

International Narcotic Enforcement Officers Association, Inc.

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JOHN J BELLIZZI
EXECUTIVE DIRECTOR

September 20, 1991

Senator Joseph R. Biden, Jr.
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510-6275

Dear Senator Biden:

Attached is a copy of my testimony in support of the confirmation of Judge Clarence Thomas as Justice of the United States Supreme Court.

Please include my statement in the official record of the Senate Judiciary Committee considering Judge Thomas' confirmation.

Sincerely,


John J. Bellizzi
Executive Director

JJB/clb

cc: Ronald A. Klain
Jeffrey J. Peck
Terry L. Wooten

TESTIMONY PRESENTED BY

JOHN J. BELLIZZI
EXECUTIVE DIRECTOR
INTERNATIONAL NARCOTIC ENFORCEMENT OFFICERS ASSOCIATION

BEFORE THE SENATE JUDICIARY COMMITTEE

CONSIDERING THE NOMINATION OF

JUDGE CLARENCE THOMAS

AS JUSTICE OF THE SUPREME COURT

As in my previous appearance before this committee, I wish to express my appreciation for granting me the opportunity to appear before you today to testify in these important hearings considering the nomination of Judge Clarence Thomas.

My name is John J. Bellizzi. Currently I serve as the Executive Director of the International Narcotic Enforcement Officers Association (INEOA) which is an organization composed basically of narcotic enforcement officers from all levels of government and from throughout the United States and 50 other countries.

I appear here today on behalf of 15,000 members and thousands of other drug enforcement officials throughout the United States.

Recently drug traffickers have suffered some serious setbacks as a result of an intensified and concentrated effort by law enforcement.

The impact of the multitude of seizures of drugs, money and other assets brought about by successful investigations, arrests and prosecutions has put such a dent in the illegal trafficking operations that by furious retaliation the traffickers are committing assaults, violence and murder on our drug agents and other officials responsible for drug enforcement.

Narcotic law enforcement agents have always operated under high risk conditions, but recent events have created a situation where their lives are at stake constantly and these men and women deserve to be recognized for their dedicated service.

The thousands of drug enforcement agents who risk their lives each time they set out on a drug investigation are dedicated. Notwithstanding the imminent risk they face, they are not the least dissuaded from performance of duty.

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These officers and their family members are very much concerned that they receive the same equal protection, the same constitutional rights, the same constitutional protection afforded to any suspect, defendant or prisoner charged with the commission of the crime.

I wish to make it clear that by this endorsement we do not seek to ingratiate ourselves with Judge Thomas or the court. We seek no favor, we seek no special privileges. What we do seek is protection of the constitutional rights of the accused and we also seek protection of the constitutional rights of our law-abiding citizens and of our law enforcement agents.

I submit that by his record Judge Thomas has demonstrated that he is capable and indeed willing to do just that - ensure equal protection to all regardless of race, color, sex, religious or social background.

Four times the United States Senate has confirmed Judge Thomas' appointment to high-ranking government positions. In 1981, Thomas was appointed Assistant Secretary for Civil Rights in the United States Department of Education. One year later, he was appointed Chairman of the Equal Employment Opportunity Commission; he was reappointed in 1986. The EEOC, an agency that employs 3,100 persons and has an annual budget of \$180 million, enforces Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, religion, sex, or national origin. The EEOC also enforces laws against discrimination based on age or disability. Thomas' tenure as chairman was the longest in the history of the Commission, and the Commission's new headquarters building is named after him.

On April 30, 1990, Thomas assumed his present position as a judge on the United States Court of Appeals for the District of

Columbia, to which he was appointed by President Bush. During his time on the bench, he has written opinions in criminal law, anti-trust law and trade regulation, constitutional law, and administrative law.

Throughout his distinguished career, Thomas has championed the principle that individuals should be judged on the basis of abilities and character, not on skin color. He believes that every American should have the same opportunity to stand up and be judged on his or her own merits. He has lucidly explained his views on a variety of issues, legal and otherwise, in his judicial decisions and in articles and speeches. He has been described in the press as smart, tough, a man who "speaks powerfully about overcoming racism and poverty in the deep South" and who "embodies the ideal of personal achievement rather than reliance on government programs for a leg up." As Senator Hatch has observed, Thomas "came up the hard way" and "understands the sting of oppression." Senator Danforth made a similar point when he observed that Thomas "is a person who knows discrimination. He has a real commitment to fighting injustice."

