

STANDING COMMITTEE REPORT NO. 16-96

RE: C.R. NO. 16-80/J&GO

SUBJECT: NOMINATION OF MRS. BEAULEEN CARL-WORSWICK TO SERVE AS AN
ASSOCIATE JUSTICE FOR THE FSM SUPREME COURT

AUGUST 02, 2010

The Honorable Isaac V. Figir
Speaker, Sixteenth Congress
Federated States of Micronesia
Fourth Special Session, 2010

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was referred C.R. No. 16-80, entitled:

"A RESOLUTION CONFIRMING THE NOMINATION OF MS. BEAULEEN CARL-WORSWICK TO SERVE AS AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE FEDERATED STATES OF MICRONESIA.",

begs leave to report as follows:

The intent and purpose of the resolution is expressed in its title.

This resolution was transmitted to Congress on April 15, 2010 through Presidential Communication No. 16-193. Attached with P.C. No. 16-193 is the nominee's resume. The resume contains a comprehensive explanation of the nominee's educational background and work experience.

Education

The nominee attended the Wallace Rider Farrington High School in Honolulu, Hawaii and graduated with a High School Diploma in 1980. She did her undergraduate studies at Hawaii Loa College, in Kaneohe, Hawaii and graduated with a B.A. degree in 1984. She later decided to study law and so enrolled at the Gonzaga University School of Law in Spokane, Washington. She graduated from Gonzaga with a J.D. degree in 1990.

Work Experience

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The nominee began her legal career working with the Supreme Court of the Federated States of Micronesia as a law clerk while still attending law school. The clerked twice, from May 1988 to August 1988 and then from May 1990 to August 1990. She also served as a legal intern with the Washington Superior Court from August 1990 to December 1990.

From February 1991 to December 1991, she served as a law clerk for the Supreme Court of the Federated States of Micronesia. From May 1992 to July 1992, she served as a Legal Specialist for the Office of the Attorney General, FSM National Government. She became an Assistant Attorney General for the FSM Department of Justice in August 1992 and served in that capacity until May 1994.

The next year, she transferred to Yap State and became an Assistant Litigator for the Office of the Attorney General of Yap, serving there from February 1995 until September 1995. From September 1995 until February 1996 she worked in private practice, establishing her own law firm, also in Yap State. From March 1996 until December 1997, she served as a Staff Attorney for the Office of the Public Defender, FSM National Government, Yap branch office. In January 1998 she became the General Counsel for the Pohnpei Utilities Corporation, remaining there until August 1999.

Following her time at PUC, Ms. Carl-Worswick was appointed and confirmed as the Chief Public Defender, Office of the Public Defender, FSM National Government. She held this position from August 1999 to July 2007. Currently, the nominee is a Staff Attorney for the Pohnpei Supreme Court.

In addition to the nominee's working experience in the field of law, she has regularly participated in other professional activities. Ms. Carl-Worswick served as a delegate to the Second Pohnpei Constitution Convention (April 27, 2009 to October 23, 2009), as a delegate to the Third FSM Constitutional Convention (November 2001 to December 2001) and as a delegate to the Second Madolenihmw Constitutional Convention (November 1999 to January 2000).

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Public Hearings

Your committee visited the four FSM states and conducted several public hearings to hear testimonies on the nominee from each of the state leaderships.

On June 28, 2010, your committee held a hearing on the nomination in Chuuk State. Witnesses testified that the selection of Ms. Carl-Worswick represents progress on the issue of gender equality. If confirmed, she will be the first woman to serve as a Justice of the Supreme Court of the Federated States of Micronesia. The witnesses indicated that the nominee is without doubt qualified for the position given her past working experience in the field of law. She also possesses the judicial temperament necessary to serve on the Supreme Court. The concern was raised of whether the nominee has any problem presiding over cases in Yap State, given the traditional setting in Yap. What would be the "Yap traditional view" on her, pro woman or not? How would her decisions differ on divorce cases?

Your committee held its second hearing on the nominee on July 1, 2010 with the Kosrae Executive branch. At the hearing, your committee informed the witnesses this would be the first female associate justice for the FSM Supreme Court, and the President has nominated her with the assumption that the Chief Justice's position will be filled. One witness asked when was the last time a Kosraean was nominated to the Supreme Court. Your committee assured the leadership that the possibility is forthcoming. Nevertheless, the discussions were centered on the qualifications of the nominee. Responses indicated she is more than qualified to sit on the Supreme Court. Her working experience in the field of law and her long habit of public service speaks for itself.

