

October 10, 2017

Tammy Baldwin
United States Senate
709 Hart
Washington, DC 20510

Dear Senator Baldwin:

Politics often get in the way of justice. That's certainly been the case regarding federal judicial nominations, including for seven years with the different attempts to fill the late Judge Terry Evans' seat on the Seventh Circuit Court of Appeals.

By way of introduction, I am a Wisconsin lawyer who for nine years concluding last fall served as the head of Wisconsin's federal public defender organization (I'm now a private practitioner of federal criminal defense). In my professional role as a defender of the constitutional guarantees and statutory rights afforded Wisconsin defendants prosecuted for criminal violations of federal law, the quality of the Seventh Circuit's bench is near and dear to my heart. Given how few cases the Supreme Court accepts for review, the Seventh Circuit exists as the functional court of last resort in ensuring that Wisconsin's federal defendants receive justice. My clients, like all litigants, deserve Seventh Circuit judges possessing intellectual horsepower along with a less tangible but equally important trait: intellectual honesty. Taken a step further, intellectual horsepower constitutes a necessary credential; intellectual honesty represents a necessary protection.

Against this backdrop, I write my first ever letter to a legislator to recommend that Mike Brennan be confirmed to fill Judge Evans's seat. I urge this across the aisle, so to speak – while Mr. Brennan is an appointee of the current Republican administration, I'm a Democrat harboring particular distaste toward the current administration.

My familiarity with, and support of, Mike Brennan isn't based on friendship or any form of professional/political/social affinity. Instead, my belief in Mr. Brennan's legitimacy as a potential federal appellate judge flows from what I observed during the time he gave to the federal defender program – time taken away from his current successful practice as a respected mediator and skilled civil litigator – to assist my colleagues and me in preparing cases we were presenting to the Seventh Circuit. In this context of his assistance to our lawyers, Mr. Brennan exhibited the best qualities of what should be expected from a federal appellate judge. He was always prepared, incredibly so; his questions

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were probing, yet fair; and he was always attuned to the issue of what the law truly demands.

From my perspective, there is no reason that Mr. Brennan shouldn't be given a vote and confirmed as an Article III judge. He certainly has the resume for the job: he went to a top law school; he served the community while working as a prosecutor; he then sat for almost a decade as a highly regarded state court judge; and since he left the bench and returned to practice, he has stood as a pillar of the legal community.

Mike Brennan's credentials to serve as a federal appellate judge are unimpeachable under any circumstance. That makes him much like Judge Garland. The federal judiciary needs (demands?) good judges. And the current administration is capable of nominating wingnuts (*i.e.*, those lacking intellectual horsepower) and/or ideologues (*i.e.*, those lacking intellectual honesty). Mr. Brennan is neither, in my opinion.

In regards to Mike Brennan becoming a Seventh Circuit judge, we, as Democrats, can show ourselves part of a big-picture solution, not contributors to an on-going problem. Like Judge Garland, Mike Brennan is eminently qualified. His only defect is who appointed him. We can follow the Republicans' lead by stalling an inarguably legitimate candidate (and thereby sign ourselves up for the unfortunate possibility that the Seventh Circuit continues its extended short-handed run for a more extended time or, worse, that the current administration then nominates a wingnut and/or ideologue who somehow becomes judge-for-life). Or we can try to promote the right-minded notion—one important to a functional judiciary—that who is nominated and confirmed matters more than who is doing the nominating.

Even broken clocks are right twice each day. The current administration's nomination of Mike Brennan to sit on the Seventh Circuit is one of those instances.

Thank you for considering my thoughts, which I hope are helpful in this time when the number of voices far exceeds the level of thoughtfulness.

Respectfully submitted,

DANIEL W. STILLER