

**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

August 11, 2020

The Honorable Donald J. Trump
President of the United States
The White House
Washington, D.C. 20500

Re: Evaluation of the Honorable Juliet J. McKenna

Dear Mr. President:

Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 744, as amended by the District of Columbia Judicial Efficiency and Improvement Act of 1986, P.L. 99-573, 100 Stat. 3228, provides as follows:

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.

Report on Judge Juliet J. McKenna

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.

The term of Juliet J. McKenna, an Associate Judge of the Superior Court of the District of Columbia, expires on October 11, 2020. It has been a fifteen-year term. Judge McKenna filed with the Commission, her declaration of candidacy for reappointment as a Judge on February 28, 2020.

On April 8, 2020, Judge McKenna sent the Commission a statement that provided a thorough discussion of her service on the Court and reviewed the significant aspects of her judicial activities. Included with the statement were thirteen opinions and Orders authored by the Judge. Her opinions display a high quality of writing, scholarship, and sensitivity in dealing with challenging issues and competing legal principles. The opinions also revealed Judge McKenna’s profound concern and compassion for the parties appearing before her, and the importance she places on litigants understanding how she reached her ultimate decision. The type of case didn’t matter. Judge McKenna was as attentive to adoptive parents as she was to criminal defendants seeking redress from the Court. Fifteen D.C. Court of Appeals published opinions concerning a variety of cases over which she presided were also part of her submission, and provided another

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perspective of the Judge's judicial skills and knowledge of the law, even the opinions where Judge McKenna was reversed by the Court. The submission concluded with additional exhibits relating to her experiences in, and outstanding contributions to, the Family Court and Criminal Division of the Superior Court.

A review of Judge McKenna's appellate record indicates that of the 167 decisions that were appealed to the D.C. Court of Appeals, 83% were affirmed or dismissed by the Court.

The Commission has received communications from judges, Court personnel, and attorneys concerning Judge McKenna's qualifications. Commission members have personally interviewed Court officials and attorneys familiar with all aspects of her record. In virtually every instance commenters strongly supported Judge McKenna for reappointment. She received overwhelming praise for her demeanor and temperament, fairness, legal ability, diligence, and devotion of time and energy to the administration of justice. Judge McKenna was described as "a true credit to the bench.", "a model judge.", "smart, pleasant, fair and efficient.", "incredibly hard working", "extremely well-prepared and exceptionally bright", "one of the finest judges I have had the pleasure to appear before" and, "When people ask me how a judge should behave, I always point to Judge McKenna.".

Judge McKenna's monthly time reports, annual financial statements, and complaint file have been reviewed by the Commission, and nothing contained in those files prompted any concern. Judge McKenna's physician submitted the required Judicial Medical Form, indicating that she is in excellent overall health and physically and mentally fit to continue her judicial service.

On July 8, 2020, Judge McKenna met with the Commission via a telephone conference call to discuss her record. The Commission also met later that day with Chief Judge Robert E. Morin via a telephone conference call who furnished additional information concerning Judge McKenna's judicial performance, qualifications, and extraordinary leadership particularly during the Covid-19 health crisis.¹

Judge McKenna began her judicial career as a Magistrate Judge of the Superior Court where she served for 3½ years in the then newly created Family Court. Upon her appointment as an Associate Judge in 2005, she was again assigned to the Family Court where she served for an additional six years. She first presided over a Juvenile Calendar, which was a challenging assignment given that it was her first real exposure to criminal law, and cases involving young people charged with serious crimes. Judge McKenna was not intimidated by the assignment; instead it became “an area that I found immediately fascinating given the intersection of constitutional and evidentiary questions”. By the time Judge McKenna was assigned to the Criminal Division, six years later, fascination had become expertise; one colleague noted that the Judge “had mastered the entirety of criminal law”.

Judge McKenna's next assignment was to a Domestic Relations calendar where she handled petitions for child custody, child support, visitation, and divorce. Her final assignment in the Family Court was to the Adoption calendar, which she clearly enjoyed. In her statement, Judge McKenna notes, “This assignment is one of the few within the courthouse in which, with

¹ The Commission met with Judge McKenna and Chief Judge Morin via respective conference calls due to the COVID-19 health crisis.

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limited exception, the judge brings joy to the people who appear before the court, either by helping them create or recreate families - I tried to act promptly on all filings and make each hearing a celebration for the families and children involved.” As the Adoption Calendar Judge, she Co-Chaired the Adoption Day Committee, which organizes the Superior Court’s annual celebration of all the families created through adoption and the many individuals who help make the adoptions possible. In 2011 Judge McKenna was nominated and later selected by U.S. Representative Eleanor Holmes Norton to receive the Angels in Adoption Award, in recognition of the Judge’s distinguished work as the Adoption Calendar Judge. Judge McKenna received this award, along with other recipients from across the country, who also were nominated by a Member of Congress.

