[MB-0494.012.001.001]

PERSONAL DATA QUESTIONNAIRE

1. Full name and social security number.

EARL BEN GILLIAM
[redacted]

2. Office and home addresses, zip codes, telephone numbers and area codes.

Office: 220 West Broadway, San Diego, California, 92101
(714) 236-2626

Home: 7367 Caminito Carlotta, San Diego, California, 92120
(714) 583-7642

3. Date and place of birth.

August 17, 1931
Clovis, New Mexico

4. Are you a naturalized citizen? If so, give date and place of naturalization.

Not applicable.

5. Family status:

a) Are you married? If so, state the date of marriage and your spouse's full name including maiden name if applicable.

b) Have you been divorced? If so, give particulars, including the date, name of the moving party, the number of the case, the court, and the grounds.

c) Names of your children, with age, address and present occupation of each,

a) Married, but separated.
Date of marriage: December 6, 1956
Wife's name: Barbara J. (Crawford)

b) Divorce filed on May 25, 1978.
Wife is the petitioner.
Action filed in the Superior Court of California, County of San Diego, Case No. D 127654.
California has faultless divorce theory.

c) (1) Earl Kenneth Gilliam
21 years of age
Address: 5986 College Avenue, San Diego, CA 92120
Occupation: Student

(2) Derrick James Gilliam
15 years of age
Address: 5986 College Avenue, San Diego, CA 92120
Occupation: Student

6. Have you had any military service? If so, give dates, branch of service, rank or rate, serial number and present status.

No military service.

7. List each college and law school you attended, including dates of attendance, the degrees awarded and, if you left any institution without receiving a degree, the reason for leaving.

a) College:
San Diego State College (now San Diego State University)
San Diego, California
1949-1953
B.A. Degree
Major - Business; Subfield - Accounting; Minor - Economics

b) Law School:
Hastings College of the Law, University of California
San Francisco, California
1953-1957
L.L.B. Degree (now J.D.)

8. List all courts in which you have been admitted to practice, with dates of admission. Give the same information for administrative bodies which require special admission to practice.

a) State Courts of State of California
December 17, 1957

b) Federal Courts
December 17, 1957

c) Workmen's Compensation Commission

9. Describe chronologically your law practice and experience after your graduation from law school and until you became a judge, including:

a) whether you served as a clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk.

b) whether you practiced alone, and if so, the addresses and the dates.

c) the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each.

d) any other relevant particulars.

Deputy District Attorney, County of San Diego
San Diego, California
1957-1961

Private practice (sole practitioner)
1961-1963

Addresses: 2847 1/2 Imperial Ave., San Diego, CA 92102
2835 Imperial Avenue, San Diego, CA 92102

10. a) What was the general character of your practice before you became a judge, dividing it into periods with dates if its character changed over the years.

b) Describe your typical former clients, and mention the areas, if any, in which you specialized.

1957-1961
Criminal prosecution

1961-1963
General practice; misdemeanors, felonies, probate, tax, business and miscellaneous civil
I did not specialize, however the majority of my practice was probate and business.

My typical client was lower-middle class.

11. a) Did you appear in court regularly, occasionally or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

b) What percentage of these appearances was in

1) Federal courts
2) State courts of record
3) Other courts

c) What percentage of your litigation was

1) Civil
2) Criminal

d) State the number of cases in courts of record you tried to verdict or judgment (rather than settled),

indicating whether you were sole counsel, chief counsel, or associate counsel.

e) What percentage of these trials was

1) Jury
2) Non-jury

f) Describe ten of the most significant litigated matters which you personally handled and give the citations, if the cases were reported. Give a capsule summary of the substance of each case, and a succinct statement of what you believe to be the particular significance of the case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case a) the dates of the trial period or periods, b) the name of the court and the name of the judge before whom the case was tried, and c) the individual name, address and telephone numbers of co-counsel and of counsel for each of the other parties.

a) Regularly, both while a deputy district attorney and while in private practice.

b) 1) 5 percent
2) 85 percent
3) 10 percent

c) 1) 100 percent criminal (1957-1961)
2) 20 percent criminal; 80 percent civil (1961-1963)

d) I tried over 300 cases to verdict or judgment.

e) 1) 30 percent
2) 70 percent

f) See attached rider.

