

STANDING COMMITTEE REPORT NO. 19-144

RE: C.R. NO. 19-236/J&GO

SUBJECT: TO CONFIRM THE NOMINATION OF MR. LARRY
WENTWORTH TO SERVE AS AN ASSOCIATE
JUSTICE OF THE FSM SUPREME COURT

AUGUST 01, 2016

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

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was referred C.R. No. 19-236, entitled:

"A RESOLUTION CONFIRMING THE NOMINATION OF MR. LARRY
WENTWORTH 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. Larry Wentworth 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.

Education and Work Experience

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The nominee received a Bachelor of Arts degree in Political Science from Antioch College in Yellow Springs, Ohio. He attended the New England School of Law in Boston, Massachusetts, receiving a Juris Doctor, *summa cum laude*, in 1991. In addition to ranking second in a class of 210, the nominee made the Dean's List each semester, received a New England Scholar Award each year, and was awarded a Trustee Academic Scholarship his final two years. The nominee served as an editor of the school's Law Review, and he claimed two prizes for his written work. The nominee also has three professional publications to his name. He is a member of both the FSM Bar and the Massachusetts Bar.

The nominee has spent nearly his entire 24-year legal career in public service to the Federated States of Micronesia. He has served as a staff attorney at the Supreme Court of the Federated States of Micronesia during this entire period meaning that he has participated in the deciding of a large portion of the Supreme Court's cases. As such, he has an almost unparalleled institutional memory of the Court's cases, rules, and procedures. The nominee's duties as a staff attorney include the following: conducting legal research, preparing bench memos, drafting orders and opinions, communicating with legal counsel for case management purposes, and assisting the Justices during courtroom proceedings.

In addition, the nominee has also been responsible for compiling, assembling, editing, and drafting the headnotes for opinions published in the FSM Reports from mid-1992 to the present. He has also compiled and maintained the Digest, Updater, Table of Cases, and research tools connected to the FSM Reports. Finally, the nominee assists with the writing and administering of the FSM bar exam each year.

Public Comments and Hearing

On July 19, 2016, your Committee received a letter of support for the

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nominee from current Associate Justice Ready E. Johnny. The letter reads in relevant part:

"I am writing to express my strong support for the nomination of Larry Wentworth to be the next Associate Justice and urge all members of Congress to confirm his nomination. I feel that he is the best candidate available for the position."

Your Committee held a public hearing on the nomination on July 29, 2016. The following witnesses were present at the hearing: the nominee; the Chief Justice of the FSM Supreme Court; FSM Supreme Court law clerks and staff; and representatives from the Office of the President and the Department of Justice.

The Chairman welcomed the nominee and the witnesses, and thanked the nominee for appearing before your Committee. He indicated based on the nominee's resume, your Committee has no doubts as to his legal qualifications for the position as an Associate Justice. He then gave the nominee an opportunity to make an opening statement.

The nominee stated he is deeply honored to be nominated for the position especially because he is not a Micronesian. He also stated that despite encouragement by others to do so, he never lobbied for such a nomination due to the fact that he is not Micronesian. But now that he has been nominated, he is extremely grateful even to be considered.

The Chief Justice then offered his comments on the nomination. He indicated that the FSM Supreme Court is in full support of the nominee. The Chief Justice highlighted the nominee's 24 years of service to the Supreme Court, which gives the nominee a unique capacity to immediately assist the Court with no lag time whatsoever. Because of the nominee's lengthy service, he knows the Court staff

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and its procedures, and because of his responsibility for the FSM Reports, including a comprehensive 2000 page digest, he knows FSM law inside and out. The Chief Justice also noted that the need for an Associate Justice who can make an immediate impact is especially acute now when Associate Justice Johnny's ability to travel for cases both within Chuuk and within the FSM is extremely limited. Finally, the Chief Justice emphasized that the confirmation of the nominee would help the Court reduce its reliance on state court judges, which has been greater recently than the historical norm.

The representative from the Department of Justice also expressed the Department and the executive branch's full support of the nominee. In addition, he noted that the Department is excited for the nominee's confirmation because his presence on the FSM Supreme Court would not only assist the Court, but also improve the level of legal practice at the Department of Justice, at the Office of the Public Defender, at Micronesian Legal Services Corporation, and within the FSM private bar. He noted that the nominee is a leader within the legal community in the FSM, and he is generous in his willingness to share his deep understanding of how local traditions interface with legal practice in the FSM, which is invaluable especially to attorneys new to practicing in the FSM.

Finally, the Chief of Staff from the Office of the President made a statement in support of the nominee. He noted that, despite the nominee's stellar credentials and service to the FSM Supreme Court, the President gave deep thought to the nomination. He encouraged your Committee to give great weight to this fact and to the need for an Associate Justice that can make an immediate positive impact on the Court.

Your Committee inquired of the nominee whether there is a limit to the number of justices that can serve on the FSM Supreme Court. The nominee explained that the FSM Constitution limits the number of

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justices to six, presumably because the drafters of the Constitution anticipated there being six states, rather than just four, in the FSM. He also explained that the Court has never had six justices. Even though at some points the Court has had four justices, it has been more common for the Court to have three justices.

In light of the need for a previously confirmed Associate Justice to withdraw, your Committee asked the nominee whether he is willing and able to serve for a lengthy period should he be confirmed. The nominee replied that he expects to serve for many years should he be confirmed.

Your Committee inquired whether the nominee would need to declare a conflict of interest in many cases should he be confirmed. The nominee explained that he does not anticipate needing to do so often mostly because he does not have any relatives in the FSM. He explained that there might be a few cases on which he would need to declare a conflict, but that in his 24-year career this has happened only a few times.

Finally, your Committee asked the Chief Justice to comment on the anticipated need for any additional Associate Justices in the future. The Chief Justice explained that, should the nominee be confirmed and Associate Justice Johnny retire as planned, there would still be a need for an Associate Justice located in Yap. Longer term, there might be a need for an Associate Justice located in Kosrae assuming appropriate funding could be made available.

Conclusion

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

Your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.R. No. 19-236 and recommends its

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adoption in the form attached hereto.

Respectfully submitted,

/s/ Tiwiter Aritos
Tiwiter Aritos, chairman

Alik L. Alik, vice chairman

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

Berney Martin, member

/s/ Wesley W. Simina
Wesley W. Simina, member

Robson W. Romolow, member

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