Judge McKenna was assigned to the Criminal Division in 2012, serving three years on the Misdemeanor Calendar, in particular the Community Court Calendar, where many of the cases were more difficult to resolve due to the number of defendants who were battling drug addiction and mental illness. In 2015 she transitioned to a Felony II Calendar where she handled more serious cases and was faced with a new challenge, learning the mechanics of selecting a jury and navigating the legal issues that should or should not be addressed in front of, or out of the presence of the jury. Currently she is assigned to a Felony I Calendar, where she has served for the past two years, finding this assignment “to be the most legally complex, and for that reason - while emotionally taxing - the most professionally rewarding”.

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In addition to Judge McKenna's Felony I Calendar, she was named Deputy Presiding Judge of the Criminal Division in 2018, and was appointed Presiding Judge of the Division this year. Judge McKenna's leadership of the Division has been nothing short of admirable. Prior to the pandemic, Judge McKenna's leadership of the Criminal Division continued to refine the efforts of her predecessors, through management of a system that prioritized and placed trials with available judges, thus reducing the number of trials continued for lack of a judge, making criminal matters the responsibility of the Division and not individual judges, and having the review of all search and arrest warrants and warrant returns transferred to the Division which led to a more efficient process.

Judge McKenna has been commended for her "wonderful organizational skills" and for being "thoughtful, creative, and thorough" in how she has led the Criminal Division through the Covid-19 health crisis. She has forged collaborative relationships with her colleagues and other criminal justice partners to address the challenges of administering justice during a pandemic. As a result of her leadership, consensus was reached on several important issues, such as: handling prisoner requests for release due to Covid-19, suspending execution of most misdemeanor bench warrants and weekend jail sentences, safely continuing in-person arraignments for individuals arrested on new charges, and using remote access technology for some Court proceedings. She continues to lead the Court's efforts in preparing to bring jurors back inside the Superior Court, if health conditions permit, and how to safely accommodate a socially distanced trial. The number of safety and logistical issues that Judge McKenna has had to evaluate and manage is nothing short of phenomenal, and there remain many additional issues she will have to address.

In addition, Judge McKenna has actively participated in Court Committees since her appointment to the bench, serving as Chair of the Family Court Panels Committee from 2009 through 2012. She was appointed a member of the Criminal Justice Act Panel Committee in 2013, and has been Co-Chair of the Committee since 2015. In 2018 she was asked to oversee the re-establishment of the entire CJA Panel, which involved the consideration of 268 applications, and for the past five years she has chaired all of the CJA Panel Committee meetings and drafted the Final Report and Recommendations for submission to the Chief Judge. In addition, she served on the Information and Technology Committee from 2006-2008, and the Judicial Education and Training Committee from 2006-2013.

Judge McKenna also has given generously of her time to promote the administration of justice through her participation in numerous training and volunteer activities over the past 15 years. She has conducted training for the Children's Law Center, the D.C. Volunteer Lawyers Program for attorneys appearing pro bono in Family Court matters, and the Public Defender Service for attorneys involved with juvenile delinquency cases. She regularly participates in the training programs for newly appointed Superior Court Associate and Magistrate judges. While serving in the Criminal Division she has made multiple presentations to her judicial colleagues, and as Presiding Judge of the Division she plans the annual two-day Division training and the weekly Division meetings. In addition, she was appointed an Adjunct Professor of Law at Georgetown University Law Center from 2012-2014 and taught a course on Child Welfare Law and Practice in the District of Columbia for the fall semesters.


Judge McKenna is a remarkable judge, not only for her formidable judicial, leadership, and management skills, but also for her insistence on commending others for their contributions, while taking little to no credit for her own accomplishments. This is a common thread that runs through her statement and the comments the Commission received, and it is certainly one of the important qualities of being a true leader. She undoubtedly is one of the best and most capable judges ever appointed to the Superior Court. As one colleague noted, “She leads by example and by encouragement; she is quite simply, a model of what it means to work in public service.” The Commission wholeheartedly agrees.

For the foregoing reasons, the Commission finds Judge McKenna’s judicial service merits her automatic reappointment to the bench. The manner in which she has performed her duties as a judge are worthy of emulation and entitle her to a rating in the highest category in which this Commission is statutorily empowered to place a judge. We therefore determine Judge Juliet J. McKenna to be well qualified for reappointment and her term shall be automatically extended for a full term of fifteen years from October 11, 2020.

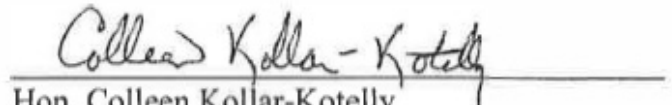
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Respectfully submitted,

DISTRICT OF COLUMBIA COMMISSION ON
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Jeannine C. Sanford, Esq.
Chairperson



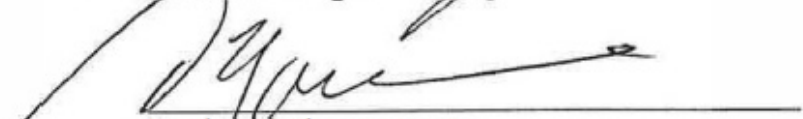
Hon. Colleen Kollar-Kotelly
Vice Chairperson



Carol A. Dalton, Esq.



William P. Lightfoot, Esq.



David P. Milzman, M.D.



Anthony T. Pierce, Esq.



Nikki Sertsu