

STAND. COM. REP. NO.

5

Honolulu, Hawaii

FEB 01 2007

RE: JUD. COM. NO. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam President:

Your Committee on Judiciary and Labor, to which was referred
Judiciary Communication No. 1, submitting for consideration and
confirmation the nomination of:

KEITH E. TANAKA, to District Court of the Second Circuit;

begs leave to report as follows:

The Nominee received a B.A. from the University of Hawaii and
a J.D. from the William S. Richardson School of Law. He has been
licensed to practice law in Hawaii since 1983. He has served as
Deputy Public Defender for the State of Hawaii for five years.
For the past eighteen years, the Nominee has been in private
practice as a court appointed criminal defense attorney working in
District, Family, and Circuit Court. His cases also included
appellate work, divorce proceedings, arbitration, commissioner on
foreclosure proceedings and parole hearings.

Your Committee received testimony in support of the Nominee
from: Jeffrey Portnoy President of the Hawaii State Bar
Association, John M. Tonaki State Public Defender, William "Pili"
McGrath Deputy Public Defender, Michael M. Ebesugawa Deputy Public
Defender, Wendy A. Hudson Supervising Attorney Office of the
Public Defender, Maui, Susan L. Arnett Felony Trial Supervisor
Office of the Public Defender, Oahu, Ronette M. Kawakami Deputy
Public Defender, James R. Rouse Esq., Philip H. Lowenthal Esq.,



Matthew S. Kohm Esq., Ruth I. Murata, Verdine Kong, Jon H. Apo Esq., Christopher M. Dunn Esq., Keith S. Shigetomi Esq., Susan Fukuda, and Joseph T. Toma Esq. Your committee did not receive any testimony opposing the Nominee.

The Board of Directors of the Hawaii State Bar Association (HSBA) rated the Nominee to be highly qualified. As part of the HSBA Board's procedure for taking a position on judicial appointments, the Nominee was asked to submit a resume, respond to a questionnaire, and appear before the Board to answer questions. The HSBA Board utilized a modified version of the American Bar Association Guidelines for Reviewing Qualifications of Candidates for State Judicial Office. These Guidelines include the following criteria for judicial positions: integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, financial responsibility, public service, collegiality, and writing ability.

During the confirmation process, your Committee expressed strong concerns regarding the evaluation process of the Judicial Selection Commission and the Hawaii State Bar Association. The Judicial Selection Commission's (JSC) questionnaire filled out by the nominee did not disclose the fact that he was criticized by the Intermediate Court of Appeals (ICA). The ICA, in reversing a guilty conviction, discussed the nominee's representation of his client. The committee is troubled by the fact that the reversal could and should have been disclosed to the Judicial Selection Commission by the nominee. Moreover, the committee is concerned that the nominee while not disclosing the reversal to the JSC disclosed the reversal to the Hawaii State Bar Association (HSBA). Your committee believes that it is reasonable that the JSC may not have recommended the nominee had the nominee truthfully disclosed the reversal to it. These issues cited herein should be reviewed by the JSC, the Chief Justice, the Governor and the HSBA and dealt with appropriately as these concerns may affect future nominations.

In addition, your committee wishes to advise you that the committee also requested and received the complete record of the nominee from the Office of Disciplinary Counsel. The information provided contained no record of transgressions of the nominee.

However, your Committee has reviewed the personal history, resume, and statements submitted by the Nominee and finds the Nominee to have the necessary qualifications and legal experience



to be appointed to the position of the nomination to District Court and further believes that it may not have reached the same conclusion if the nomination were to a higher 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 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 and
Labor,



CLAYTON HEE, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Labor
JDL

Judiciary Communication No.: JC 1	Committee Referral: JDL	Date: 1/29/07		
<input type="checkbox"/> The Committee is reconsidering its decision				
The Recommendation is: <div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="text-align: center;"> <input checked="" type="checkbox"/> Consent 2347 </div> <div style="text-align: center;"> <input type="checkbox"/> Not Consent 2345 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
KOKUBUN, Russell S. (VC)	✓			
INOUE, Lorraine R.	✓			
NISHIHARA, Clarence K.	✓			
GABBARD, Mike				✓
TOTAL	4			1
Recommendation: <div style="display: flex; justify-content: space-around; align-items: center;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-family: cursive; font-size: 1.2em; margin-top: 10px;"> Russell S. Kokubun / Kohl </div>				
Distribution: <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="text-align: center;">Original File with Committee Report</div> <div style="text-align: center;">Yellow Clerk's Office</div> <div style="text-align: center;">Pink Drafting Agency</div> <div style="text-align: center;">Goldenrod Committee File Copy</div> </div>				