluation of the declaring candidate’s performance during his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President

may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the renomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court.

The Commission reserves the term “well qualified” for those judges whose work product, legal scholarship, dedication, efficiency, and demeanor are exceptional on the bench, and the candidate’s performance consistently reflects credit on the judicial system. The Commission will determine a judge is “qualified” if he or she satisfactorily performs his or her assigned duties or whose strong positive attributes are materially offset, but not overborne, by negative traits. A finding of “unqualified” means the Commission has found the judge to be unfit for judicial service.

Judge Washington filed his timely declaration of candidacy for reappointment on September 13, 2013, and completed his submission of the materials required by the Commission on December 6, 2013. In evaluating Judge Washington’s qualifications for reappointment, the Commission reviewed the written statement he submitted discussing his exceptional service to the District of Columbia Court of Appeals and to the community as an Associate Judge and as Chief Judge. The statement not only highlights Judge Washington’s many achievements and contributions, but also sheds light on his comprehension and appreciation of the judicial role. He wrote, “I have endeavored to continue treating litigants respectfully, resolving cases fairly and

efficiently, and maintaining a high level of integrity and legal scholarship in the performance of my duties.” Judge Washington’s statement was accompanied by several selected opinions authored by him. The opinions display a high quality of writing, scholarship, and sensitivity in dealing with challenging issues over a broad range of criminal, civil, family, and attorney discipline cases.

The Commission has reviewed communications from attorneys and the D.C. Bar concerning Judge Washington’s qualifications, and interviewed Court officials and attorneys familiar with aspects of his record. The Commission reviewed Judge Washington’s monthly time reports and annual financial statements, which are required to be filed by every judge. The Commission reviewed a medical statement submitted by Judge Washington’s physician attesting to his excellent health and his fitness to continue judicial service. The Commission, as in all reappointment evaluations, reviewed its complaint file concerning the Judge, and found nothing that would prevent his automatic reappointment. On March 12, 2014, the Commission met with Judge Washington for an interview concerning his record and the information the Commission had received during the course of its evaluation.

Judge Washington was appointed to the Superior Court of the District of Columbia in 1995, was elevated to the Court of Appeals in 1999, and appointed Chief Judge of the Court of Appeals in 2005 by the District of Columbia Judicial Nomination Commission. The Judicial Nomination Commission reappointed Judge Washington, Chief Judge in 2009 and again in 2013.

On the basis of all the information received Judge Washington has been an outstanding appellate judge. He has carried a substantial case load and written hundreds of opinions, memorandum opinions, judgments, and orders that disposed of cases on appeal. Many of his opinions have contributed to the development of the law and its practical implementation, because of his thorough and meticulous analysis of oftentimes competing legal principles. He has been diligent in managing his caseload, and ever mindful of how delays and backlogs adversely affect the parties waiting for the Court's decision. His warm and even temperament has fostered a collegial working relationship with his colleagues, which is crucial on an appellate court, and he has earned the respect of lawyers and litigants who have appeared before him during oral arguments. The comments from the bar concerning Judge Washington's qualifications and his performance on the bench over the past fifteen years were overwhelmingly favorable, and indicate the high regard in which he is held.

Though the Commission by statute is required to evaluate only Judge Washington's performance as an Associate Judge of the Court of Appeals, rather than as Chief Judge, the discharge of his office and duties as Chief Judge is certainly relevant to this evaluation, particularly since he has served as Chief Judge for more than half of his fifteen-year term.

As Chief Judge, Eric T. Washington, has done an outstanding job. The Court of Appeals for many years had a considerable backlog, with the disposition of cases and the issuance of opinions taking many months and in some instances several years. The backlog of the Court in general and the backlog of some individual judges was extremely serious. The frustration of

attorneys who appeared before the Court, and the tremendous personal and economic impact the delays had on litigants was well known.