12. State the judicial office you now hold, and the judicial offices you have previously held, giving dates and details, including the courts involved, whether elected or appointed, periods of service and a description of the jurisdiction of each such courts with any limitations upon the jurisdiction of each court.

a) 1963-1975
I was appointed to the Municipal Court of the San Diego Judicial District, San Diego, California on December 27, 1963 by Gov. Edmund "Pat" Brown.
Jurisdiction and limitations:
Criminal - misdemeanors
Civil - up to $5,000.00
Small Claims - $750.00

b) 1975-present
I was elevated to the Superior Court of California, County of San Diego, San Diego, California on August 22, 1975.
General jurisdiction, no limitations.

Though appointed to both of the foregoing benches, I have run for election on at least three occasions, but I have never been in a contested election.

13. Describe ten of the most significant opinions you have written, or attach copies of them to your answers, and give the citations if the opinions were reported, as well as citations to any appellate review of such opinions.

See attached opinions (4).

14. Have your ever held public office other than a judicial office?

No.

15. Have you ever been an unsuccessful candidate for elective, judicial, or other public office?

No.

16. Have you ever been engaged in any occupation, business, or profession other than the practice of law or holding judicial or other public office? If so, give details, including dates.

My only occupation since finishing law school has been practicing law, holding judicial office and instructing law part time.

17. Are you now an officer or director or otherwise engaged in the management of any business enterprise?

a) If so, give details, including the name of the enterprise, the nature of the business, the title or other description of your position, the nature of your duties and the term of your service.

b) Is it your intention to resign such positions and withdraw from any participation in the management of any of such enterprises if you are nominated and confirmed? If not, give reasons.

a) My wife, Mrs. Gilliam, and I have a family corporation, BobEarl. It was set up for tax purposes. Mrs. Gilliam is a realtor and the corporation hires her to sell real estate. She is the President and I am the Secretary/Treasurer.

b) If my office or title is in conflict with my nomination, I will resign and relinquish my interest in said corporation.

18. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation of any federal law or regulation, county or municipal law, regulation or ordinance?

No.

19. Have you, to your knowledge, ever been under federal, state or local investigation for possible violation of a criminal statute?

No.

20. Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities?

No.

21. Have you ever been sued by a client or a party? If so, give particulars.

I have been sued on two separate occasions.

a) Ronald Warren Briley v. State of California, Earl B. Gilliam, et al.
United States District Court, Southern District of Calif.
Case No. 74-534-T

This was a case in which the plaintiff sued for $5 million naming the aforementioned parties as party defendants, wherein certain surgical procedures were performed on said plaintiff pursuant to a criminal action filed in the Superior Court of the State of California. I was a member of the District Attorney staff and appeared for the District Attorney for the continuance of one of the hearings in this case. It is my understanding that this matter has been resolved by dismissal in the federal court.

b) Janet L. Owens v. Hon. Earl B. Gilliam
Small Claims Court, San Diego Judicial District
Case No. 255157

I was sued on July 11, 1977 by Janet L. Owens, 25582 Van Lewen Street, Loma Linda, Calif., 92354, for the sum of $181.00 for failure to refund $75.00 deposit. I owned apartments at 1255 Thomas Street, San Diego, California with Carol Wayman and G. Phelps, both of San Diego, California. In 1977 I was the partner who oversaw the manager of said apartments. My functions were generally to make sure that the deposits of rents were made to the bank and to pay the expenses. A dispute developed between Ms. Owens and the manager over her deposit and she filed a lawsuit naming me as defendant. The matter was resolved by settlement a short time after I received notice of the action. Said matter was dismissed on July 29, 1977.

22. Have you ever been a party or otherwise involved in any other legal proceedings?

No.

23. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar association, disciplinary committee or other professional group?

See attached rider.

