

TESTIMONY PRESENTED BY

JOHN J. BELLIZZI  
EXECUTIVE DIRECTOR  
INTERNATIONAL NARCOTIC ENFORCEMENT OFFICERS ASSOCIATION

BEFORE THE SENATE JUDICIARY COMMITTEE

CONSIDERING THE NOMINATION OF

JUDGE ANTHONY KENNEDY

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 Anthony M. Kennedy.

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 10,000 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.

The DEA reports 144 assaults on agents during the past two years compared with 50 in 1983 and 1984. During 1986, 96 law enforcement officers were killed in the line of duty, 66 died as a result of gunshot wounds. Since 12/31/86, three federal agents have been killed during drug investigations. Seized last year were 400 automatic weapons including submachine guns. According to John C. Lawn, Administrator of DEA, the situation is considered a very dangerous trend.

A recent extradition by the United States from Columbia of the top Columbian drug dealer, Carlos Lehder Rivas, who has been identified as one of the most dangerous and successful drug traffickers, has magnified the high risk imposed on our drug law enforcement agents. Fearing

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reprisals from the arrests of Lehder, DEA's administrator, John C. Lawn, has notified all DEA agents in the United States and in the 43 DEA offices around the world to exercise an advanced state of readiness for themselves and their families. Lehder is alleged to have threatened to kill a federal judge each week until he is freed. The "Medallian Cartel", allegedly headed by Lehder, has pledged to kill five Americans for every extradition by Columbia.

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.

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 Kennedy 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 Kennedy 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.

The matter of Judge Kennedy's nomination and record was reviewed by the 50 members of the Board of Directors of INEOA representing the general membership.

The board has found that Judge Kennedy is an outstanding nominee for the Supreme Court. His impressive career spans the better part of three decades.

Judge Kennedy received a unanimous "qualified" rating from the American Bar Association when he was nominated for the court at age 38 by President Ford. In 1975, the Senate unanimously confirmed Judge Kennedy for U.S. Court of Appeals.

Judge Kennedy has served with distinction on the Ninth Circuit Court of Appeals since 1975.

The American Bar Association on December 8th announced that its 15 member Standing Committee on the Federal Judiciary rated Judge Kennedy "well qualified" which, as you know, is reserved for those who meet the highest standards of professional competence, judicial temperament and integrity. The person in this category must be among the best available for appointment to the Supreme Court according to ABA standards.

He has participated in over 1,200 decisions on the Ninth Circuit Court of Appeals since 1975 and is now among the most senior active judges on that court. He has authored over 400 opinions. "In that time", President Reagan has said, "he's earned a reputation as a courageous, tough, but fair jurist."

Throughout his career on the bench, Judge Kennedy has faithfully applied the Constitution and the criminal law in a manner that recognized a balance between society's need to protect innocent victims and the procedural rights of defendants.

Judge Kennedy's decisions reflect his belief that law enforcement activities must be reasonable and that the right of a criminal defendant

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under the Constitution to receive a fair trial must be protected vigorously.

However, his judicial decisions likewise reflect his firm commitment to vindicating the victims of crime and protecting the rights of society from vicious criminals.

In Judge Kennedy's view, mistakes by law enforcement officers that do not represent willful misconduct and do not affect the fairness of a defendant's trial are not grounds for releasing criminals to renew their war on society. In one of the most important criminal law cases of this decade, the Supreme Court agreed with Judge Kennedy that a "good-faith exception" to the exclusionary rule should be recognized in certain circumstances. Judge Kennedy had argued in a dissenting opinion that evidence in a drug case should not have been suppressed where the police officers had acted in good faith and had reasonably relied upon a search warrant, issued by an impartial magistrate, that was later found to be invalid (U.S. v. Leon, 1983).

Supreme Court decision will have a vital impact on the success of the Nation's crusade against illegal drugs. Judge Kennedy has issued a number of rulings that are likely to be critical in our efforts to counter illegal drug trafficking.

Judge Kennedy has upheld tough sentences against drug dealers. He upheld a life sentence without parole for a drug manufacturer and dealer. Although the conviction was for a first offense, Judge Kennedy noted the defendant had expanded his drug manufacturing operations while free on bail, directed the operation from his jail cell after his bail was revoked, and shown no remorse for his crimes. Judge Kennedy upheld the maximum sentence imposed by the lower court (U.S. v. Stewart, 1987).

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International cooperation is essential in combatting international drug cartels, and in U.S. v. Peterson (1987), Judge Kennedy held that American officials may assume the constitutional validity of the actions of foreign governments cooperating in anti-drug ventures. Judge Kennedy affirmed a conviction obtained on the basis of evidence received from Phillipine narcotics agents with whom American law enforcement officials were acting in a joint anti-drug venture.

After careful consideration, the 50 member Board of Directors, representing the general membership of INEOA, unanimously endorsed and supports the nomination of Judge Anthony M. Kennedy as Justice to the United States Supreme Court.

We urge this committee to vote favorably on the nomination of Judge Kennedy.

- Thank You -

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John J. Bellizzi of Delmar, New York retired from the position of Director of the New York Bureau of Narcotic Enforcement and has assumed the position of Executive Director of the International Narcotic Enforcement Officers Association on a full-time basis.

Bellizzi retired after 40 years of service in law enforcement having worked under six governors and numerous commissioners and other state officials. He began his law enforcement career as a police officer with the New York City Police Department with assignments in the "Fort Apache" section of the Bronx, the "Harlem" area of Manhattan and the "Bedford-Stuyvesant" area of Brooklyn. During the war, he served with the Division of National Defense as an undercover agent investigating communist activities. Prior to entering the field of law enforcement, he served as a licensed Pharmacist in retail and hospital pharmacies.

Bellizzi holds degrees from St. John's University, College of Pharmacy, Ph.G.; Albany Law School, LL.B., Doctor in Jurisprudence, JD., Union University; and Honorary Doctorate of Laws LL.D., St. John's University; and has done graduate study in U.S. Food and Drug Law at New York University Law School and Fordham University. The author of many articles on pharmacy, narcotics and law, he has served on several faculties including Albany Medical School and the University of Southern California. He was Professor of Pharmaceutical Law at St. John's University for 14 years. In addition, he has served as consultant to the White House on Narcotics and Drug Abuse, as a member of New York City Mayor Wagner's and Mayor Lindsay's Narcotic Commission; on Los Angeles Mayor Yorty's Narcotic Commission, and as a member of Governor Brown's Narcotic Task Committee for the State of California. He has

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served as the Executive Director of the New York State Drug Abuse Advisory Committee of the New York State Department of Health and the Division of Substance Abuse. He is currently serving as a member of the New York State Drug Abuse Advisory Committee.

Mr. Bellizzi was the founder and First President of INEOA. He is a recipient of many awards including the Honor Legion Medal from the N.Y.C. Police Department and the Papal Medal from Pope Paul IV. He received the first Anslinger Award given to an active narcotic officer for outstanding dedication, achievement, and contribution in combatting international drug trafficking.