

United States Court of Appeals

For the Ninth Circuit

United States Courthouse

San Diego, California 92189

Chambers of
J. Clifford Wallace
Chief Judge

April 2, 1993

The Honorable William J. Clinton
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

I have reviewed a detailed report from the physician of the Honorable Earl B. Gilliam, United States District Judge for the Southern District of California, concerning his medical condition. The recent report reviews the medical history of the judge and concludes that it is imperative that Judge Gilliam seek a disability retirement.

From my review of the report of the physician, Judge Gilliam's February 24, 1993, letter to me requesting a Certificate of Disability, and my discussions with the judge, I must conclude regretfully that he is permanently disabled from performing the duties of his office; this condition entitles him to retire from regular active service, pursuant to Title 28, United States Code, section 372(a), and I so certify as Chief Judge of the Ninth Circuit, in accordance with the statute. In accord with the letter to you from Judge Gilliam, this certificate and the judge's disability retirement are stated to be effective as of April 2, 1993.

I sincerely regret these circumstances and the retirement of Judge Gilliam due to this disability. The judge has rendered distinguished service since he commenced his service as a federal judge on August 20, 1980, and has carried heavy responsibilities in one of the districts with an unusually burdensome caseload. He has the profound respect of his associates and of all of the judges who know him through the federal judiciary, and of the bar and the public, for his dedicated and tireless efforts.

Respectfully,



J. Clifford Wallace
Chief Judge

JCW:gpl

February 24, 1993

Honorable J. Clifford Wallace
Chief Judge
U. S. Court of Appeals
940 Front Street
San Diego, CA 92189

Dear Chief Judge Wallace:

Please find attached a copy of a letter from D. Craig Miller, M.D. Dr. Miller is a heart and aorta specialist who has been treating me since 1986.

Dr. Miller's opinion is that I am physically disabled.

I am requesting that you issue a Certificate of Disability based on the contents of the enclosed letter.

Thank you for your consideration.

Very truly yours,

Earl B. Gilliam, Judge

EBG:ky
Encl.

United States District Court

Southern District of California

940 Front Street

San Diego, California 92189

Chambers of
Earl B. Gilliam
Judge

April 6, 1993

The Honorable William J. Clinton
President of the United States
The White House
Washington, D.C. 20500

Dear Mr. President:

In accordance with the provisions of 28 U.S.C. 372(a), I hereby respectfully make application for retirement from regular active service as a United States District Judge for the Southern District of California. This decision is based on the advice of my doctor, D. Craig Miller, M.D.. A copy of a letter from Dr. Miller setting forth the reasons for this advice is enclosed.

I am also enclosing a Certificate of Disability signed by Chief Judge J. Clifford Wallace.

If it meets with your pleasure, I request that my retirement be effective as of April 2, 1993. It is my hope that, if relieved from the full assignments of an active judge, I shall be able to perform substantial duties as a senior judge.

It is with deep regret that I must certify, pursuant to section 372(a), that I have become permanently disabled from performing my duties as a United States District Judge.

Respectfully yours,

Earl B. Gilliam
Earl B. Gilliam, Judge

With this letter enclose
of copy of Dr Miller's letter
Judge's Wallace's letter

April 6, 1993

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President of the United States
The White House
Washington, D.C. 20500

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Respectfully yours,

Earl B. Gilliam, Judge

see Judge Wallace
" Keep

To Judge Wallace
① copy of this letter
② copy of letter to
Mecham

To Judge Keep
① copy of this letter
② copy of Wallace's letter
③ copy of letter to Mecham

January 6, 1993

**Re: Judge Earl Gilliam
SUMC # 088 79 14**

To Whom It May Concern:

I have been involved in the medical/surgical care of Judge Gilliam since 1986 when he presented to Stanford with a huge distal arch and descending thoracic aortic aneurysm secondary to a chronic type A aortic dissection. His acute dissection had been repaired under emergency circumstances by Dr. Harold Little on July 7, 1981 at LDS Hospital in Salt Lake City. The ascending aorta was replaced with a tube graft and his aortic valve was resuspended. The subsequent aneurysmal dilatation of the bulk of his descending thoracic aorta was successfully replaced here with another graft on 3/19/86. Fortunately there were no major postoperative complications, and he returned to his full time duties in the Federal District Court in San Diego.