Upon his appointment as Chief Judge, Judge Washington made the fair and timely resolution of cases his first priority. The statistics tell the story. The median time on appeal for cases in the Court of Appeals has declined from 505 days in 2007, to 404 days in 2009, to 352 days in 2012. Consequently the Court has made great progress in reducing its case backlog. Judge Washington has been able to achieve this noteworthy reduction through five innovative steps: he encouraged his colleagues to reprioritize case dispositions by resolving the oldest calendared cases first; the Court encouraged institutional litigants to shift resources to the front end of the appellate process and file dispositive motions early on; he involved Senior Judges more heavily in motions practice, freeing up Associate Judges to draft opinions; he introduced a new case management system and authorized the purchase of computer tables to facilitate legal research and access files remotely; and he secured funding to hire additional law clerks to handle the increased workload due to the Court's newly invigorated motions practice. Judge Washington and the judges of his Court have accomplished a tremendous feat and have made measurable progress to reduce the Court's backlog.

During his tenure as Chief Judge, the Court holds oral arguments at area law schools to continue its education outreach efforts, Court buildings have been renovated and modernized and the much needed Moultrie Courthouse expansion and modernization has begun. Audio streaming of Court of Appeals' oral arguments is now a reality, as is the Court's proactive use of social

media to better communicate and inform the public of its initiatives. A major share of credit for these and other accomplishments and innovations is due to Judge Washington for the leadership he has provided.

As Chief Judge of the Court of Appeals, Judge Washington is also responsible along with the Clerk of the Court, for insuring that the Court of Appeals as an institution operates effectively and efficiently. By virtue of the position, he serves as Chair of the Joint Committee on Judicial Administration, which provides governance of the District of Columbia Courts and sets policy for the Courts. He also must engage in a broad variety of other duties including Congressional relations and liaison with city officials, regular interaction with Court and legal organizations and bar associations, and a myriad of other individuals and institutions, all of whom impact the Court in one way or another. In 2005 the Court of Appeals established the D.C. Access to Justice Commission to examine the problems faced by low-income residents in seeking legal services, and Judge Washington has continued to play an active role in the Commission's activities.

Judge Washington must also be commended for his contributions to the administration of justice on a national level. He served as the 2011-2012 President of the Conference of Chief Justices, he co-authored a paper that was recently published entitled *Sustainable Court Governance* as one in a series of papers on state court leadership for the Executive Sessions at the Harvard Kennedy School, he serves as Co-Chair of the Task Force on the creation of a Legal Access Job Corp established by the American Bar Association, and earlier this year he was

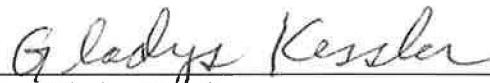
honored by the National Bar Association with the Wiley A. Branton Award for leadership on the cutting edge of law, civic, and social justice.

The comments the Commission received from attorneys and Court officials concerning Judge Washington's contributions as Chief Judge were as effusive as those submitted in response to his qualifications as an Associate Judge. Judge Washington was described as "a leader that leads by example", and he was complimented for "bringing about more efficiency in the Court of Appeals". But there was one comment in particular that summed up the bar's perception of Judge Washington's tenure: the attorney stated, "A perfect chief judge, who prepares well, asks good questions, shows utmost courtesy, and attends every event in town. It is amazing that he can do both the law and administration duties so well." The Commission agrees.

In examining the totality of Judge Washington's judicial performance the Commission concludes that his record is outstanding and that he is very deserving of automatic reappointment. The manner in which Judge Washington has discharged his judicial and administrative duties combined with his other contributions to the administration of justice have been nothing short of exceptional. The Commission is unanimous in finding Judge Eric T. Washington well-qualified for reappointment. His term as an Associate Judge, therefore, shall be extended for a period of fifteen years from June 6, 2014.

Respectfully submitted,

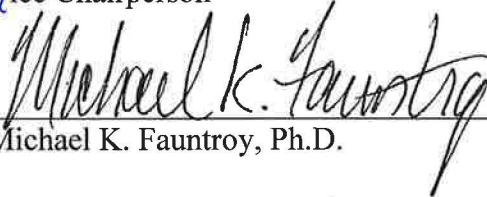
DISTRICT OF COLUMBIA COMMISSION
ON JUDICIAL DISABILITIES AND TENURE



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cc: The Honorable Eric T. Washington