

October 15, 2007

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

Re: Evaluation of the Honorable Frederick H. Weisberg

Dear Mr. President:

The term of Frederick H. Weisberg, an Associate Judge of the Superior Court of the District of Columbia, expires on December 15, 2007. Judge Weisberg is completing a fifteen year term, and he is seeking reappointment to another term.

Judge Weisberg filed his declaration of candidacy for reappointment with the Commission on June 11, 2007. The Commission hereby submits this evaluation of Judge Weisberg's performance during his present term of office and his fitness for reappointment to another term as an Associate Judge of the Superior Court, pursuant to section 433 (c) of 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) 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.

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. To be "qualified," a judge must at least satisfactorily perform his or her assigned duties or be one whose strong attributes are materially offset, but not overborne by negative traits. "Unqualified" signifies that the judge is unfit for judicial service.

Though this evaluation report concerns Judge Weisberg's performance during the present term of office, the Commission must acknowledge that December 16, 2007, will

mark the 30th anniversary of Judge Weisberg's appointment to the Superior Court. His request for reappointment is for an unprecedented third fifteen-year term. The Commission discussed in its 1992 reappointment evaluation report Judge Weisberg's many contributions to the Court during his first term, and commended him for being an "outstanding jurist who deservedly has received accolades for his performance in a wide variety of judicial roles." This evaluation report covering his second term is equally laudatory of the Judge's contributions during the past 15 years.

On June 11, 2007, Judge Weisberg provided the Commission with a written statement discussing his service on the Court, and reviewing the significant aspects of his judicial and professional activities during his second term. He also provided several selected orders and opinions he had authored during his assignments in the Criminal and Civil Divisions. An examination of Judge Weisberg's work product discloses a scholarly and articulate writing ability, an enviable grasp of the law, and a sense of responsibility to the parties to explain how and why he reached his ultimate decision.

Judge Weisberg met with the Commission on October 10, 2007, and discussed his record, the information the Commission had received during the course of its evaluation, and Judge Weisberg's reasons for seeking reappointment. The Commission also had met previously with Chief Judge Rufus G. King, III, who furnished additional information concerning Judge Weisberg's judicial qualifications and contributions to the Court.

The Commission received a number of communications from attorneys and a legal organization concerning Judge Weisberg's qualifications and attorneys, Court personnel, and government officials familiar with various aspects of his judicial performance were interviewed. Judge Weisberg's annual financial statements and his monthly time reports which are required to be filed by every judge have been reviewed, as well as the Commission's complaint file concerning the Judge, which revealed nothing that would adversely affect his reappointment. Judge Weisberg's physician submitted the required Judicial Medical Form, indicating that the Judge's overall health was excellent and that he is physically and mentally fit to continue his judicial service.

The Commission's review of the record and interviews conducted have revealed virtually nothing but praise, respect, and admiration for Judge Weisberg's legal ability, fairness and impartiality, temperament and demeanor, and the time and energy he has devoted to the Court and the District of Columbia Sentencing Commission. Judge Weisberg was described as "a great judge" who is "extremely bright, fair, and runs an efficient and orderly courtroom", and, "treats everyone with respect, which has earned him the respect of the government and defense alike". Attorneys commented that the Judge "is one of the smartest judges at Superior Court", and that he is "an excellent teaching judge" who provides constructive criticism and critical feedback to attorneys seeking to improve their trial advocacy skills. Court personnel were equally effusive in

their praise of Judge Weisberg, describing him as “hard working and efficient”, “one of the best calendar managers”, “has a fantastic legal mind – knows the law backwards and forwards”, and, “always courteous to the staff”.