In 1991, however, he developed paroxysmal atrial fibrillation, possibly a small embolic or hypertensive stroke, and transient renal failure. Transesophageal echocardiography in San Diego revealed a worrisome amount of aortic valvular regurgitation and possibly a false aneurysm involving the ascending aortic graft. In July of 1991 he was evaluated and treated here at Stanford under the direction of Dr. Michael Stadius. It should be noted that his hypertension had become progressively more difficult to control over the first six months of 1991. He was admitted to Stanford from 29 July to 13 August, 1991. The aortic valvular regurgitation was moderately severe, but we could not incriminate no aorto-left ventricular fistula or false aneurysm of the previously implanted ascending aortic graft. Angiography revealed a high grade stenosis of the left renal artery (which may have been exacerbating his hypertension) due to his chronic aortic dissection. This stenosis was successfully treated with an intra-arterial stent using balloon angioplasty techniques by Dr. Michael Dake at Stanford. At that time, no additional worrisome extent of false aneurysmal progression involving any other part of his thoracic or abdominal aorta was noted.

His response to these interventions in 1991 had been mostly favorable, but he remains hypertensive. On the other hand, he has no recurrent episodes of paroxysmal atrial fibrillation or renal failure. He returned to Stanford in October 1992 for re-evaluation. A TEE confirmed persistent severe aortic valvular regurgitation. Moderate mitral regurgitation was also demonstrated as well as left ventricular enlargement. The chronic dissection in the arch was visualized. The major new change noted in October 1992 compared to August 1991 was that the degree of mitral regurgitation had increased. A stress MUGA scan again showed the aortic valvular regurgitation, but normal systolic LV function with an appropriate increase in ejection fraction with exercise. The Judge at that time was able only to achieve an exercise level of 3 METS, which is quite low, but his maximal heart rate was 138. There were no ECG findings of myocardial ischemia. His left ventricular radionuclide ejection fraction was 62% at rest and rose to 79% with exercise. A repeat MRI scan at that time showed the chronic changes in his thoracic and abdominal aorta related to the old dissection and the previously placed aortic grafts. The dissection continues down into the abdomen to a level below the renal arteries. Repeat angiography was

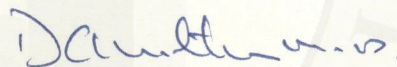
Re: Judge Earl Gilliam
SUMC # 088 79 14
January 6, 1993
page -2-

not carried out to assess the left renal artery stent since his blood pressure has been easier to control over the last fifteen months. I saw him personally on 10/2/92, and we discussed all of these findings. I was concerned by the progression of his degree of mitral regurgitation which appeared to be due to annular dilatation. This could be secondary to progressive left ventricular dilatation due to his longstanding aortic insufficiency. I recommended a transthoracic echo to be repeated every six months to assess the size of his left ventricle and the severity of both the AR and the MR. He also should have annual MRI scans for periodic surveillance of his chronic type A aortic dissection. His heart failure is improved compared to 6/91, but he is still limited. He has lost some weight, and he looked good in October. However, he was only able to go up one flight of stairs without severe dyspnea on exertion. At that time he was on a large host of medications, including Coumadin, Dyazide, colchicine, Procardia, propranolol, aspirin, Zylprim, and Lanoxin.

A note from Dr. Douglas E. Brown, who is his internist in the San Diego area, dated 12/15/92 reveals that his blood pressure was 124/56 and his heart rate was 92 and regular.

From the cardiovascular surgical standpoint and also with regard to his chronic cardiac problems, which may well require a repeat surgical intervention in the future, I would think that Judge Gilliam should legitimately be considered medically disabled. Certainly a full-time court schedule would exacerbate his underlying cardiac and aortic pathology. Should his heart failure symptoms progress or his left ventricle continue to enlarge, serious consideration of aortic valve replacement with concomitant mitral valve repair will become necessary.

Sincerely yours,



D. Craig Miller, M.D.
Professor of Cardiovascular and Thoracic Surgery

DCM:pet



THE WHITE HOUSE
WASHINGTON

April 20, 1993

The Honorable Earl B. Gilliam
United States District Judge for the
Southern District of California
940 Front Street
San Diego, California 92189

Dear Judge Gilliam:

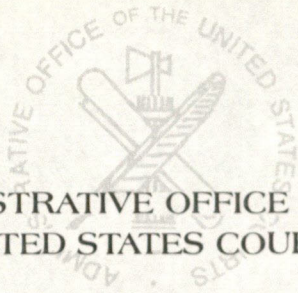
I have received your letter advising of your request to retire on disability from regular active service as United States District Judge for the Southern District of California. In accordance with the provisions of 28 U.S.C. section 372(a), I accept your decision to seek senior status, effective April 2, 1993.

