

The CHAIRMAN. Thank you very much, Ms. Aiyetoro, for a very straightforward and direct statement. We appreciate it.

Ms. AIYETORO. Thank you.

The CHAIRMAN. Mr. Hou.

#### STATEMENT OF WILLIAM HOU

Mr. HOU. Thank you, Mr. Chairman, members of the committee.

The National Asian Pacific-American Bar Association, NAPABA, with several thousand members, is the national organization of Asian Pacific-American Attorneys. NAPABA represents the professional concerns of its membership, and promotes the interests of the fastest growing minority group in this country, the Asian Pacific-American community.

NAPABA encourages the nomination of minority candidates to the Supreme Court and believes that, once confirmed, such Justices, with a perspective that may otherwise be absent, can play a vital role in the deliberations of the court.

However, while Judge Thomas' background is appealing, it is not, in and of itself, a sufficient basis to support his nomination. Indeed, NAPABA, after careful review and deliberation of Judge Thomas' record, opposes his nomination to the Supreme Court for the reasons set forth in the written statement which we have submitted to the committee.

The CHAIRMAN. Which will be placed in the record, as well. All of your statements will be placed in the record in full—all of your written statements, if that is what you desire.

Mr. HOU. Yes, it is. Thank you, Mr. Chairman.

My testimony today will focus on two aspects of Judge Thomas' views that are especially disturbing from an Asian Pacific-American perspective.

The first is the potentially troubling ramifications of Judge Thomas' flirtation with natural law principles as a basis for judicial decisions. In particular, Judge Thomas readily cites Justice Harlan's dissent in *Plessy v. Ferguson* as "one of our best examples of natural rights or higher law jurisprudence."

In his dissent, which is often credited for the concept of a color-blind constitution, Justice Harlan, nonetheless, referred, with tacit approval, to racist Chinese Exclusion Acts, writing—

There is a race so different from our own that we do not permit those belonging to it to become citizens of the United States. Persons belonging to it are, with few exceptions, absolutely excluded from our country. I allude to the Chinese race.

Moreover, 2 years later, in *United States v. Wong Kim Ark*, Justice Harlan opposed the majority's decision to permit a man of Chinese descent who was born in this country to re-enter the United States upon his return from a visit to China. The dissent, joined by Justice Harlan, described the Chinese as, "of a distinct race and religion, apparently incapable of assimilating with our own people, who might endanger good order, and be injurious to the public interests."

Fortunately, Justice Harlan's position excluding Chinese from this great country did not prevail.

Not only am I, as an American of Chinese ancestry, honored to testify at these proceedings but, on a more personal note, I am

grateful, as my parents, both of whom were born in China, did not meet until after coming to America.

NAPABA does not mean to suggest that Judge Thomas condones Justice Harlan's views regarding the Chinese. Indeed, Judge Thomas has, himself, characterized Justice Harlan's comments as inappropriate. Nonetheless, such remarks vividly illustrate that the singling out of an ethnic group for unequal and unjust treatment is not necessarily inconsistent with the natural law analysis praised by Judge Thomas, raising serious questions about his nomination.

NAPABA's second concern is Judge Thomas' portrayal of Asian Pacific-Americans as a minority group whose accomplishments justify opposition to affirmative action. Specifically, Judge Thomas has asserted that because Asian Pacific-Americans have "substantially greater family incomes than whites," they have "transcended the ravages caused even by harsh legal and social discrimination."

He has also stated that Asian Pacific-Americans should not be the beneficiaries of affirmative action, because they are "overrepresented." NAPABA categorically rejects Judge Thomas' assertions which are inaccurate and misleading generalizations of the Asian Pacific-American experience.

For instance, among the Filipino, Asian, Indian, and Vietnamese communities, average family incomes are only a fraction of the average for caucasian families. Moreover, a crucial contributing factor to the incomes enjoyed by Chinese-, Japanese-, and Korean-American families, is simply the fact that more family members work than in other households.

Further, Asian Pacific-Americans are not overrepresented. In a recent study which reaffirmed the existence of the glass ceiling phenomenon, whereby qualified minority candidates are not promoted to senior management positions, the U.S. Commission on Civil Rights concluded that United States born Asian Pacific-American men are "less likely to be in managerial positions than whites with comparable skills and characteristics."

In embracing stereotypes and cliches, that is the "model-minority" myth, Judge Thomas displays insensitivity to the very real difficulties confronting Asian Pacific-Americans. Moreover, it is believed that Asian Pacific-Americans are not appropriate candidates for remedies such as affirmative action raises significant concerns, should Judge Thomas be called upon to adjudicate a discrimination claim brought by members of our community.

For the foregoing reasons, the National Asian Pacific-American Bar Association opposes Judge Thomas' nomination to the Supreme Court of the United States.

Thank you.

[The prepared statement of Mr. Hou follows:]