Judge Weisberg has served in every assignment in the Criminal Division, including Misdemeanors, Felony II, Felony I, and the Accelerated Felony Trial Calendar. The Commission believes, however, that particular attention is merited with respect to Judge Weisberg’s outstanding service as Presiding Judge of the Criminal Division from 1989 – 1994. As Presiding Judge he not only carried a full criminal docket, but also was responsible for the day-to-day operations and overall management of the Division. It was during this time that Judge Weisberg made a lasting and noteworthy contribution to the Court and the administration of justice. In his capacity as Presiding Judge, he provided the leadership and guidance that led to the design and implementation of the Superior Court Drug Intervention Program (Drug Court). The Drug Court is an intensive substance abuse treatment and supervision program for eligible defendants charged with non-violent misdemeanor and felony offenses. The Drug Court has helped hundreds of defendants to overcome their substance abuse problems and begin leading productive and meaningful lives. It also has become a model for other jurisdictions seeking to establish equally successful programs. Judge Weisberg noted in his written statement the importance this project held for him, he stated, “...I consider my work as the first Drug Court judge in 1992 and 1993 one of the most satisfying experiences I have had as a

judge, both in terms of getting the project off the ground and on a firm foundation and in terms of the difference the Drug Court was able to make in the lives of its participants during the time I presided.” The Drug Court continues to make a dramatic impact in our community 15 years after its inception, and Judge Weisberg will always be remembered as the driving force that brought it to fruition.

Judge Weisberg also has served in the Civil II and Civil I Calendars in the Civil Division. He currently presides over a Civil I Calendar, handling the most complex and protracted civil litigation in the Court. He has tried hundreds of cases while assigned to Division and has received much praise for his ability adeptly to manage the incredible caseload.

Judge Weisberg’s contributions to the Court also extend to the many hours he has devoted to service on Court Committees, such as the Court’s Rules Committee, the Criminal Rules Advisory Committee, and the Building and Grounds Committee. He also has spent countless hours providing constructive criticism to attorneys who have appeared before him, and providing advice and counsel to his colleagues who seek the benefit of his 30 years of experience. In fact, one colleague described Judge Weisberg as “the sage with all the information – the one everyone goes to for advice”. It is obvious from Judge Weisberg’s submission that he has enjoyed being a mentor, and looks forward to continuing this interaction with his colleagues. The Commission believes this informal training that Judge Weisberg has provided over the years has helped the Superior Court become a stronger institution.

Judge Weisberg's second term has been punctuated with many significant achievements and accomplishments, but there is yet another aspect of his work that has been equally impressive. Judge Weisberg has served as Chairman of the District of Columbia Sentencing Commission since 1999. By all accounts, it was Judge Weisberg's perseverance, devotion of long hours, and skill in chairing a large commission that led to the eventual development and implementation of the Sentencing Guidelines. The Commission consisted of a diverse group of 15 members representing the entire spectrum of the criminal justice system, who unanimously adopted the final guidelines. The guidelines have helped in reducing unwarranted disparity in sentencing and have enhanced the fairness of the system by which defendants are sentenced or can plea bargain. They have been in effect as a pilot program for the past three years and legislation to make the guidelines permanent is pending before the City Council. The Commission considers Judge Weisberg's leadership of this Herculean effort a tremendous contribution to the administration of justice that will have a long term positive effect in the District of Columbia.

There is no question or doubt that Judge Weisberg is exceptionally well qualified for reappointment. He has had a distinguished judicial career, evidenced not only by the enormity of his contributions and accomplishments, but also by the length of service he has given to the Court. The Commission, the Court, and the community are grateful that

after 30 years of judicial service Judge Weisberg remains enthusiastic, deeply committed to the administration of justice, and immensely capable to begin his third fifteen-year term.

For the foregoing reasons, the Commission finds that Judge Weisberg's judicial service merits his automatic reappointment to the bench. The manner in which he has performed his duties as a judge are worthy of emulation and entitle him to a rating in the highest category in which this Commission is statutorily empowered to place a judge. We therefore determine Judge Frederick H. Weisberg to be well qualified for reappointment, and his term shall be automatically extended from December 15, 2007.

Respectfully submitted,

DISTRICT OF COLUMBIA COMMISSION ON
JUDICIAL DISABILITIES AND TENURE

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