In acknowledging this request, I am pleased to express appreciation in behalf of the nation for your distinguished contributions to the well-being of your fellow citizens as a member of the Federal judiciary since 1980. It is good to know that, when able, you will continue to accept assignments in the capacity of a Senior Judge.

You have my best wishes for improved health and every happiness in the years ahead.

Sincerely,

Bill Clinton



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

WASHINGTON, D.C. 20544

L. RALPH MECHAM
DIRECTOR

JAMES E. MACKLIN, JR.
DEPUTY DIRECTOR

April 13, 1993

Honorable Earl B. Gilliam
United States District Court
940 Front Street
San Diego, California 92189

Dear Judge Gilliam:

I appreciate your writing and sending me a copy of your letter to the President regarding your retirement to senior status. It is unfortunate that your health has required you to make this decision but I trust that a lighter caseload will allow you to continue to serve in the Federal judiciary for many years to come.

The staff joins me in extending our best wishes. Please do not hesitate to call upon us whenever we may be of assistance.

Sincerely,

L. Ralph Mecham
Director

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS
WASHINGTON, D.C. 20544

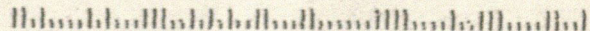
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Honorable Earl B. Gilliam
United States District Court
940 Front Street
San Diego, California 92189

92189-0010 02



United States District Court

Southern District of California

940 Front Street

San Diego, California 92189

Chambers of
Earl B. Gilliam
Judge

5-5-93

On April 2, 1993, I became a "Senior" Judge of the United States District Court, Southern District of California. I have had the privilege, honor and rewarding experience of serving the people of the San Diego area as a judge on the local, state and federal levels since December 27, 1963.

I decided to seek senior status due to a cardiac problem. This decision was made after consultation with my personal doctors, discussion with my family, close friends and other members of the bench on which I serve.

The law that governs the federal judiciary allows me to continue to be active as a judge and yet have more personal time for myself.

I appreciate and thank President William J. Clinton, Chief Judge J. Clifford Wallace and Chief Judge Judith N. Keep for their cooperation, support and assistance in making this transition possible.

JUDGE EARL B. GILLIAM

senior judge

5-5-93

**To: San Diego Union-Tribune
San Diego Daily Transcript
Los Angeles Times**

From: Judge Earl B. Gilliam

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seniorjudge

Daily

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HONORABLE EARL GILLMAN
U.S. DISTRICT JUDGE
940 FRONT STREET
SAN DIEGO CA 92189-0010

Transcript

FRIDAY, MAY 7, 1993

Gilliam Takes Senior Status

Continued from Page 1A

Judge Earl B. Gilliam Shifting To A Deserved Senior Status On Bench

By PAMELA WILSON
San Diego Daily Transcript Staff Writer

Earl B. Gilliam, the first African-American to serve as a judge in San Diego County and the lone black on the federal bench, announced yesterday he has shifted to a "senior" status that will allow him to reduce his workload.

Federal judges are appointed for life, but may adopt a reduced workload at retirement age.

Gilliam, 61, received approval from President Clinton April 2 to go to senior status early because of a heart condition.

Gilliam said he plans to work full-time for now, but his new status will permit him to reduce his schedule as necessary because of his health.

"I will remain as active as I possibly can," Gilliam said.

The jurist's shift to senior status opens a second vacancy on the federal bench. Committees appointed by Sens. Dianne Feinstein and Bar-

Please turn to Page 16A



Gilliam

bara Boxer are already screening candidates for the first vacancy.

U.S. District Chief Judge Judith Keep said the "best thing" about Gilliam going senior is that he will continue to be actively involved on the bench.

Citing Gilliam's contributions organizing the court's new criminal settlement conferences and his work supervising a panel of lawyers for indigent clients, Keep said Gilliam has "great credibility with the bar on both sides."