A third hearing on the nomination was held on July 2, 2010 with the Kosrae Legislative branch. At the hearing, testimonies revealed that the nominee is fully qualified for the job. The need to have an equality of leadership at the national level, which consists of fair representation of the four states, was again raised. In addition, her

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nomination is touted as an improvement in gender equality within the national government. If confirmed, she would bring a feminine perspective to the bench. Although this is not requisite of a Justice, a diversity of viewpoints could enrich decision making at the Court.

A fourth hearing on the nomination was held on July 6, 2010 with both the Yap Executive and Legislative branches. Testimonies from Yap State revealed that the nominee possesses the judicial temperament necessary. The witnesses also supported the nominee because she is local, and many believe it is time for FSM citizens to fill positions previously filled by expatriates. The leadership of Yap State inquired whether the nominee, if confirmed, would be stationed in Yap. This is unknown at this time, it is understood that the Chief Justice makes this decision. Another concern was that this confirmation not be based on political compromise, but on the qualifications of the nominee and the merit of the process. In conclusion, the Yap leadership has no doubt that the nominee possesses the qualifications for the job and hopes that Congress confirms her.

A fifth hearing on the nomination was held on July 27, 2010 with the Pohnpei Executive and Legislative branches. Testimonies revealed that the leadership of Pohnpei favors the nominee because she is indigenous. Furthermore, Congress should confirm the nominee because a judge that is culturally oriented may render decisions complementary to customs and traditions. The leadership of Pohnpei State has no doubt that the nominee is qualified for the post, and urges Congress to confirm her as Associate Justice.

A sixth hearing on the nomination was held on July 30, 2010 with the nominee herself. During the opening of the hearing, the nominee expressed her personal view about the nomination. She explained to the committee that she first learned about the offer from Governor John Ehsa. When she received the call from the President, she did not hesitate to accept the offer. Ms. Carl-Worswick explained to the committee that her father was a judge, and that she had idolized him for holding this professional position. When the offer to be nominated to the Supreme Court came, it was like a dream come true. Your

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committee inquired of the nominee, if she is confirmed and she is assigned to Yap State, what would she do? The nominee responded that she has to consult with her family on the issue; however, she strongly and confidently believes in "duty calls", a motto of hers that she used when responding to the committee. Although she now lives on Pohnpei, she indicated that whatever circumstances arise she will accept, because "it is a duty call", and she cannot ignore that call.

Your committee inquired of the nominee whether the court puts more emphasis on customs and tradition or United States case law. The nominee explained that judges use local authorities over U.S. case law. Only when there is no local case law applicable to the issue is preference given to U.S. case law. And even when used, U.S. law is not binding, the justices merely rely upon it for guidance. The nominee explained that the court is an independent branch of the government and vested with a judicial independence.

Your committee also inquired of the nominee about the function of the law clerks. The nominee indicated that the law clerks do not render decisions. The justices rely on the law clerks for research and law clerks assist justices in identifying issues and on the points and authorities that support a specific case.

Your committee has attempted to solicit views and comments from each of the practicing lawyers in the FSM on every detail of information about the nominee. The Chairman of the Committee sent a letter to every law firm and law office soliciting views and comments on the qualifications of the nominee. Your committee received several supporting letters from various attorneys in the FSM. These letters contain convincing evidence that the nominee is well suited for the position. One of the letters stated "because the nominee is a legal citizen of the FSM, a resident of FSM, and has worked in the field of law, there is no doubt that she is qualified for the Associate Justice position." Re-emphasizing the wide support for her nomination both because she is highly qualified and because she is a local FSM citizen.

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Most of the witnesses at the hearings in each of the states offered their full support for the nomination. Therefore, your committee on Judiciary and Governmental Operations, having reviewed the proposed resolution, is in accord with the intent and purpose of C.R. No. 16-80, and recommends its adoption.

Respectfully submitted,

/s/ Peter Sitan
Peter Sitan, chairman

/s/ Isaac V. Figir
Isaac V. Figir, vice chairman

/s/ Dohsis Halbert
Dohsis Halbert, member

/s/ Setiro Paul
Setiro Paul, member

/s/ Fredrico O. Primo
Fredrico O. Primo, member

/s/ Roger S. Mori
Roger S. Mori, member

Paliknoa K. Welly, member