

T. Vance McMahan

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The Honorable Charles E. Grassley, Chair
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dianne Feinstein, Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Justice Don R. Willett to the U.S. Court of Appeals for the Fifth Circuit

Dear Chairman Grassley and Ranking Member Feinstein:

I write to express my strong support for Justice Don Willett's nomination to the U.S. Court of Appeals for the Fifth Circuit.

From 1994-2000, I served as Policy Director to then-Governor George W. Bush. I then worked in President Bush's White House, leading the Office of Strategic Initiatives, and later served as United States Ambassador to the United Nations Economic and Social Council.

In early 1996, I hired Don as Director of Research and Special Projects. Most Policy Office staffers were subject-matter experts: criminal justice, transportation, agriculture, etc. Don was the exception, the resident utility infielder, handling a diverse mix of legal and policy issues.

Don's advice was consistently thoughtful and helpful in advancing the Governor's policy agenda.

I write specifically to rebut the unfounded charge that Don is not sensitive to obstacles facing women in the workplace. I'm aware some political critics have pointed to a 1998 note that Don wrote to me suggesting revisions to a proposed gubernatorial proclamation requested by the Texas Federation of Business and Professional Women. These requested revisions were to ensure the proclamation complied with office guidelines.

Not all proclamation drafts came to the Policy Office for review and comment. Some were so obviously benign that no Policy input was needed to ensure consistency with the Governor's priorities. But this proclamation declaring "Working Women's Week" came upstairs for review because it discussed specific policy proposals.

My recollection is that the wording of the organization's proposed proclamation implied agreement with a policy agenda that Governor Bush had not endorsed. Gubernatorial proclamations are not designed to announce policy. They are designed to express shared principles or celebrate events important to the State.

Before joining the Governor's Office, Don was an employment lawyer at a large Texas law firm. He was familiar with the legal issues affecting workplaces, so I asked him to gather some information about the requesting group and their policy goals, and to draft a quick note.

As instructed, Don promptly reviewed the document, agreeing with me that the draft seemed to endorse legislative proposals that the Governor had not himself endorsed.

Reading language in isolation can paint a distorted picture. Don is a colloquial writer, and his informal note to me was no exception. For example, when he typed "the need to place kids in the care of rented strangers," I knew it was an 'inside' reference to a much discussed, provocative phrase used by a pundit, not a reflection of his true feelings on this important social issue.

At the time of Don's note, he was serving on the board of directors for Austin-area nursery schools serving low-income families; and in the wake of federal welfare reform in 1996, Don was a strong voice within the Governor's Office urging more support for working moms who now needed greater access to child care.

Similarly, when Don noted the academic research regarding the gender pay gap, I again knew what he meant. Scholarly studies do point to multiple factors as contributing to the wage gap. Gender bias is one factor, but not the only one.

Don's note was intended only as a brief, intraoffice response to questions concerning a proclamation. It was written against a backdrop of previous conversations we'd had. I knew his meaning and the context. Don would never minimize the workplace barriers that women face. As a former employment lawyer dealing with issues of discrimination, harassment, etc., Don is well acquainted with how women are often denied opportunities in the workplace.

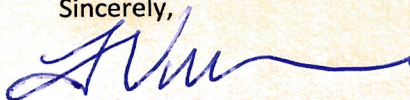
He knows it personally, too. Don's mom never finished high school and became a widow at a young age. She waited tables to support her two young children and needed affordable child care to make it all work. Don reveres his mom and the obstacles she heroically overcame. Any suggestion that Don is unsympathetic to the barriers women confront is simply untrue.

In short, Don acted appropriately in determining that a proclamation which took sides on contentious policy issues did not meet the office's standard for issuing such documents.

Don's conclusion that "[T]he document can perhaps be re-worded to omit these ideological hot buttons while still respecting the contributions of talented women professionals." is precisely what happened. The final draft stated, that "working women still face resistance in attaining certain managerial positions, and some still earn less than what men are paid for the same job."

Don Willett is an intelligent, kind and decent man. I have no doubt that, if confirmed, he will serve with great distinction.

Sincerely,



T. Vance McMahan