

Honolulu, Hawaii

JUL 28 2021

RE: GOV. MSG. NO. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Second Special Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred Governor's Message No. 1, submitting for study and consideration the appointment of:

ASSOCIATE JUDGE OF THE INTERMEDIATE COURT OF APPEALS

G.M. No. 1 DANIEL M. GLUCK,
for a term to expire in 10 years,

begs leave to report as follows:

Your Committee reviewed the personal history, resume, and statement submitted by Daniel M. Gluck for service on the Intermediate Court of Appeals as Associate Judge.

Your Committee received testimony in support of the appointment of Daniel M. Gluck from the Hawai'i Coalition for Immigrant Rights; Domestic Violence Action Center; Honorable Steven H. Levinson-retired; Honorable James Duffy, Jr.-retired; Honorable J. Michael Seabright; and seventy-four individuals. Your Committee received testimony in opposition to the appointment of Daniel M. Gluck from the Sierra Club of Hawaii, Ka Lāhui Hawai'i Kōmike Kalai'āina, Native Hawaiian Bar Association, Council for Native Hawaiian Advancement, Executive Committee of the Hawaiian Affairs Caucus of the Democratic Party of Hawai'i, Ke One O Kākuhihewa, Filipino Law Students Association, Hawai'i Filipino Lawyers Association, Association of Hawaiian Civic Clubs, LEIRA Organics, one member of the Maui County Council, one member of the Kaua'i County Council, and one hundred thirty-three individuals.



Your Committee received comments on the appointment of Daniel M. Gluck from the Hawaii State Bar Association, Hawai'i County Committee on the Status of Women, Honorable Susan Oki Mollway, and three individuals.

The Hawaii State Bar Association Board of Directors found the appointee to be qualified for the position of Associate Judge of the Intermediate Court of Appeals based on established criteria for determining the qualifications of judicial appointments generally using the American Bar Association Guidelines for Reviewing Qualifications of Candidates for State Judicial Office. Specifically, the Board uses the following criteria in its deliberations: integrity and diligence, legal knowledge and ability, professional experience, judicial temperament, financial responsibility, public service, health, and ability to perform the responsibilities and duties required of the position for which the applicant has been appointed. The Board's rating system includes the categories of "qualified" and "not qualified".

Mr. Gluck received his Bachelor of Science degree in Industrial and Labor Relations from Cornell University, where he was a Merrill Presidential Scholar and a member of the Cornell Tradition Fellowship. He later received his Doctor of Jurisprudence from Harvard Law School. At the outset of his legal career, he worked as a Law Clerk to Associate Justice James E. Duffy, Jr., of the Supreme Court of the State of Hawai'i, and subsequently clerked for United States District Court Judge J. Michael Seabright.

Since 2016, Mr. Gluck has served as the Executive Director and General Counsel of the Hawai'i State Ethics Commission. In that capacity, he has overseen all operations of the agency. Prior to taking that position, he worked with the American Civil Liberties Union of Hawaii as Legal Director from 2014 to 2016 and Senior Staff Attorney from 2007 to 2014.

Testimony in favor of Mr. Gluck's appointment focused on the candidate's broad legal expertise and his ability to be an effective judge on the Intermediate Court of Appeals. Testimony in opposition highlighted his inexperience in courtroom work compared to other candidates reviewed by the Governor. Many of those in opposition also noted that consenting to his appointment would not advance the goal of diversifying the Judiciary.



Based on the testimony submitted in support of his appointment, responses to questions asked by the members of your Committee, and your Committee's review of information about him and his qualifications, it was the recommendation of the Chair of your Committee to consent to the appointment of Mr. Gluck; however, a vote to adopt the Chair's recommendation failed. Subsequently, the Vice Chair of your Committee made a motion that your Committee recommend not to consent to the appointment of Mr. Gluck. This vote received four ayes and three nays; nevertheless, the appointment will move to the Senate floor for consideration by the full Senate pursuant to Rule 37 of the Rules of the Hawaii State Senate.

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, experience, and qualifications of the appointee, recommends that the Senate not consent to the appointment.

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



KARL RHOADS, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC
Consent

Gov. Msg./Jud. Com. No.:* GM1	Committee Referral: JDC	Date: 7/28/2021		
<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
RHOADS, Karl (C)	✓			
KEOHOKALOPE, Jarrett (VC)			✓	
ACASIO, Laura			✓	
GABBARD, Mike	✓			
KIM, Donna Mercado			✓	
LEE, Chris	✓			
FEVELLA, Kurt			✓	
TOTAL	3	—	4	—
Recommendation: <input type="checkbox"/> Adopted <input checked="" type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: Karl Rhoads				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy

*Only one Message/Communication per Record of Votes

The Senate
 Thirty-First Legislature
 State of Hawai'i

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Gov. Msg./Jud. Com. No.:* <i>GM1</i>	Committee Referral: JDC	Date: <i>7/28/2021</i>		
<input type="checkbox"/> The Committee is reconsidering its decision				
The Recommendation is:				
<input type="checkbox"/> Consent 2347 <input checked="" type="checkbox"/> Not Consent 2349				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)			✓	
KEOHOKALOLE, Jarrett (VC)	✓			
ACASIO, Laura	✓			
GABBARD, Mike			✓	
KIM, Donna Mercado	✓			
LEE, Chris			✓	
FEVELLA, Kurt	✓			
TOTAL	<i>4</i>	<i>-</i>	<i>3</i>	<i>-</i>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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