

**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 10, 2009

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

Re: Evaluation of the Honorable Vanessa Ruiz

Dear Mr. President:

The term of Vanessa Ruiz, an Associate Judge of the District of Columbia Court of Appeals, expires on October 10, 2009. Judge Ruiz is completing a fifteen year term, and she is seeking reappointment to another term.

Judge Ruiz filed her declaration of candidacy for reappointment on April 1, 2009, and completed her submission of the materials required by the Commission on June 22, 2009. The Commission hereby submits this evaluation of Judge Ruiz's performance during her present term of office and her fitness for reappointment to another term as an Associate Judge of the Court of Appeals, 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 positive attributes are materially offset but not overborne by negative traits. "Unqualified" signifies that the judge is unfit for judicial service.

In evaluating Judge Ruiz's qualifications for reappointment and her contributions to the Court, the Commission has carefully reviewed her written statement which

included a discussion of her work on the Court, a synopsis of thirteen of her most significant opinions, and a review of her service on Court committees and her involvement in extra-judicial activities. The Commission has examined Judge Ruiz's monthly time reports and annual financial statements, and its complaint file concerning the Judge, and found nothing in its files that would adversely affect her reappointment. The Commission also reviewed the report from Judge Ruiz's physician attesting to her excellent health.

On July 8, 2009, the Commission met with Judge Ruiz for a full and candid discussion of the materials she submitted, and of positive and negative information the Commission had received during the course of its evaluation. The Commission also met with Chief Judge Eric Washington that day and he provided additional information concerning Judge Ruiz's qualifications and many contributions to the Court.

The Commission reviewed written communications from attorneys concerning Judge Ruiz's qualifications, and Court personnel and attorneys, familiar with aspects of her record were interviewed.

During her present term of office, Judge Ruiz has considered and decided over two thousand appeals and she has written over four hundred published opinions. In reviewing a number of these opinions, it is abundantly clear that Judge Ruiz has an impressive command over a wide variety of issues arising in civil, criminal, family, and probate litigation as well as complex questions of administrative law. Judge Ruiz has no

difficulty defining the issues, discussing them in depth, and deciding them succinctly and with clarity. Her opinions set forth the facts clearly and analyze the legal issues presented with perception and lucidity.

Judge Ruiz also understands that despite intensive discussion of cases with her colleagues, unanimous opinions are not always possible. As a result, she has not been reticent to author dissenting opinions where she deemed it appropriate. In her written statement she addresses the issue of dissenting opinions, and wrote "... I believe it is my responsibility to write separately when I am convinced that either the court's disposition or reasoning is not in accordance with law or the Constitution. I have never done so without first fully explaining my view to my colleagues and making efforts to reach agreement." Indeed, one of her separate opinions led the Court to *en banc* reconsideration, which resulted in an unusual *habeas* review and exoneration of several defendants who had been convicted of murder and imprisoned for twenty years.

At oral argument Judge Ruiz is an active participant and does not hesitate to ask difficult questions. Attorneys have described her as a judge who, "always comes to the bench prepared", and "understands the purpose of oral argument and uses it to explore the questions she has with the positions of the parties". Judge Ruiz received much praise for her "ability to listen to both sides of an argument", and she "does a great job dealing with complex legal and factual issues". Her demeanor on the bench is courteous.

respectful, and dignified to attorneys and her colleagues. The Judge was also complimented for her sensitivity and thoughtful interaction with pro se litigants during oral arguments. The Commission also commends Judge Ruiz for understanding that the reality and perception of fairness must be apparent to all litigants, whether individual or institutional.

In addition to her activities as a sitting judge, the Commission also found that Judge Ruiz has spent considerable time on Court committees, court related initiatives, and extra judicial activities. For the past five years Judge Ruiz has chaired the D.C. Courts' Advisory Committee on Judicial Conduct, which not only serves as a resource for ethical inquiries from judges of the D.C. Courts, but also is actively engaged in a study and review of the proposed 2007 ABA Code of Judicial Conduct. Judge Ruiz and members of the Committee have met with the Commission to discuss many of the proposed revisions and their applicability to judges in this jurisdiction. Judge Ruiz is a member of the Access to Justice Commission, served as Chair of the D.C. Courts' Committee on Families and Violence, and as Co-Chair of the D.C. Circuit's Task Force on Gender, Race and Ethnicity.

Judge Ruiz's extra judicial activities have included her service on the Executive Committee of the Council for Court Excellence, the D.C. Bar Pro Bono Committee, and the Carnegie Endowment for International Peace. She served as an officer in the National Association of Women Judges for seven years, and was elected President in

2005 for a one year term. Judge Ruiz is also on the Board of Managerial Trustees for the International Association of Women Judges. In addition, Judge Ruiz has initiated a number of activities to reach out to residents in our community, particularly the Hispanic and immigrant communities. She is a frequent speaker at local law schools and has participated in mentoring programs for minority law students.

Though the Commission has been favorably impressed with Judge Ruiz's scholarly work product and by the varied nature of her involvement in extra judicial activities locally, nationally, and internationally, the Commission would be remiss if it did not address the serious issue of Judge Ruiz's backlog of opinions. The Commission became aware of this problem during the evaluation process, receiving several critical comments from different sources concerning the number of old cases on Judge Ruiz's docket. Of crucial importance to the proper functioning of the Court of Appeals is the timely resolution of disputes. The public's confidence in the Court is eroded when litigants must wait multiple years for decisions to be rendered. The Commission believes that this problem is not only about the pace of opinion production, but also about a less than fully adequate appreciation on the part of Judge Ruiz as to how her backlog adversely affects the litigants, the Court, and her colleagues.

