

Honolulu, Hawaii

FEB 15 2011

RE: GOV. MSG. NO. 521

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred Governor's Message No. 521, submitting for study and consideration the appointment of:

SUPREME COURT, STATE OF HAWAII

G.M. No. 521 SABRINA SHIZUE MCKENNA, for a term of
ten years,

begs leave to report as follows:

Your Committee received testimony in support of the appointment of Judge Sabrina Shizue McKenna to the position of Associate Justice of the Supreme Court of the State of Hawaii from United States Congressional Representative Colleen Hanabusa; Representative Blake K. Oshiro, Hawaii State House of Representatives; John M. Tonaki, State Public Defender; Judge Eden Elizabeth Hifo (retired), Circuit Court, First Circuit; Judge Lanson K. Kupau, Per Diem Judge, District and Family Courts, First Circuit; Judge Diana L. Warrington (retired), Family Court, First Circuit; Judge Sandra A. Simms, Circuit Court, First Circuit; Judge Riki May Amano (retired), Circuit Court, Third Circuit; the Mayor of the County of Hawai'i; Family Law Section, Hawaii State Bar Association; Hawai'i Women Lawyers; Hawaii State Commission on the Status of Women; Hawaii Government Employees Association; and eighty-five individuals. Testimony in opposition to the appointment was submitted by five individuals. Comments regarding the appointee were submitted by the Hawaii State Bar Association.

The Hawaii State Bar Association Board of Directors (HSBA Board) found the appointee to be qualified for the position of



Associate Justice of the Hawaii Supreme Court, based on established criteria for determining the qualifications of judicial and executive appointments generally utilizing the American Bar Association Guidelines for Reviewing Qualifications of Candidates for State Judicial Office. Those Guidelines include the following criteria, which are not exclusive: integrity and diligence, legal knowledge and ability, professional experience, judicial temperament, financial responsibility, public service, health, and responsibilities and duties required of the position for which the applicant has been appointed. The HSBA Board ratings system includes the categories of "qualified" and "not qualified".

Judge McKenna received her Bachelor of Arts degree in Japanese language from the University of Hawaii at Manoa and her Juris Doctor degree from the University of Hawaii at Manoa, William S. Richardson School of Law. As a law student, Judge McKenna served as Editor in Chief of the University of Hawaii Law Review. Additionally, she served as the quarterback of the law students' Ete team in the Ete Bowl, the annual football game between female law students and female alumni. Following law school, Judge McKenna began her career in private practice with the law firm of Goodsill Anderson Quinn & Stifel, where she concentrated her practice in civil litigation and representation of Japanese business entities in various areas of law, including corporate, real estate, contract, and immigration. In 1987, she moved to an in-house counsel position with Otaka, Inc., a large company with various international interests. In that position, she also served as the company's Corporate Secretary, Director, and General Counsel and represented the company's interest throughout the world.

In 1991, Judge McKenna took a position as an Assistant Professor at the University of Hawaii, William S. Richardson School of Law, organizing and supervising law students in the Public Interest Clinic and teaching other clinic, legal writing, and oral advocacy courses. She then left her teaching position to become a District Court judge, handling civil, criminal, driving under the influence, traffic, and arraignment calendars. Four years later, she was appointed to the Circuit Court of the First Circuit, where she handled more than one hundred fifty jury trials, many bench trials, settlement conferences, and motions. Also as a Circuit Court judge, Judge McKenna presided in cases in the Criminal Division, Adult Criminal Division, Family Court, and Civil Division. In 2009, she became the Senior Judge of the



Family Court of the First Circuit. In this last position, Judge McKenna led the Family Court's move to the new Kapolei Judiciary Complex, a logistical and administrative feat of careful planning and organization. Moreover, she has substituted for justices and other judges hearing agency appeals and on the Hawaii Supreme Court.

