

STANDING COMMITTEE REPORT NO. 19-118

RE: C.R. NO. 19-164/J&GO

SUBJECT: TO CONFIRM THE NOMINATION OF MR.
BENJAMIN N. WEBER TO SERVE AS AN
ASSOCIATE JUSTICE OF THE FSM SUPREME
COURT

MARCH 01, 2016

The Honorable Wesley W. Simina
Speaker, Nineteenth Congress
Federated States of Micronesia
Fourth Special Session, 2016

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to
which was referred C.R. No. 19-164, entitled:

"A RESOLUTION TO CONFIRM THE NOMINATION OF MR.
BENJAMIN N. WEBER 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 are expressed in its
title.

Mr. Benjamin N. Weber has been nominated by the President for
the position of Associate Justice of the Supreme Court of the
Federated States of Micronesia. This nomination is subject to
the advice and consent of Congress pursuant to section 2(d),
Article X, of the Constitution and title 2, section 207(1) of
the Code of the Federated States of Micronesia.

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Letter of Support from Chief Justice

On February 5, 2016, your Committee received a letter of support for this nomination from Dennis K. Yamase, Chief Justice of the Supreme Court of the Federated States of Micronesia. The letter stated in part, "We, without any reservations whatsoever, fully support the nominee."

The letter also emphasized the need to fill the vacancy on the Supreme Court:

"As you know, the vacancy in the Justice position sitting in Yap has existed for almost a year and a half now, as Chief Justice Martin G. Yinug passed away in August of 2014.

The Court has an immediate and pressing need to fill this position as it has experienced many conflict situations which have resulted in the need to engage judges from outside of our Court. This situation will not improve until new Justices are added to our Court. The situation with Associate Justice Ready Johnny's health complicates the situation. Associate Justice Johnny has agreed to remain on our Court until a replacement for him can be found. He is making a significant personal sacrifice to his health for the benefit of our Court. We greatly appreciate his sacrifices."

Education and Work Experience

Your Committee's Standing Committee Report 18-274 ably summarized the nominee's education and work experience. That summary is duplicated in full below:

"Education

The nominee received a Bachelor of Arts degree in English from the University of Arizona at Tempe, graduating Magna

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Cum Laude in 1981. The nominee attended the John Marshall School of Law in Chicago, Illinois, receiving a Juris Doctor, with distinction, in 1986.

Work Experience

The nominee began his legal career in private practice, working for Braun & Rivkin, LTD in Chicago, Illinois, from November 1986 to July 1988. The nominee's duties in that position involved commercial litigation in state and federal courts of the United States, including motions, trials, and appeals, with a focus on winding up and termination of partnerships and closely held corporations. The nominee then returned to Arizona, and from February 1990 to May 1991, the nominee worked in Maricopa County Superior Court as a law clerk, researching and preparing memoranda and decisions. The nominee's final position in the United States was at the law firm Kenneth A. Winsberg, P.C. in Phoenix, Arizona from May 1991 to January 1995. In that position, the nominee practiced general litigation in state and federal courts of the United States in areas of commercial disputes, domestic relations, personal injury, probate, and bankruptcy. The nominee's work encompassed non-jury and jury trials, evidentiary hearings, motion and arbitration proceedings, hearings before state administrative agencies, negotiation, and commercial transactions.

The nominee began his long and distinguished career in the Federated States of Micronesia in Yap in February 1995. At that time, the nominee began work as a court attorney in Yap State Court. As a court attorney, the nominee provided counsel to both the trial and appellate divisions of the Court, and researched and prepared memoranda, orders, decisions and opinions.

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From January 1997 to November 2005, the nominee worked as a staff attorney with the FSM Supreme Court in Yap, advising the late Justice Martin Yinug on matters pending before the Court. The nominee's duties included research and preparation of memoranda, orders, decisions, and opinions. The nominee also taught evidence, trial advocacy, and civil procedure as part of the trial counselor training program sponsored by the Yap Bar Association. The nominee also served on ad hoc committees of the Yap Bar Association, and assisted with court services and reestablishing a functioning court in Yap after typhoon destruction.

In February 2007, the nominee began working in the Pohnpei location of the FSM Supreme Court, initially as a Staff Attorney and then as General Counsel from August 2008 until July 2009. As General Counsel the nominee assigned cases to staff attorneys and assured case flow and calendar management. The nominee also advised the Chief Justice regarding administrative and disciplinary matters. Additionally, the nominee taught civil procedure as part of the court supported trial counselor training program at the College of Micronesia.

Since March 2010, the nominee has been employed as the Deputy Director at Micronesian Legal Services Corporation in Saipan, NMI. In this role the nominee develops, implements, and monitors policies and procedures governing MLSC's activities in providing civil legal assistance to the poor, and ensures compliance with Legal Service Corporation regulations, guidelines, and policies."

Public Comments and Hearings

When the nominee was previously nominated to this position, your Committee elicited written comments from a variety of interested parties including State Government representatives and members

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of the FSM Bar Association. Your Committee also conducted public hearings on the nominee's previous nomination on January 27 and 28, 2015. A summary of these comments and hearings can be found in your Committee's Standing Committee Report 18-274.

In light of the fact that barely a year has elapsed since your Committee previously considered the nominee for the same position, your Committee felt it was acceptable to recommend this nominee without any further hearings especially given the urgency of the nomination as highlighted by the letter from Chief Justice Yamase.

Conclusion

Your Committee is satisfied with the qualifications and experience of the nominee.

Your Committee would like to offer the following technical amendments to C.R. No. 19-164:

1. Page 1, line 13: delete "Third Regular" and insert "Fourth Special" in lieu thereof; and

Your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.R. No. 19-164 and recommends its adoption in the form attached hereto.

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Respectfully submitted,

/s/ Tiwiter Aritos
Tiwiter Aritos, chairman

/s/ Alik L. Alik
Alik L. Alik, vice chairman

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

/s/ Berney Martin
Berney Martin, member

/s/ Esmond B. Moses
Esmond B. Moses, member

Robson U. Romolow, member

Wesley W. Simina, member