The Commission had a very candid discussion with Judge Ruiz on July 8, 2009, concerning her backlog, which is the highest by far of any of the appellate judges on the

D.C. Court of Appeals. The Commission advised Judge Ruiz that she must concentrate her efforts on resolving her oldest cases first, and on increasing the number of cases decided. This obligation takes precedence over outside activities, no matter how worthy they may be, and may even require a temporary reduction in these activities until her backlog is significantly reduced.¹ Judge Ruiz assured the Commission in her written statement and during her interview that she has developed a work plan to complete and circulate draft opinions in all her assigned cases heard before 2009. The Commission hopes this will be accomplished in the next few months. The Commission believes this matter is of such importance that it plans to monitor Judge Ruiz's progress, and meet with her again in December of this year to discuss the strides she has made.

In reaching its final decision, the Commission has reviewed Judge Ruiz's total record and has carefully evaluated all the information it has received and compiled. In evaluating the many facets of Judge Ruiz's judicial performance, the Commission has weighed the following facts. In 15 years of service on the District of Columbia Court of Appeals, no complaint has ever been filed against Judge Ruiz. In evaluating the quality of her work, it is clear that her scholarship, her analytical abilities, the clarity of her writing, and her thoroughness are outstanding. Members of the Bar have made clear to the Commission that during oral argument she is deeply engaged, asks challenging

¹ Canon 3A of the Code of Judicial Conduct expressly states, "... The judicial duties of a judge take precedence over all the judge's other activities." Canon 3B(8) also provides, "A judge shall dispose of all judicial matters promptly, efficiently and fairly."

questions, is always prepared, and is always respectful to counsel and the position they are arguing on behalf of their clients.

In addition, Judge Ruiz has played a very significant role in improving the administration of justice on the local, national, and even the international stage by working actively in local organizations such as the Council for Court Excellence and the District of Columbia Circuit's Task Force on Gender, Race, and Ethnicity, in national organizations by serving as President of the National Association of Women Judges, and in international organizations by serving on the Board of the Carnegie Endowment for International Peace and of the International Association of Women Judges. In all of these activities, as well as her teaching, her public speaking, and her mentoring of minority law students, Judge Ruiz has worked hard to educate the public about the rule of law and the operation of the judicial branch of government.


The Commission has balanced these significant achievements against the one weakness in Judge Ruiz's judicial record: namely, her extensive backlog. We have already indicated our concern over the issue and the fact that we will be monitoring her progress in alleviating that problem. Given her outstanding performance as a sitting judge over the past 15 years, the recent backlog problem which appears to have begun in 2006, and Judge Ruiz's commitment to substantially diminish the extent of that problem before the end of the year, the majority of the members of the Commission have determined Judge Ruiz to be well qualified for reappointment. One member of the

Commission concluded that Judge Ruiz should be designated as “qualified” rather than “well qualified”, and his dissenting opinion is attached.

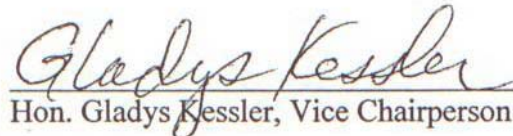
The Commission concludes by a majority vote that Judge Vanessa Ruiz shall be reappointed to an additional term on the District of Columbia Court of Appeals, and that such term, therefore, shall be extended from October 10, 2009.

Respectfully submitted,

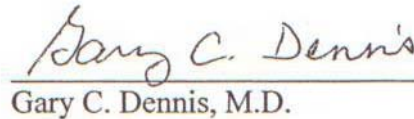
DISTRICT OF COLUMBIA COMMISSION ON
JUDICIAL DISABILITIES AND TENURE



William P. Lightfoot, Esq., Chairperson



Hon. Gladys Kessler, Vice Chairperson



Gary C. Dennis, M.D.



Shirley Ann Higuchi, Esq.

The Honorable Barack H. Obama
August 10, 2009
Page Ten

Report on Judge Vanessa Ruiz



Ronald Richardson



Claudia A. Withers, Esq.

Cc: The Honorable Vanessa Ruiz

**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 10, 2009

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

Re: Evaluation of the Honorable Vanessa Ruiz

DISSENTING OPINION


I must respectfully disagree with my colleagues' conclusion that Judge Ruiz is "well qualified" and, therefore, that her term should be "automatically extended for another full [fifteen years] term." P.L. 99-573, 100 Stat. 433, § 433(c). It should go without saying that an appellate judge's primary duty - if not her sole duty - is to decide cases. On this score, as my colleagues have described, Judge Ruiz's backlog is "the highest by far of any of the appellate judges on the D.C. Court of Appeals" and, as a result, litigants often "must wait multiple years for decisions to be rendered" by her. Nor is this a phenomenon of recent vintage; for many years, Judge Ruiz has carried one of the largest backlogs of any active judge on the Court of Appeals. In my view, this "one weakness in Judge Ruiz's judicial record" is more than sufficient to foreclose a "well qualified" rating and the automatic reappointment that such rating entails. As the old adage goes, "justice delayed is justice denied."

I have therefore concluded that, in accordance with the Commission's governing statute, you should have the option to either (1) "nominate such candidate, in which case

The Honorable Barack H. Obama
August 10, 2009
Page Two

the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge,” or alternatively, (2) “determine[] not to so nominate such declaring candidate” and instead “nominate another candidate for such position.” P.L. 99-573, 100 Stat. 3228, § 433(c). This would give both you and the U.S. Senate the opportunity to conduct a full review of the totality of Judge Ruiz’s record and background to determine whether she warrants reappointment to another full fifteen year term.

Respectfully submitted,



Noel J. Francisco, Esq.