24. With respect to your judicial service,

a) Have you participated in any proceedings in which you had a stock or other financial interest in one of the parties or in the matter in controversy? If so, give particulars.

b) Is there a rule or custom in your court as to judges sitting on such cases? If so, state the rule or custom and whether or not you have complied with it.

c) Have you to the best of your knowledge and belief complied with applicable statutes and Canons of the American Bar Assn. relative to such matters as were in force and applicable at the time? If not, give particulars.

d) Have you ever received compensation from outside sources for services rendered (other than fees or expenses for lectures or teaching)? If so, give particulars.

a) No
b) No
c) Yes
d) No

25. a) What is the present state of your health?

b) Have you in the last 10 years (i) been hospitalized due to injury or illness or (ii) been prevented from working due to injury or illness or otherwise incapacitated for a period in excess of ten days?

c) Do you suffer from any impairment of eyesight or hearing or any other physical handicap? If so, give details.

d) When did you have your most recent general physical examination, and who was the supervising physician?

e) Are you currently under treatment for an illness or physical condition? If so, give details.

f) Have you ever been treated for or had any problem with alcoholism or any related condition associated with consumption of alcoholic beverages or any other form of drug addiction or dependency?

g) Have you ever been treated for or suffered from any form of mental illness?

a) Good
b) No
c) Yes - artificial right eye
d) April, 1979; Dr. Arvin J. Klein, 6367 Alvarado Court, San Diego, Calif., (714) 583-3400
e) Yes - Dr. Klein has prescribed medicine for high blood pressure.
f) No
g) No

26. Furnish at least five examples of legal articles, books, briefs, or other legal writings which reflect your personal work. If briefs are submitted, indicate the degree to which they represent your personal work.

See attached opinions (4).

27. a) List all bar associations and professional societies of which you are or have been a member and give the titles and dates of any offices which you have held in such groups.

b) List also chairmanships of any committees in bar associations and professional societies, and memberships on any committees which you believe to be of particular significance.

c) Describe also your participation, if any, on judicial committees, in judicial conferences, and in sitting, by designation, as a temporary member of the court which reviews decisions of your court.

a) Formerly, California Bar Association, San Diego County Bar Association, Phi Alpha Delta legal fraternity (non-active);
Presently, Black Lawyers Association, San Diego County Judges Association, California Judges Association, National Bar Association.

b) I have formerly served as Chairman of the Traffic Committee for the California State Bar Association.

c) 1) I have served as a seminar leader on two occasions at conferences of the California Judges Association.

2) Presiding Judge of the Municipal Court of California, San Diego Judicial District in 1966.

3) Presiding Judge of the Criminal Division of the Superior Court of California, County of San Diego presently.

4) I am now sitting in the Appellate Division of the Superior Court of California, County of San Diego.

28. List all organizations other than bar associations or professional associations or professional societies of which you are or have been a member, including civic, charitable, religious, educational, social and fraternal organizations.

I have served on boards of various organizations including YMCA, Salvation Army, Boys' Club, Urban League, NAACP, Navy League, Board of Overseers for Hastings College of the Law. I presently serve on boards of directors for Western State College of Law, Christians and Jews, and Hambray House. I presently head the trial practice division of and teach a class on contracts at Western State College of Law. In the past, I have taught torts and trusts. I have been an instructor for approximately 10 years. Western State College of Law is located at Front and Ash Streets, San Diego, California.

29. List any honors, prizes, awards or other forms of recognition which you have received (including any indication of academic distinction in college or law school) other than those mentioned in answers to the foregoing questions.

1964, Young Man of Year, San Diego
1969, Commission General of 200th Anniversary of San Diego

30. State any other information which may reflect positively or adversely on you, or which you believe should be disclosed in connection with consideration of you for nomination for the Federal Judiciary.

As a judge in the Municipal Court of California, San Diego Judicial District, during the years 1963-1975, I was assigned every function of that court, including the following: traffic arraignments; criminal arraignments, both felony and misdemeanor; civil law and motion, which included every phase of civil cases including pre-trial motions and trials; and regular trial departments where I handled criminal and civil trials. I also served as Presiding Judge of that court, wherein it was my function to be the chief administrator of the court and direct the day-to-day operations, including the supervising of the attaches of the court. While on that court, I presided over long trials, some as long as ten weeks, and also short matters.

