

Opening Statement of Mark A. Robbins
Nominee to be an Associate Judge of the Superior Court of the District of Columbia
June 3, 2020

Chairman Johnson, Ranking Member Peters and members of the Committee:

I appreciate this opportunity to present my qualifications and respond to your questions regarding my nomination to be an Associate Judge on the Superior Court of the District of Columbia. I want to thank the President for the honor and privilege of his nomination, and the District of Columbia Judicial Nomination Commission (JNC) for its recommendation to the President. If confirmed, I pledge to prove my worthiness of this appointment by carrying out my responsibilities with the highest degree of professionalism and integrity.

This is the second time I have been honored to have a nomination considered by this Committee. The last time was in March, 2012, when I was nominated to be a Member of the U.S. Merit Systems Protection Board (MSPB). In fact, I have a long professional history of productive and successful interaction with this Committee, its members and staff – both majority and minority as those roles have shifted over the years – since its inception in present form in 2005, and before that with the Senate Government Affairs Committee going back to 2001.

In recommending candidates for nomination to the Superior Court, the JNC notes that “[t]here is no one, single professional path to the local courts. Judges in the District of Columbia come from a wide variety of professional, social, economic, and educational backgrounds. The JNC evaluates each applicant on the basis of merit[.]” To that point, I have taken an interesting but less conventional route to this nomination. Over the course of my 30 year legal career I have been a commercial civil litigation attorney with a broad variety of experience at the state and Federal trial court level at both law firms and as in-house counsel; a Presidentially-nominated, Senate-confirmed member of a quasi-judicial independent agency where I adjudicated over 4,000 actions; a three-time General Counsel at two Federal agencies; an international Rule of Law Advisor managing the development and modernization of an Iraqi provincial legal and justice system; a member of the White House staff in two administrations; and a Legislative Assistant to two Members of the U.S. House of Representatives covering justice and judicial issues. Serving as a judge on the D.C. Superior Court would be the honor of my lifetime and the crowning achievement of my career.

I first moved from Los Angeles to the District in 1979 to attend the George Washington University. I earned both my B.A. and J.D. from GW, the latter attending the night division while working full time at the White House from 1984 to 1988. Upon graduation from law school in 1988, I was admitted to both the California and D.C. bars and returned to Los Angeles to assume the private practice of law. I returned to D.C. in 2000 and have remained a resident of the District ever since.

I am presently serving as General Counsel of the U.S. Office of Personnel Management (OPM), a position I also held from 2001 to 2006. Prior to my current position, as I mentioned earlier, I served as a Member of the MSPB, having been nominated by President Obama and confirmed by the U.S. Senate in 2012 for a statutory seven-year term. In 2017, President Trump designated me Vice Chairman and acting Chairman. And in December, 2018, pursuant to 5 U.S.C. sec. 1201,

President Trump directed me to serve concurrently as acting Chairman of the MSPB and General Counsel of OPM, a dual position I held until my MSPB term ended in 2019.

As this Committee well knows, the MSPB, is a quasi-judicial, Article I tribunal which, pursuant to title 5 of the U.S. Code, adjudicates adverse actions by departments and agencies against Federal employees and certain claims by Federal employees and beneficiaries against the Federal government. The Board sits in lieu of a U.S. District Court. Its decisions are appealable, generally, to the U.S. Court of Appeals for the Federal Circuit. The three Presidentially-appointed, Senate-confirmed members sit as an appellate body to review the decisions of approximately 65 administrative law judges and administrative judges. During my term I participated in over 4,000 opinions. The total would have been closer to 5,200 but for the lack of quorum during the final two years of my service.

In addition to OPM, I have also served as General Counsel at the U.S. Election Assistance Commission and as the first executive director of the White House Privacy and Civil Liberties Oversight Board, now an independent agency.

From January, 2008 to August, 2009, I served as the State Department's Senior Rule of Law advisor in the Babil Provincial Reconstruction Team (PRT) in Al-Hillah, Iraq. Co-located with and supported by the Army's 172d Infantry Brigade, I was responsible for the development, implementation and coordination of U.S.-Iraqi reconstruction policy for provincial judicial, law enforcement, correctional and legal institutions. My responsibilities comprised elements of law and policy operations, and significant general contractor work. Among other things, I oversaw the development of a comprehensive judicial education program for local judges, lawyers and legal institutions, with the procurement, distribution of and training on computers, educational software, Arabic legal texts and requisite training. Construction projects included completing a new local courthouse; modernizing the local police academy, including installing a new forensics/crime lab; building a new local prison; renovating the Babil Judicial Union (bar association) headquarters; securing and managing two-year funding assistance for the operations of Al Meezan Legal Newspaper, the only independent legal journal in Iraq at that time; modernizing the Babil University Law School library and 12 regional court house law libraries; and security enhancements for provincial judges and their staff. For these accomplishments I received the U.S. Army Commander's Award for Meritorious Civilian Service, and two State Department Ambassador's Meritorious Honor Awards.

My life-long commitment to public service was supplemented by the private practice of law in Los Angeles from 1988 to 2000. I was a civil commercial litigator with a practice in both Federal and California state court. I worked at law firms, and in-house for a major corporation. Private practice afforded opportunities to work on a wide variety of issues. The career-enhancing advantage to being a litigation attorney is that once one learns the skill sets necessary to litigate, one is then free to learn a diverse set of subject matter issues with which to apply the litigation skills. I am a quick learner and enjoy the challenge of learning new issues.

Whether at law firms or in-house, I was fortunate to work for institutions that supported and encouraged pro bono legal activity. During my years in private practice, I participated in the Los Angeles County Bar Association LGBTQ+ division efforts to supply bankruptcy assistance to

AIDS/HIV+ individuals. In recent years while in public service, I have provided informal legal advice to my church, Georgetown Lutheran, currently celebrating its 250th anniversary and the original home in the 1970s to what eventually became the Whitman-Walker Clinic.

In addition to my legal background, I bring a good deal of public organizational management and administrative experience to my endeavors. In 2013 I was elected a Fellow of the National Academy of Public Administration. In short time there will be a new Chief Judge of the D.C. Superior Court, and I will gladly offer to him or her those skills to utilize as deemed necessary and appropriate.

As I noted in 2012 at my confirmation hearing, I was conscious of moving from the professional role of a legal advocate, whether in public service or private practice, to that of an adjudicator. I am proud to have made that adjustment quickly and successfully. I enjoy adjudication. Serving the District of Columbia as a trial judge would be a new role and I am excited by the prospect. My background and experience leave no doubt in my mind that I will be a successful trial court judge.

Before concluding, I would like to thank those who have assisted me in this process: my friends and colleagues who have given me their moral support; JNC, White House, Department of Justice and Senate staff; and my future colleagues at the D.C. Superior Court who have reached out with encouragement. I will always be grateful for the public service mentoring of two men who assisted me with my career over the years: the late Congressman John H. Rousselot of California, and Ambassador Robert H. Tuttle. Finally and most importantly, I especially want to thank my family. My mother passed away three years ago. But she and my father were here, in person, when my previous nomination was before this Committee. They, my sister and brother, and their families, are present today either in spirit or through technology during these challenging but interesting times.

Mr. Chairman, again, thank you. I look forward to responding to any questions the members of this Committee may have.