



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

May 28, 2002

LEONIDAS RALPH MECHAM
Secretary

Dear Mr. Chairman:

Judicial vacancies in the federal courts have been prominent in the news in recent weeks. I wish to focus your attention on a second yet equally important problem plaguing federal courts: the need for new judgeships.

While this concern has not captured the attention of Congress, the President or the news media, its impact on court operations has been profound. No new court of appeals judgeships have been created in nearly 12 years. Although a handful of district court judgeships were established in 1999 and 2000, this partial remedy is akin to applying a Band-Aid to a hemorrhage. It is time for Congress to address this problem in a meaningful way.

At the direction of the Judicial Conference of the United States, I am today re-transmitting to you a draft bill to add a total of 54 judgeships: 6 permanent and 4 temporary judgeships to the courts of appeals and 23 permanent and 21 temporary judgeships to the district courts. Senators Leahy and Hatch introduced a similar judgeship bill in September 2000, but there was never a hearing or formal consideration by either the Senate or the House.

Throughout our nation, there are appellate and district courts that would be in dire need of relief *even if all existing vacancies were filled*. Yeomen work by senior judges and active utilization of visiting judges has kept the federal court system afloat amid a growing flood of litigation, but only Congress can provide long-term relief.

For example, the First and Second Circuit Courts of Appeals and the Districts of Arizona, Southern California, New Mexico and Western North Carolina all qualify for new judgeships based on the generally accepted caseload standards. There is not a single

existing vacancy in any of these courts. If litigants in these six courts are experiencing delay, it is not because of the heated and highly publicized debate over the filling of vacancies; rather it is due to the quiet crisis of too few judgeships.

The enclosed judgeship request is resubmitted only after great study and consideration. The Judicial Conference's Judicial Resources Committee and its Subcommittee on Judicial Statistics carefully reviewed a wide spectrum of factors in evaluating each court's needs. The protocol followed is thorough and effective, and the resulting recommendations err, if at all, on the side of restraint.

I do not mean to imply that nominating and confirming judges, the province of the Executive and Legislative Branches, is not of vital concern to the Judicial Branch. As Chief Justice Rehnquist said in 1997 and again last year, "(T)he president should nominate candidates with reasonable promptness, and the Senate should act within a reasonable time to confirm or reject them."

While the pace of judicial confirmations varies, judges are confirmed annually. Unfortunately, the picture is quite different regarding the creation of new judgeships. Historically, Congress has established judgeships every six years, but that is no longer the case, and the nation's federal courts and the litigants who use them have suffered as a result.

The last omnibus judgeship bill was enacted in December 1990. Since that time, filings in U.S. courts of appeals have increased by 39 percent. The 19 judgeships created in the U.S. district courts since December 1990 represent a 2.5 percent growth while criminal and civil filings nationwide have increased 22 percent over the same period. While it certainly is the prerogative of Congress to add to the jurisdiction of the federal courts - which it has done increasingly in recent years - it also is fair to expect that Congress will provide the necessary judicial resources to meet these new responsibilities.

When the number of judicial vacancies, 88, and the number of needed new judgeships, 54, are added, the overall shortage of judges becomes staggering. The federal courts currently are operating with 142 judges less than required to accomplish the business they are assigned. How many major corporations or Executive Branch agencies could function with so many senior management positions unfilled?

The Department of Justice Authorization bill, S.1319, would grant some relief to a few district courts in most dire need, although it contains no new appellate judgeships. Nevertheless, we urge Congress to add circuit and district judgeships to this bill and promptly pass it. The Judicial Conference would welcome the opportunity to discuss its

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omnibus judgeship needs with you in person or at a public hearing. As a first step, we respectfully request that you introduce the enclosed bill so Congress can begin the process of addressing these vitally needed judgeships. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph", written in a cursive style.

Leonidas Ralph Mecham
Secretary

Enclosures