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FEDERAL DEFENDERS OF SAN DIEGO, INC.

29 August 1979

Mr. John A. Sutro, Sr.
Pillsbury, Madison & Sutro
225 Bush Street
P.O. Box 7880
San Francisco, California 94120

RE: Federal District Court Nominees for the Southern District of California

Dear Mr. Sutro:

As an active ABA member now serving on the Criminal Justice Section Council and an active criminal law practitioner, now serving as the Federal Defender for the Southern District of California, I would like to offer a few comments on the qualifications of Hon. Earl B. Gilliam and Hon. Artie G. Henderson, the two nominees for the U.S. District Court for the Southern District of California. Both of them are exceptional candidates and well-qualified for the office.

The Southern District of California is a unique federal jurisdiction, for approximately 80% of the court's workload involves criminal cases. During calendar year 1978 there were 111 jury trials in our district, 93 criminal and 18 civil. For 1978, the national caseload was 83% civil* and 17% criminal, but in the Southern District of California it was 54% civil* and 46% criminal. Exposure to and experience with criminal cases has proved a great asset to those serving as district judges in San Diego. For example, three of the present incumbents were Superior Court judges (Judge Nielsen serving as the criminal master calendar judge before his federal appointment) and the other two were lawyers with substantial criminal law experience (Judge Thompson and Judge Enright).

Superior Court Judge Artie Henderson was my predecessor (July 1968-October 1969). She served in the formative stages of this federal defender office for a modest compensation but provided quality service. When I arrived in the district

*One-sixth of the civil caseload involves prisoner petitions.

THE FEDERAL COMMUNITY DEFENDER ORGANIZATION FOR THE SOUTHERN DISTRICT OF CALIFORNIA

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in April 1971, she was acknowledged as a skilled and competent trial lawyer with principal emphasis on criminal practice. Our office was involved in several cases where she served as counsel for a co-defendant, and our staff had nothing but praise for her conscientious and zealous advocacy on behalf of her clients. Prior to her appointment to the bench, we have had for several years continuing dialogues on legal principles and particular cases. She has been an informed, scholarly, and persevering advocate. Always she subordinated any personal interest to the best interest of her client, and although a rarity as an experienced criminal law trial lawyer, she was respected by those who regularly served in the courts. The staff of our office was unanimous in the praise of her efforts on behalf of clients.

Governor Reagan appointed her to the Municipal Court bench, and more recently Governor Brown appointed her to the Superior Court bench. Those of us who knew her both as a lawyer and Municipal Court judge felt that she had excellent credentials, and she had the support of the Municipal Court bench for her appointment to the Superior Court. Unfortunately, because she was a woman there was some reluctance about her ability to serve on a Superior Court bench which had no female judges. Many unfounded allegations were made concerning her personality and judicial performance, but after careful inquiry was made with those who might know her best, she was appointed to the Superior Court. She has served well on that court, and she has balanced her professional background with civil law experience.

Judge Henderson has served with distinction in our community and has literally "worked her way up the judicial ranks." Her appointment to the U.S. District Court bench is both natural and obvious. She has the skill, experience, and ability to handle any federal litigation, and she would be an outstanding asset to our bench.

Judge Earl B. Gilliam was first appointed to the Municipal Court bench and then to the Superior Court. He now serves as presiding judge of the criminal division (Department 9) where cases not otherwise disposed are assigned to other courts for trial. Because of the limited availability of judicial resources, less than 10% of

criminal cases go to trial. It is important to obtain a judge of evenhandedness and fairness acceptable both to the prosecutor and defense bar. Judge Gilliam has been an exceptional mediator in that job. Judge Nielsen had served in that same position before he was selected for our federal district court bench. The ability to fairly and equitably dispose of criminal cases is an invaluable asset in our particular district.

Judge Gilliam a few months ago spoke before the Criminal Defense Lawyers Club of San Diego, an organization of which I serve now as Vice President. Our club of experienced trial lawyers had invited Judge Gilliam to speak. His presentation was candid, forthright, and sincere. He was concerned about the input of the bar, but he was strong in the assertion of the independence of the judiciary. He was approachable and compassionate, but at the same time he could fairly enforce the law and, where necessary, impose substantial sentences.

During his years on the bench, Judge Gilliam has grown and developed and earned the respect and admiration of our local bar.

Based upon their excellent legal acumen and accummulated judicial experience, Judges Henderson and Gilliam are needed on our district court bench. At a time when the public respect and that of the bar for the bench is under severe strain, the appointment of these two judges would do much to offset many of the unfounded criticisms of a well-qualified federal judiciary. It is incumbent upon those of us in the system to seek the strengthening of the federal judiciary. They would do it.

Robert Raven had suggested that you might be interested in receiving my comments. I realize that you have done a great deal of work in your investigative efforts to evaluate these two nominees, and I would only ask that if you had some additional questions, please feel free to contact me.

Sincerely,

John J. Cleary

John J. Cleary
Executive Director

JJC/teh

cc: Robert Raven