One project of the Municipal Court was to set up a pre-trial department of criminal cases, and this was the first experience for any court in this country. This instituted the setting up of an intermediate step between arraignment and trial, wherein all cases would be reviewed by a judge to see if they could be disposed of. This project facilitated in cutting the time from arraignment to trial from two years to less than six months. Because of my experience in this area, I was able to assist the Superior Court of California, County of San Diego, in doing the same with their trial calendar. I also visited, advised and shared the experience with numerous other municipal courts in the State of California.

Since my elevation to the Superior Court of California, County of San Diego, in addition to being assigned to regular trial departments, both criminal and civil, I have been assigned to the domestic relations court and handled law and motion matters extensively in the psychiatric division of the court. In addition, I have had assignments in probate and adoptions.

Presently, I am the Presiding Judge of the Criminal Division of the Superior Court of California, County of San Diego, wherein my responsibilities are to handle the administrative and judicial details of this court, which include assignment of cases and intermediate motions. There are approximately six judges regularly assigned to this division, and sometimes that total may reach as high as ten or twelve.

In addition to the above, I am presently assigned to the Appellate Division of the Superior Court.

RIDER

11(f). I will limit the number of significant litigated matters to four.

1. A case wherein the defendant was charged with pandering and/or selling obscene material, and the book in question was the Marquis de Sade. This was a municipal court action which I tried in approximately 1966 and the trial last six weeks. In this trial appeared expert witnesses having to do with literary value and the history of languages. This case was prosecuted by attorney Kenneth Lounsbery, presently City Manager for the City of Escondido, 100 Valley Boulevard, Escondido, California, 92025, (714)741-4631.

2. People v. Davis, 62 Cal.2d 791. I represented the defendant in this case prior to becoming a judge on the charge of murder. The verdict of the jury was that the defendant should be put to death. During the course of the trial I made an offer of proof of the testimony of two psychologists who were prepared to testify that the defendant suffered a temporary psychosis which rendered him unable to reason right from wrong; that is, temporary insanity. The trial judge, William P. Mahedy, now retired, refused to hear or decide the issue of whether or not said psychologists were competent. In the appeal, the appellate court ruled that psychologists, if competent, should be allowed to testify, and I believe this is a landmark case, in that this was the first time the California Supreme Court so ruled. The prosecutor in this case was John C. Van Benthem III, who is now in private practice in the City of San Diego.

3. Cesco Development Corp. and Conde Investment Corp. v. Citizens Development Corp., et al.
San Diego Superior Court Case No. 3926 N
This was a court trial which took more than six weeks to try, and I tried this case in the latter part of 1977. The damages in this case could well exceed $8 million; the issue being whether or not the plaintiff should be entitled to damages due to the defendant's interfering with plaintiff's future profits in the sale of land where defendant restricted memberships in a golf club. The attorneys involved are Clinton F. Jones, P. O. Box 1506, Escondido, California, 92025, (714)745-4400, and Roscoe D. Keagy, 304 Kalmia Street, San Diego, California, 92101, (714)239-3861. The transcripts of the trial are presently being prepared, and even though I have given a tentative decision, I will soon be in preparation of the decision of said case. This case involves the complex issue of possibly determining damages based on loss of profits due to appreciation of land values, etc.

RIDER (Continued)

4. La Costa Village Homeowners Assn., et al. v. La Costa Village Company, etc., et al.
San Diego Superior Court Case No. N 6238
This is a case in which the damages may well exceed $25 million, and there are more than twenty parties involved in this litigation. There are multiple plaintiffs and defendants. I was assigned this case for all purposes; that is, pre-trial motions involving pleadings and the issue of class action. This case is not due to be tried for approximately one year, and the trial time is expected to exceed six months. So far, I have handled all of the pre-trial motions and the case is now ready for determination of the issue of class action and who are members of the class. Attached hereto is a list of the attorneys involved in said action.

23. I have never been disciplined or cited for breach of ethics, however, two complaints have been filed against me.

a) In 1962, prior to becoming a judge, one of my clients complained to the local bar that my fee was too high. I answered that complaint with my response and I have never heard anything else further about it.

b) In 1975 a complaint was filed against me to the State of California, Commission on Judicial Qualifications; to wit, Valdemira Silva Kaler v. San Diego Fish Company, et al., Small Claims Case No. 214009. I responded to the complaint and the matter was dropped. Please find enclosed a copy of the complaint and my explanation.