

Statement of

The Honorable Benjamin L. Cardin

United States Senator
Maryland
May 13, 2010

OPENING STATEMENT OF

SENATOR BENJAMIN L. CARDIN

CONFIRMATION HEARING FOR
JUDICIAL NOMINATIONS
SENATE JUDICIARY COMMITTEE

Thursday, May 13, 2010

The Committee will come to order. Let me thank Chairman Leahy for asking me to chair today's hearing.

Today the Committee considers five judicial nominations. Panel I consists of Scott Matheson of Utah to be a US Circuit Judge for the Tenth Circuit. Panel II consists of four district court nominees: John McConnell of Rhode Island, Susan Nelson of Minnesota, Ellen Hollander of Maryland, and James Bredar of Maryland.

Let me take my prerogative as Chairman to make a few brief comments about our Maryland nominees today.

I was pleased to join with Senator Mikulski in recommending Judges Hollander and Bredar for the two vacancies that now exist in the U.S. District Court for the District of Maryland. Let me commend Senator Mikulski for the thoughtful process we used in selecting these nominees and making recommendations to the President. The Constitution provides for lifetime appointments for federal judges, which is unique in our federal government. I know that both Senator Mikulski and I take this obligation very seriously in terms of the advice and consent role played by the Senate.

I look forward to Senator Mikulski's formal introduction of Judges Hollander and Bredar later in this hearing, and to having the judges introduce their family members that are attending today's hearing.

Judge Ellen Hollander currently serves as a Judge on the Maryland Court of Special Appeals, which is Maryland's second-highest court that hears mandatory appeals from our state trial courts in Maryland.

She has served as a judge on that court since 1994. Judge Hollander comes to this committee with an impressive amount of experience in federal and state court. She served as a federal prosecutor in Maryland for 4 years, served as a state Circuit Court judge in Baltimore City for 5 years, and has served as a state appellate court judge for 16 years. As a state trial court judge she

heard thousands of criminal and civil cases - hundreds of which went to verdict of final judgment - and handled both jury trials and bench trials. As an appellate judge she has authored over 1,000 opinions.

Judge Hollander would replace Andre Davis on the bench in Baltimore, as Judge Davis was recently elevated to the Fourth Circuit. I was pleased to attend last month with Senator Mikulski the investiture ceremony for Judge Davis, who filled a Maryland seat on the Fourth Circuit. Judge Hollander has been a member of the Maryland Bar since 1974. The American Bar Association's Standing Committee on the Federal Judiciary evaluated Judge Hollander's nomination and rated her unanimously well qualified, the highest possible rating.

Judge Hollander in my mind really exemplifies the spirit of public service. She is well known by lawyers and jurors alike in Maryland for her meticulous reasoning process and well-crafted legal opinions. She really is a model of a fair and impartial judge who will dispense equal justice under the law. I know that Judge Hollander has also supported efforts to reduce recidivism and is a strong supporter of our drug treatment courts and juvenile diversion programs.

Judge Hollander is also a judge who believes in giving back to the community and being involved with our Maryland community. She is a proud graduate of Goucher College in Towson, and has served on the Board of Trustees there for nearly 15 years. She served on the Executive Committee of the Baltimore Jewish Council for 13 years, and took a special interest in Holocaust remembrance and human rights issues. She regularly participates in law-related activities with students from the elementary school to the law school level. She has received a great number of professional awards in Maryland for her legal service which are too numerous to mention here, but are listed in her Committee questionnaire. And let us not forget that Judge Hollander is also a wife and mother to three children.

Judge Jim Bredar also comes to this committee with a wide range of courtroom and litigation experience. He served as a federal prosecutor in Colorado for 4 years before coming to Maryland and serving as a federal public defender for 6 years. Since 1998 he has served a U.S. Magistrate Judge for U.S. District Court for the District of Maryland, where he works closely with our judges of the U.S. District Court for the District of Maryland, and conducts preliminary proceedings in felony cases, all proceedings in petty offense cases, and all proceedings in misdemeanor and civil matters upon the consent of the parties. Judge Bredar has also conducted over 700 mediation and settlement conferences in civil cases.

