

STANDING COMMITTEE REPORT NO. 17-135

RE: C.R. NO. 17-155/J&GO

SUBJECT: TO CONFIRM THE NOMINATION OF MS. APRIL DAWN
M. SKILLING TO THE POSITION OF SECRETARY OF
THE DEPARTMENT OF JUSTICE OF THE FEDERATED
STATES OF MICRONESIA

SEPTEMBER 18, 2012

The Honorable Isaac V. Figir
Speaker, Seventeenth Congress
Federated States of Micronesia
Fifth Regular Session, 2012

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations ("J&GO"), to which was referred C.R. No. 17-155, entitled:

"A RESOLUTION TO CONFIRM THE NOMINATION OF MS. APRIL
DAWN M. SKILLING TO THE POSITION OF SECRETARY OF THE
DEPARTMENT OF JUSTICE OF THE FEDERATED STATES OF
MICRONESIA.",

begs leave to report as follows:

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

Ms. April Skilling has been nominated by the President for the position of Secretary, Department of Justice, Federated States of Micronesia. This nomination is subject to the advice and consent of Congress pursuant to article X, section 2(d), of the Constitution and title 2, section 207(1) of the Code of the Federated States of Micronesia.

Your Committee is satisfied with the qualifications, experience, and dedication of the nominee. Ms. Skilling has a Bachelor of Science degree in Business Administration from Ferris State University,

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Michigan, and a Juris Doctorate from Wake Forest University School of Law, North Carolina. She has been admitted to practice law in the Federated States of Micronesia, the State of Kosrae, and the State of Florida.

Ms. Skilling served as Assistant General Counsel at the Office of the Attorney General in Kosrae for two years, and provided legal support to the Third FSM Constitutional Convention. After leaving Kosrae, she worked in Russia for two years with the American Bar Association's Central Eastern and Eurasian Law Initiative, providing training to judges and defense advocates. She has also worked in Florida as an Assistant State Attorney, Deputy General Counsel of the Department of Business and Professional Regulation, and is currently a Senior Attorney with the Office of the State Courts Administrator at the Florida Supreme Court.

A hearing was held by your Committee on the nomination on September 14, 2012. In response to members' questions, the nominee stated that although she was not aware of any major changes in the operation of the FSM legal system since she left Kosrae, she welcomed the publication of more FSM cases and the transparency this represented. She also noted the high level of outward migration, and expressed her hope that more young people could be given a reason to stay and put their talents to work in their country. She stated that while in Russia she had talked with young people and engaged in efforts to educate them about their legal system. On another issue, she had also participated in a conference with neighboring countries aimed at improving Russia's Tier 3 status with respect to human trafficking.

Asked about which United States Supreme Court Justice she most admired, she said that she had had most contact with former Justice Sandra Day O'Connor, who had been involved with her work in Russia, and that she admired her judicial temperament.

In response to questions about how she would handle political pressures if confirmed, she stated that politics had been a part of

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many of the positions she had held. She said she would give the best legal advice she could, which might or might not be what political leaders wanted to hear. She stated that she aimed to develop a good relationship with political leaders and to be a good enough advocate to change their opinion if they declined to follow her advice. She stated that a client could not be forced to follow legal advice, but that she would not change an opinion to be contrary to the law. She also stated that she was able to separate her personal opinions from her professional duty to follow and apply the law and provide objective background information.

In response to questions about how she would handle any divided loyalties which might arise as a United States citizen representing the government of the FSM, she stated that she would have no problem presenting the position of the FSM, and that she would not be acting on behalf of the US. She said she believes that although the US tries to do the right thing, it does not always achieve it, that it may sometimes be necessary to disagree with the US, and that she had no problem with that. She also noted that she is married to an FSM citizen.

In response to questions about what she would like to accomplish in the position, she stated that she had been reading about some of the challenges facing the FSM, including climate change, education, and infrastructure. She stated that although the FSM's laws and regulations were generally well-written, there might be a need to streamline them. She also cited the need to increase tourism and the visibility of the FSM to the rest of the world, to review treaties, and to provide training.

Asked about her views regarding the effectiveness of incarceration for offenders, she stated that it was sometimes appropriate, and that as a prosecutor it was her job to advance the position that was best for the victims and society. She noted that she had prosecuted some child sexual abuse cases while in Kosrae and that in those cases she had sought stiff penalties, which were upheld by the Supreme Court,

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in order to ensure the child victims were not exposed to any further abuse while they were at a vulnerable age. She stated she had not regrets in doing so, and the only regret she had about her work in Kosrae was that she had not been there long enough to make a long-term difference.

In response to questions about the deportation of FSM citizens from the United States and the possibility of having a register established for such individuals, she stated that Florida had a large population of migrants from Mexico, and that there was a Memorandum of Understanding with the Mexican government with respect to deportees. She said she did not know what the FSM government's agreement with the United States on such deportees was, or whether they could serve any part of their sentences in the FSM, whether incarceration or community service.

Asked who was responsible for defending the Government when a national law is under attack, she stated that she would expect the Department of Justice to represent the government's position, and could not think of any circumstances under which the Department would not be able to do so.

Asked if damages could be claimed for actions taken during the life of a law that was subsequently found to be unconstitutional, she noted that in many US states, anything that took place under such a law would be held to have been unlawful. However, an alternative argument was that there had been reliance on the validity of the law when it was in effect, and the courts would look to whether such reliance had been reasonable.

In response to further questions, she stated that she did not believe a special prosecutor was necessary as the laws apply to everyone. The only exception would be in a conflict situation. She also stated that she had not seen evidence of human trafficking in the FSM, but that she had experience of FSM citizens being recruited for jobs in the US, and being kept in poor conditions and being expected to pay

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off the costs of transportation and accommodation even though no work had been forthcoming. She said she would be willing to work with the states to look at human trafficking laws and if necessary draft and implement changes.

CONCLUSION

Your Committee on J&GO recommends the following amendments to C.R. No. 17-55:

1. Page 1, line 15, delete "Fourth" and insert "Fifth" in lieu thereto.

Your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.R. No. 17-155, and recommends its adoption in the form attached hereto as C.R. No. 17-155, C.D.1.

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Respectfully submitted,

/s/ David W. Panuelo
David W. Panuelo, chairman

/s/ Bonsiano F. Nethon
Bonsiano F. Nethon, vice chairman

Tiwiter Aritos, member

/s/ Isaac V. Figir
Isaac V. Figir, member

/s/ Yosiwo P. George
Yosiwo P. George, member

/s/ Dohsis Halbert
Dohsis Halbert, member

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