

STATEMENT OF A PANEL CONSISTING OF SHARON McPAHIL, NATIONAL BAR ASSOCIATION; ADJOA AIYETORO, NATIONAL CONFERENCE OF BLACK LAWYERS; WILLIAM HOU, NATIONAL ASIAN PACIFIC AMERICAN BAR ASSOCIATION; LESLIE SEYMORE, NATIONAL BLACK POLICE ASSOCIATION; DANIEL SCHULDER, NATIONAL COUNCIL OF SENIOR CITIZENS; NAIDA AXFORD, NATIONAL EMPLOYMENT LAWYERS ASSOCIATION; AND REV. BERNARD TAYLOR, BLACK EXPO CHICAGO

Ms. McPAHIL. Thank you.

Chairman Biden, Senator Thurmond, members of the Senate Judiciary Committee, I was going to say good afternoon, but good evening. My name is Sharon McPahil. I am president of the National Bar Association—a small correction, not the Detroit Chapter, of the National Bar Association. We have approximately 73 chapters.

The CHAIRMAN. You are president of the entire—

Ms. McPAHIL. I am the national president, yes.

The CHAIRMAN. I have had the pleasure to speak to the National Bar. It is quite an organization, and I apologize. I didn't realize—we are going to fire three staff persons for that. All kidding aside, I apologize.

Ms. McPAHIL. No problem. Thank you.

I am also a division chief in the Wayne County Prosecutors Office, in Detroit, MI.

I am pleased to have this opportunity to come before you in my first appearance before this committee as president of the NBA. I have only been president for approximately 3 weeks. I appear before you today on behalf of the National Bar to give voice to the views and opinions of our members with regard to the nomination of Judge Clarence Thomas to the U.S. Supreme Court.

The National Bar Association is the oldest and largest minority bar association. We were founded in 1925, and we consist of a network of approximately 14,000 African-American lawyers, jurists, scholars and students. We have affiliate chapters throughout the United States and in the Virgin Islands.

Our purpose, among other things, is to advance the science of jurisprudence, to uphold the honor of the legal profession, to promote social intercourse among the members of the bar, and to protect the civil and political rights of all citizens of the United States.

My term as president commenced August 10, 1991. On August 5, after 7 hours of deliberation, the National Bar Association voted by a very narrow margin to oppose the confirmation of Judge Thomas. Our delegates voted 45 percent in opposition to the nomination, 44 percent in support of the nomination, and 11 percent to remain neutral on his possible confirmation.

As you can imagine, it was very difficult for us to make a decision about Judge Thomas. Never before in my memory has an issue so troubled the association. As a group, we are always pleased when one of our members is recognized for his achievements, and we are especially pleased when one is given this unique opportunity to serve in one of the most powerful positions in this Nation.

We are also cognizant of our responsibility to objectively assess and present our views on the conformation of a Supreme Court

nominee, who will have the ability to opine on matters that will touch the lives of all Americans.

Our analysis required us to be mindful of the impact that Judge Thomas' philosophy might have on his ability to protect the interests of all Americans, particularly the disenfranchised, the poor, and those who might otherwise not have a voice on the Supreme Court. The decision was made even more difficult, because Clarence Thomas is a member of our association.

As we searched for consensus on this issue, there was unanimity in our view that this confirmation hearing is also about the countless African-American people and other minorities who live in substandard conditions, it is about the homeless, the crack babies and the pregnant women who may not have a right to hear of their options regarding their reproductive rights.

Finally, it is about those minorities in the United States who look around every day and have to know that they don't matter to some of the Justices who sit on the Supreme Court, who have never had to face the obstacles that someone like Clarence Thomas encounters on a daily basis.

It is clear to the members of the National Bar Association that equal opportunity is not the reality of this land, despite the plethora of court decisions and statutes to the contrary. From unskilled jobs to the vice presidencies in major corporate America, we are both under and unrepresented.

Many delegates at our convention noted that the daily indignities that we suffer, as African-American attorneys, are pervasive, and, thus, you can be assured that the problems of African-Americans with less formal education and less affluence are even greater.

Much like the problem that an African-American person in a suit has in hailing a taxi, America's well-suited minorities every day confront the subjective bias of white America. Given that sensitivity, many of our delegates believed that when a person of color is nominated, that fact alone is reason to support him.