Judge Bredar would replace Judge J. Frederick Motz on the bench in Baltimore, as Judge Motz is taking senior status. Let me thank Judge Motz for his excellent 15 years of service on the bench, and particularly thank him for his service as Chief Judge from 1994 to 2001. And let me also mention that Judge Motz's wife continues to serve with great distinction on the Fourth Circuit. It is fitting indeed that Judge Motz was the official that swore in Judge Bredar as a US Magistrate Judge in 1998.

Judge Bredar has been a member of the Maryland Bar since 1995. The American Bar Association's Standing Committee on the Federal Judiciary evaluated Judge Bredar's nomination and rated him unanimously well qualified, the highest possible rating.

Judge Bredar has now made Maryland his home, after beginning his professional career in Colorado. With Judge Bredar, I see a nominee who is genuinely concerned about broadening the access to justice of Americans to their courts, which is an issue about which I have worked on for numerous years in Baltimore, Annapolis, and now Washington. Judge Bredar has a unique

perspective here, as he has been a judge, prosecutor, and public defender. He believes that we can do better with both our criminal and civil justice systems. I know of Judge's Bredar work as a mediator in our federal court's alternative dispute resolution program, which has received high praise from Maryland lawyers and litigants alike. As the co-chair of the U.S. District Court's Criminal Justice Act (CJA) Committee he has fought to ensure adequate attention and resources for indigent defendants. As a Trustee of the Vera Institute he has worked to improve the criminal justice system both at home and abroad. Finally, in 2007, Chief Justice Roberts appointed Judge Bredar to the Committee on Federal-State Jurisdiction of the Judicial Conference of the United States.

And I suspect the most interesting work experiences you have had were as a park ranger and ski patroller in Colorado. And let me close by mentioning that you are also a husband and father of three children.

When evaluating judicial nominees, I use several criteria. First, I believe judicial nominees must have an appreciation for the Constitution and the protections it provides to each and every American. I believe each nominee must embrace a judicial philosophy that reflects mainstream American values, not narrow ideological interests. I believe a judicial nominee must respect the role and responsibilities of each branch of government, including a healthy respect for the precedents of the court. I look for a strong commitment and passion for the continued forward progress of civil rights protections. And I want judges who have the necessary experience and temperament.

I am confident that Judges Hollander and Bredar meet these criteria and standards, and I look forward to exploring their records in more detail at today's hearing.

Let me also mention the other three nominees for our hearing today, before hearing from their home-state Senators for their formal introduction.

Scott Matheson of Utah comes to this Committee with the experience of being a prosecutor, law firm attorney, professor of law, and dean of a law school. Mr. Matheson is a legal scholar, and we look forward to reviewing his book and various law review articles he has written during today's hearing. I would note that Senator Hatch, a distinguished former Chairman of this Committee, has returned a positive blue slip on this nominee and will be introducing the nominee today. I have also had the pleasure of serving with the nominee's brother, Congressman Jim Matheson, for 6 years when I was a member of the House of Representatives.

John McConnell of Rhode Island is a distinguished lawyer with more than 25 years of private practice in the Rhode Island bar. He has focused on complex civil litigation, and most notably worked on behalf of personal injury victims and consumers that were defrauded, often filing class action lawsuits. He has spent about half of his time in state court and half of his time in federal court. Most notably, Mr. McConnell worked on behalf of state governments suing the tobacco industry for damages, and ultimately helped draft and negotiate a 46-state, \$246 billion settlement.

Our final nominee is Susan Nelson of Minnesota. Judge Nelson has served as a U.S. Magistrate Judge for the District of Minnesota for the past ten years. As a magistrate judge she has handled hundreds of cases, and in civil cases she regularly handles discovery proceedings, pleadings of the parties, and a wide variety of motions from counsel that lead to both dispositive and non-dispositive orders. She has regularly conducted settlement conferences for litigants. For criminal cases she has also issued hundreds of orders on non-dispositive criminal motions, and reports and recommendations on suppression motions.

So let me thank these five nominees for agreeing to serve their country - and that their families for agreeing to the sacrifices that public service demands, as well as the rewards that it provides - and I look forward to receiving your testimony today.

Before I ask the nominees to step forward to take the oath and introduce their family members in attendance today, let me turn to the Ranking Member for any comments he cares to make at this time.