Judge Thomas is a tough, anti-crime judge. He takes a common-sense approach to questions of criminal law and procedure, and has recognized the practical problems that law enforcement officers face in combatting crime on the streets.

Commenting in 1985 on what should be done to solve the problems faced by America's inner cities, Judge Thomas remarked: "The first priority is to control the crime. The sections where the poorest people live aren't really livable. If people can't go to school, or rear their families, or go to church without being mugged, how much progress can you expect in a community? Would you do business in a community that looks like an armed camp, where the only people

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who inhabit the streets after dark are the criminals?" Black America Under the Reagan Administration: A Symposium of Black Conservatives, The Heritage Foundation Policy Review (Fall 1985).

In another context Judge Thomas asserted: "We should be at least as incensed about the totalitarianism of the drug traffickers and criminals in poor neighborhoods as we are about totalitarianism in Eastern bloc countries." Why Black Americans Should Look to Conservative Politics, Heritage Foundation Reports (June 18, 1987).

Judge Thomas' opinions in the field of criminal law demonstrate a deep understanding of the community's interest in deterring crime. He has resisted efforts to impose unreasonably burdensome requirements on the police and prosecutors or to overturn criminal convictions on technicalities not required by the Constitution, while guarding against infringements of the fundamental rights of criminal defendants.

Judge Thomas has affirmed judgments of conviction in all but one of the seven criminal appeals for which he wrote opinions while on the Court of Appeals. Of the eighteen additional criminal appeals considered by Judge Thomas, he joined the majority in upholding sixteen criminal convictions and/or sentences.

Judge Thomas has rejected the argument that a conviction for aiding and abetting narcotics distribution should be reversed because the defendant's involvement was limited to giving a drug dealer a ride to the site of the illegal transaction. (United States v. Poston, 902 F.2d 90 (D.C. Cir. 1990).

Judge Thomas has rejected arguments that a trial judge erred in admitting police testimony as to the contents of a telephone call, answered by police during a search of a defendant's apartment, which tended to show that the defendant was dealing in narcotics.

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(United States v. Long, 905 F.2d 1572 (D.C. Cir.), cert. denied, 111 S. Ct. 365 (1990). Similarly, he has upheld the admission at trial of evidence of a defendant's prior drug dealing activity. (United States v. Rogers, 918 F.2d 207 (D.C. Cir. 1990).

In a case involving narcotics dealers who conducted their illegal trade out of several rooms in a hotel, Judge Thomas rejected the argument that police had seized evidence against them in violation of the Fourth Amendment. In response to the contention that the warrantless search of one of the rooms was unlawful, Judge Thomas held that it was justified by exigent circumstances, and noted that, although "the police carefully investigated the suspicious hotel guests for more than a week and sought warrants for all the rooms that they could link to [defendant]," the defendant "tried to frustrate the warrant process by hopping from room to room." Following recent Supreme Court precedent, he further ruled that evidence seen by the police during an unlawful search was nonetheless admissible at trial on the grounds that it was subsequently acquired on the basis of an independent and lawfully procured search warrant. (United States v. Halliman, 923 F.2d 873 (D.C. Cir. 1991).

Judge Thomas ruled against a defendant who argued that, at his trial, the judge had improperly instructed the jury as to his entrapment defense. In so holding, Judge Thomas observed that "the government [had] introduced overwhelming evidence of [defendant's] eagerness to sell crack, enough, we are certain, for the government to have carried the burden of proof it needed to defeat [defendant's] entrapment defense." (United States v. Whoie, 925 F.2d 1481 (D.C. Cir. 1991).

Judge Thomas is not, however, excessively deferential to the prosecution at the expense of fairness toward criminal defendants.

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In United States v. Miller, 904 F.2d 65 (D.C. Cir. 1990), Judge THomas joined an opinion by Judge Silberman overturning defendants' conviction for wire fraud on the ground that the trial court had excluded admissible exculpatory evidence.

The matter of Judge Thomas' nomination and record was reviewed by the 50 members of the Board of Directors of INEOA and the General Membership at our 32nd Annual International Drug Conference held in Montreal, Canada, September 1-7, 1991, and Judge Thomas received the unanimous endorsement for his appointment to serve as Justice to the United States Supreme Court.

Thank you.