Judge McKenna has also been an active participant in the legal community, having been a member of numerous boards and committees, including the Board of Directors of the Volunteer Legal Services Hawaii, the Hawaii Supreme Court Civil Pattern Jury Instruction Committee, the Statewide Juvenile Justice Information Committee, the Standing Committee on Children in Family Court, and the Hawaii Supreme Court Family Court Rules Committee, among many others. She has also been the co-Chairperson of the American Judicature Society, Hawaii Chapter, Committee on Judicial Independence and Accountability and the American Judicature Society, Hawaii Chapter, Committee on Judicial Administration. More recently, Judge McKenna currently serves as the Chairperson of the Hawaii Supreme Court Committee to Evaluate the Qualifications of per Diem Judges in the First Circuit and of the Hawaii Supreme Court Committee on Court Interpreters.

Judge McKenna has also been the recipient of numerous awards, including the Richardson Law School Outstanding Alumnus Award, University of Hawaii Distinguished Alumnus Award, the Hawaii Women Lawyers Outstanding Judicial Achievement Award, the Dr. Martin Luther King Friends Award from the Hawaii Friends of Civil Rights, and the Certification of Distinguished Service by the Hawaii Joint Police Association. Additionally, Judge McKenna also participates in the community by acting as an AYSO Soccer referee and coach, among other volunteer activities.

Testimony in support of Judge McKenna reveals an individual who balances an excellent judicial temperament with a keen and analytic intellect. Testifiers commended her compassion, sensitivity, thoughtfulness, patience, integrity, generosity, kindness, and positive and energetic attitude. Her reputation within the legal community is exemplary. Attorneys who have appeared before her and judges who have served with her note her hard-working, industrious, diligent, meticulous, and insightful nature. Her decisions are well thought out and coherently expressed. She is reputed to be always well-prepared, with a thorough knowledge of the law, and applies the facts and law in a decisive and common sensical manner. When hearing a case,



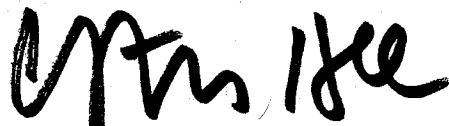
testifiers noted her fair treatment of the parties and attorneys in her dealings with them and in her decisions. Testifiers also praised the breadth and depth of her legal experience gained through private practice, in-house counsel, law school teaching, and service on the varied benches of District, Circuit, and the Hawaii Supreme Court hearing criminal, civil and family cases.

Your Committee also received testimony from a handful of individuals objecting to the appointee on the basis of her sexual orientation. While your Committee always appreciates the public's input on judicial appointees, the basis of the objections in this testimony is entirely irrelevant. In considering whether to recommend that the Senate consent to a judicial appointment, your Committee's responsibility lies in determining an appointee's fitness and qualifications to fulfill the position at hand. The role of an Associate Justice on our highest appellate court is an important one, and should not be treated so lightly such that a candidate's outstanding qualifications to fill that role are set aside in favor of considering an immaterial personal characteristic.

Your Committee finds that, based on the testimony submitted on her behalf, Judge Sabrina Shizue McKenna has the experience, temperament, judiciousness, and other competencies to be an Associate Justice of the Hawaii Supreme Court, and has a good sense of where the equities, rights, and responsibilities lie in a case, which is essential for an Associate Justice of the Hawaii Supreme Court.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the appointee, has found the appointee to be qualified for the position to which appointed and recommends that the Senate consent to the appointment.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,

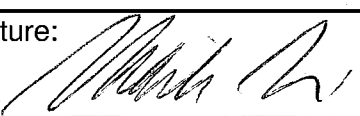


CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL
Consent

Gov. Msg./Jud. Comm. No.:* GM 521	Committee Referral: JDL	Date: 2/4/11		
<input type="checkbox"/> The Committee is reconsidering its decision				
The Recommendation is:				
<input checked="" type="checkbox"/> Consent 2347 <input type="checkbox"/> Not Consent 2349				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	5	0	0	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one Judiciary Communication per Record of Votes