

Honolulu, Hawaii

August 3, 2000

RE: GOV. MSG. NO. 3

Honorable Norman Mizuguchi
President of the Senate
Twentieth State Legislature
Special Session of 2000
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred Governor's Message No. 3, submitting for study and consideration the nomination of:

DANIEL R. FOLEY, gubernatorial nominee to the Intermediate Court of Appeals, for a term of Ten Years,

begs leave to report as follows:

Upon review of the background information submitted by the nominee, your Committee finds that Daniel R. Foley holds B.A. and J.D. degrees from the University of San Francisco. Mr. Foley has 26 years of law experience. He has served as the legal counsel to various Micronesian government bodies, the legal director for the ACLU of Hawaii, an adjunct professor at the University of Hawaii, and a partner in a private law practice. He has also served as a board member for the Seagull Schools, Inc.

Testimony in support of the nominee was submitted to your Committee by: the State Department of Public Safety; four members of the Office of the Public Defender; the Hawaii Civil Rights Commission; the Hawaii State Commission on the Status of Women; the former mayor of the City & County of Honolulu; two professors from the Richardson School of Law; the Native Hawaiian Legal Corporation; twenty-one members of the legal community; the Waimea United Church of Christ; and five private citizens. The testimony in support of the nominee indicated that Mr. Foley is a man of character, integrity, and courage with a great passion for the law, and greater passion for justice. Further, testifiers acknowledged that he is patient, even-tempered, and compassionate. The Hawaii State Bar Association indicated that Mr. Foley is highly qualified for the position of Judge of the Intermediate Court of Appeals.


Testimony in opposition of the nominee was submitted by: the Prosecuting Attorney of the City and County of Honolulu; the Hawaii Christian Coalition; the Christian Voice of Hawaii;

the Messianic Jewish Community; six members of the legal community; and thirty-one private citizens. The testimony in opposition questioned Mr. Foley's ability to be fair and non-biased in cases involving civil rights. The primary concern voiced was of his involvement in the same sex marriage case.

Your Committee members diligently questioned Mr. Foley about the concerns voiced over his nomination and his views on the attributes of a good judge. In addition, your Committee discussed with Mr. Foley the qualities he will bring to the Intermediate Court of Appeals, whether his lack of experience as a judge in a lower court would hinder his success, and how he plans to improve the functioning of the Intermediate Court of Appeals. Mr. Foley shared his belief that everyone should have equal access to the judicial system, and assured your Committee that he is prepared to make the transition successfully from advocate to jurist. He also affirmed his commitment to the rule of law, due process and being fair and impartial.

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

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



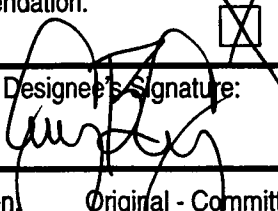
Avery B. Chumbley, Co-Chair



Matt Matsunaga, Co-Chair

The Senate
Twentieth Legislature
State of Hawaii

Record of Votes of the
Committee on Judiciary
(Advise and Consent/Consent)

Governor's Message No.:*	Judiciary Communication No.:*	Committee Referral:	Date:
3		JDC	08/03/00
Total number of nominations contained in the GM/JC: 1		If the Committee is voting on a deferred nomination(s), the name(s) of the deferred nominee(s) is/are: _____	
If the Committee is reconsidering its decision on a previous action, then the reconsideration is: <input type="checkbox"/> On the entire GM/JC <input type="checkbox"/> On the following name(s): _____			
For Nonjudicial Appointments, the Recommendation is to: <input type="checkbox"/> Advise & Consent <input type="checkbox"/> Advise & Consent with Exception (see below) <input type="checkbox"/> Not Advise & Consent			
For Judicial Appointments, the Recommendation is to: <input checked="" type="checkbox"/> Consent <input type="checkbox"/> Consent with Exception (see below) <input type="checkbox"/> Not Consent			
Exception: Name(s) of person(s) whose nomination(s) has/have been withdrawn: _____ Name(s) of person(s) whose nomination(s) is/are not being considered on this Record of Votes. (See Note) _____			
Note: A separate vote on a recommendation to: (1) not advise and consent/consent; or (2) to advise and consent/consent on the nominations contained on this GM/JC but deferred to a later date; must be taken using a separate Record of Votes.			
Code	Members	Ayes	Ayes(WR)
103	CHUMBLEY, Avery B. (C)	X	
116	MATSUNAGA, Matt (C)	X	
105	CHUN OAKLAND, Suzanne	X	
110	IHARA, Les, Jr.	X	
120	SAKAMOTO, Norman		X
123	TANAKA, Joe	X	
100	ANDERSON, Whitney		X
TOTAL		5	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted			
Chair's or Designee's Signature: 			
Distribution: Original - Committee Yellow - Clerk's Office Pink - Drafting Agency			

*Do not list more than one GM/JC per Record of Votes.