Dave Carothers, a partner at McInnis, Fitzgerald, Rees, Sharkey & McIntyre, said Gilliam's presence on the bench has been especially important to minority lawyers.

"He has been somebody who always had his door open for fatherly, mentoring advice," Carothers said. "The fact that he is on the bench eases a lot of minds."

Carothers said many in the African-American community feel it is important that another black be appointed to the federal bench, because the scarcity of African-American judges and attorneys has become a "self-fulfilling prophecy" that inhibits the city's ability to attract black lawyers.

Gilliam too expressed hope Clinton will improve the representation of minorities on federal benches nationwide, noting that Pete Wilson had a better record in that regard as a U.S. senator than he has as governor.

"Pete Wilson and (George) Deukmejian just haven't seen fit to keep the numbers up," Gilliam said. "We have lost ground. We are dwindling in numbers on the state court and we are dwindling in numbers on the federal bench."

Reflecting on Gilliam's record, Mario Conte, director of the Federal Defenders office, described the judge as "a very equitable, gentle person" who "really cares" about the attorneys and defendants who

appear in his courtroom.

Conte recalled that Gilliam has handled some very difficult cases, including the six-month Telink fraud prosecution over influence peddling in the award of a county telephone equipment contract. Gilliam ultimately dismissed some of the government charges, a decision that was upheld on appeal.

"He wasn't afraid to take the big, tough cases and make some very difficult rulings," Conte said.

Conte also praised Gilliam for maintaining a good environment in his court. "There is a wonderful atmosphere in his courtroom. It's not oppressive or tension-riddled," he said.

Echoing that observation, Judge Keep said attorneys like to hold settlement conferences with Gilliam, and few in the legal community can say "No" to the judge.

"He is a great troubleshooter for the court for that reason," Keep said.

Although Gilliam has racked up a series of firsts, it wasn't always smooth going. Conservative Republican senators, including Strom Thurmond, Orrin Hatch and Jesse Helms, stalled Gilliam's 1980 appointment to the federal bench for months, citing unstated and unsubstantiated doubts about his qualifications.

Critics said the maneuvers were aimed at delaying President Jimmy Carter's appointment until the November election so Ronald Reagan could appoint Republican judges if he won the presidency.

Then Democratic Rep. Lionel Van Deerlin accused Republicans of "unhooded racism" and "country-club bigotry," and opposition to Gilliam's appointment was ultimately dropped.

Gilliam was born in New Mexico and spent his early years in Oklahoma. He moved to San Diego with his family in the fifth grade and attended Logan and Stockton ele-

mentary schools, Memorial Junior High and San Diego High School.

The judge studied at City College and graduated from San Diego State University in 1953 as a business major. He graduated from Hastings School of Law in 1957, in a class of all white males except for three African-Americans, two women and one Asian. Slain San Francisco mayor George Moscone was a classmate, and Assembly Speaker Willie Brown entered Hastings in the class after Gilliam's.

The judge returned to San Diego and worked as a deputy district attorney until 1961, when he went into a private civil practice. He was named to the Municipal Court bench in 1963 at age of 32 by then-Gov. Pat Brown, and elevated to the Superior Court by Brown's son, Jerry Brown, in 1975. Gilliam was appointed to the federal bench in 1980, only weeks after Keep was also confirmed.

Gilliam has taught at Western State College of Law and UCSD, served on numerous community boards and has been honored with several awards, including Trial Judge of the Year in 1981. San Diego's African-American lawyers' group honored the judge a few years ago when it changed its name to the Earl B. Gilliam Bar Association.



A Fax from the desk of



Clerk's Office, United States District Court
940 Front Street, Room 1-N-20
San Diego, CA 92189
Telephone:

FAX: (619)557-6664

TO: ALAN ABRAHAMSON
L. A. TIMES

Telephone: 213) 237-4712 Facsimile
Voice

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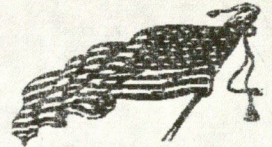
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San Diego, CA 92189
Telephone:

FAX: (619) 557-6884

TO: Pam Wilson
SAN DIEGO DAILY TRANSCRIPT

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 San Diego, CA 92189
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April 6, 1993

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President of the United States
The White House
Washington, D.C. 20500

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Respectfully yours,

Earl B. Gilliam, Judge

*bcc: Chief Judge Wallace
" " Hoop*