As our delegates debated this issue, it became clear that many thought that the views articulated by Judge Thomas were contrary to the traditional dogma of civil rights organizations. Some believe that the National Bar, as a matter of integrity, in light of its history of being at the forefront of the civil rights struggle, was duty-bound to oppose him. It is in this context that the National Bar Association was so closely divided in its vote to oppose the confirmation of Judge Thomas.

The subliminal message of most of those who spoke during the debate is not as conflicted. We pray that he will hear his grandparents' whispers, if confirmed, and his mother's voice as he struggles to balance the twin debts of gratitude to those who afforded him the opportunity to be considered for this honor, this appointment to the Supreme Court, and to those who brought him here.

Thank you.

The CHAIRMAN. Thank you very much, Ms. McPahil.

Your organization is, in fact, one of the premier organizations of the country, and it must have been very difficult.

Ms. McPAHIL. It was.

The CHAIRMAN. But we thank you for being here.

Pronounce the name again for me?

Ms. AIYETORO. Ms. Aiyetoro.
The CHAIRMAN. Ms. Aiyetoro, please.

STATEMENT OF ADJOA AIYETORO

Ms. AIYETORO. Thank you, Chairman Biden.

Chairman Biden and members of the Judiciary Committee, thank you for allowing the National Conference of Black Lawyers, through me as the director, to present this testimony before the committee.

The National Conference of Black Lawyers is an organization of lawyers, judges, legal workers, and law students that was formed in 1968, specifically for the purpose of advocating for the rights of black people specifically, and people of color, the poor and the disadvantaged generally.

The organization has participated on all levels of advocacy, including litigation and public education. You have our written testimony.

The CHAIRMAN. And it will be placed in the record, the entire testimony.

Ms. AIYETORO. Thank you very much.

Our testimony discusses our position more fully than I will be able to do in the 5 minutes allotted. I would like to briefly address two main issues, however, in opposition to Judge Thomas' nomination.

First, it is important that the significance of the nominee's race to this process be explicitly in the record. We are disturbed that the assessment of this candidate may be less strenuous by those who view themselves as antiracist, because he is a black person who, like many other black people in his age group or who came before him, have risen to occupational levels that far exceed those of their parents and even their siblings.

We are disturbed that those who have adopted in deed, if not in words, the philosophy of white supremacy are embracing him, because his blackness serves to mislead many in assessing his record, a record which demonstrates, in large part, a disdain for the very remedies he utilized to advance, when applied to persons of color other than himself.

Those who are confused, well-meaning of all races, hold onto the hope not supported in his record, but somehow, if confirmed to the Supreme Court, he will support the law it is now for people of color, women and those in the fringes of society. They hope for a miracle.

We urge you to determine whether and how you are using this candidate's race and to decide to refuse to confirm, based on a record that demonstrates support for lawlessness and behavior that is below the standard to be demanded of a Supreme Court Justice.

It is true that the National Conference of Black Lawyers find a number of Judge Thomas' views to be in direct contradiction with the positions of this organization. We know you know this, because we have outlined some of those differences in our written submission. But his views also reflect a character that is below the standards this body should demand, a man who, despite the law of the land, refused to act to protect the rights of groups for whom he had

responsibility; a man who ignored codified ethical requirements and withheld information about the relationship between himself and the family of the principal shareholders in a lawsuit potentially costing them more than \$10 million; a man who sat on the advisory board of the Lincoln Review and attended a reception of the South African Ambassador, yet indicates to this committee that he did not know of any position in support of apartheid by the leadership of the review, and he himself did not support apartheid; a man who retracted position after position that he took prior to his nomination and urged you to look at only his and other nominees' comments as a judge, since they would be less effusive; a man who humiliated his sister and family, but now flaunts the sister, indicating her character is stronger than his.

This nomination is an insult to not only black people, not only the tradition of high integrity and character set by Thurgood Marshall, but to the ideals of the Constitution and the Constitutional Convention, that those who sit on the Highest Court will be those with whom we can look with pride and respect, although we may not always agree with them.

We cannot look with pride and respect at Clarence Thomas, but only with fear and trepidation, at how will continue to trample the rights of people of color, the disadvantaged and women, not in conformity to the law, but in disdain for it and their collective rights. We urge you to refuse to confirm.

Thank you.

[The prepared statement of Ms. Aiyetoro follows:]