

Statement of
The Honorable Orrin Hatch.

United States Senator
Utah
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Statement of Chairman Orrin G. Hatch

Before the United States Senate Committee on the Judiciary

Hearing on the Nomination of

Roger T. Benitez for the

United States District Court for the Southern District of California

I am pleased to welcome to the Committee this morning Judge Roger Benitez, whom President Bush has nominated to fill a vacancy on the United States District Court for the Southern District of California.

Judge Benitez comes before us today as a highly regarded Federal Magistrate, with an impressive record of judicial service in both the state and federal judiciary. Born in Havana, Cuba, Judge Benitez's life embodies the spirit and strength of this nation. After coming to this country, he overcame numerous obstacles to put himself through college at San Diego State University. He obtained a law degree from the Western State University College of Law in 1978, and then distinguished himself in a diverse and successful law practice in Imperial County California. Appointed to the Imperial County Superior Court in 1997, and re-elected in 1998, he served with distinction until 2001. Since then, Judge Benitez has served as a federal magistrate judge in the Southern District of California.

I would note that a bipartisan committee selected Judge Benitez for his current position after a thorough review of his record and experience. Another bipartisan nominating commission found Judge Benitez to be highly qualified and recommended that he be appointed a district judge.

Despite these accomplishments and endorsements, a majority of the American Bar Association Standing Committee on the Federal Judiciary returned a rating of Not Qualified for Judge Benitez. In such instances, it has been the practice of this Committee to invite representatives of the ABA to explain the basis for the rating. Later in this hearing, we will hear from Tom Hayward, chair of the ABA Standing Committee, and Richard Macias, a former member of the Committee and circuit member who conducted the evaluation that led to Judge Benitez's rating. I welcome them on behalf of the Committee.

Finally, we will also hear from Judge Benitez's current supervisor - the Chief Judge of the Southern District of California, Judge Marilyn L. Huff. We welcome Judge Huff to the Committee, who will attest to Judge Benitez's fitness for the federal bench: his legal aptitude and experience, his integrity, and, most notably, his judicial temperament. It is my understanding that concerns pertaining to temperament served as the basis for the ABA's rating. But I expect that Judge Huff's testimony today will satisfactorily address any lingering questions about Judge Benitez's temperament. I understand that Judge Huff is in the middle of a very important trial. It is a great testament to Judge Benitez that, despite her extremely busy schedule, she was eager to come to Washington on relatively short notice to testify on his behalf.

I would note that Judge Huff's testimony is endorsed by all eleven active judges of the Southern District of California. These are the people with whom Judge Benitez has worked closely for the past three years. They all support the nomination of Judge Benitez. They have put the weight of their admirable reputations behind Judge Benitez's nomination.

In addition to this testimony, the Committee has received written testimony and letters which strongly support Judge Benitez's nomination. Without objection I will submit them for the record. Since we will not hear from these witnesses in person, I would like to take a moment to share some of their views on Judge Benitez.

U.S. District Court Judge John Houston got to know Judge Benitez both professionally and personally when they worked together as magistrates in the Southern District. Judge Houston writes that he has, "observed his good character, integrity and temperament along with his dedication to public service to be invariant. In addition, Judge Benitez' experience as a lawyer and state court trial judge will make him an invaluable member of our bench and a source of pride for the citizens in this district for many years to come."

Presiding Judge of the Superior Court of Imperial County, Raymond Cota was extremely surprised to learn of the ABA's rating. He was born and raised in Imperial County and has

worked closely with Judge Benitez. He wrote that he has, "never, in 25 years as an attorney and judge in Imperial County, heard any unflattering remarks or criticism of Roger Benitez of any sort."

Randy J. Rutten, President of the Imperial County Bar Association submitted this testimony: "I am the current President of the Imperial County Bar Association. On August 6, 2003 the Board of Directors of the Imperial County Bar Association unanimously and enthusiastically voted to endorse and support the nomination of Roger T. Benitez as an Article III judge for the Southern District of California. Our decision was based on Judge Benitez's reputation in the legal community as well as in the community in general."

Gary Wyatt, Chairman, Board of Supervisors, County of Imperial offered this testimony regarding Judge Benitez: "In 1997 he was appointed to the Superior Court by the then governor of the state of California. Before he was appointed he was vetted by the Judicial Nominations Evaluation Committee of the State of California. As part of that evaluation, confidential questionnaires were sent out to over 150 lawyers and judges asking for information concerning his legal ability, ethics, work ethics and temperament....During his tenure on the Superior Court, Judge Benitez proved himself to be a capable jurist who was valued and respected by the bar and his fellow judges. He had a reputation for being able to handle difficult legal tasks, exhibiting good judicial temperament and always being more than willing to assist his fellow judges, even if it meant asking other judges if he could help them with their calendars.... Because of his excellent reputation in the legal community and the community in general, our board of supervisors has unanimously adopted a resolution ... endorsing and recommending the confirmation of the Honorable Roger T. Benitez to the position of district judge of for the Southern District of California."

Eduardo A. Rivera, former Democratic Mayor of the City of Calexico and attorney wrote: "Judge Benitez is fair, rational, intelligent, and just. I have been treated with respect in all of my private practice dealings with Judge Benitez before he assumed the bench and have been treated fairly and equitably in his courtroom. Judge Benitez is compassionate and fair. It is therefore with dismay that I find some attorneys who have deemed his courtroom demeanor and temperament as improper. At no time in the last 25 years have I ever seen Judge Benitez exercise bad judgment or be discourteous with any person he has dealt with in either his capacity as a private attorney or as a State or Federal Judge."

Neil Gerber, an attorney in the municipality of El Centro stated, "As a state court judge, and then as a federal magistrate, Magistrate Benitez was always well prepared, engaging, and fair. His judicial temperament was excellent in all respects. He himself, displayed the highest respect for the courts, and inspired the same feeling in those who entered his courtrooms. Both as a state

court judge and as a federal magistrate, Magistrate Benitez enjoyed the highest reputation for ability and integrity among the local bar."

These and other statements of support indicate clearly that Judge Benitez has the legal experience, ability, aptitude, character, integrity and temperament to serve as a federal District Judge. So I look forward to hearing and reviewing the testimony today as we consider this nomination.

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