

ADMINISTRATIVE OFFICE OF THE  
UNITED STATES COURTS

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WASHINGTON, D.C. 20544

June 13, 2000

MEMORANDUM TO THE CHIEF JUSTICE OF THE UNITED STATES

**SUBJECT: Compensation Increase for Justices – Response to Justice Thomas –  
GUIDANCE NEEDED**

It has been reported to the AO General Counsel's office that Justice Clarence Thomas at a reception talked to Representative Cliff Stearns (R-FL) and said that unless the compensation for Supreme Court justices is increased, "one or more justices will leave soon." Stearns' office then got in touch with "Chip" Tangen of Podesta.com, formerly Podesta Associates, seeking their help. This group represents the National Conference of Bankruptcy Judges and has done so ever since its founder, John Podesta (currently President Clinton's Chief of Staff) was in the firm. His brother Tony Podesta is in charge of the firm now.

Chip Tangen announced the Thomas-Stearns discussion on about May 8 at a meeting called by Judge Ann Williams, Chairman of the Federal Judges Association, along with her counterparts of the bankruptcy and magistrate judges associations as well as Judge David Hansen, Chairman of the Judicial Branch Committee. I understand Judge Hansen was surprised first that such a comment would be made publicly and second because he has heard several times from Justice Thomas who is the Eighth Circuit "rider" but he has not discussed the matter with him, although Justice Thomas has talked to him several times about removing the honoraria limitations on justices.

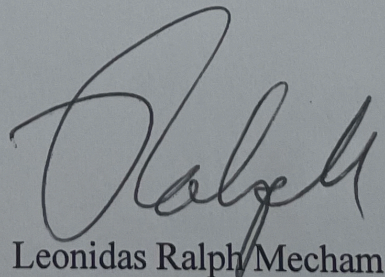
Thereafter, Tangen called the AO General Counsel's office asking for help in drafting legislation for Representative Stearns. Apparently Stearns plans to offer an amendment to the Commerce, Justice, State, Judiciary appropriations bill to delink Supreme Court justices' pay from the pay of all other judges as well as from Congress and the Cabinet. He would create a pay commission devoted solely to Supreme Court justices which would study the pay needs of justices and report to Congress with the intent that Congress would then vote for a compensation increase solely for the justices. My staff was asked to assist in preparing such legislation but they are reluctant to do so for several reasons, one of them being that the AO is supervised by the Judicial Conference which has no position on this matter. Moreover, they correctly believe they cannot speak for the Supreme Court. They may also have the same reservations I have about the overall wisdom of this approach.

Is it wise, for example, to decouple justices both from the rest of the judiciary and Congress and then presumably have a congressional vote on a commission proposal devoted solely to increasing justices' compensation? Within the judiciary, that could run the risk of looking like a dog in the manger approach. To Congress, it could be seen as another judiciary effort at delinkage from congressional pay which even our best friends have refused to do, although it would be limited solely to justices which might make it more palatable. But I am not at all sure.

From a tactical point of view, given the public statements made largely by Democratic lobbyists, it will not take the Democrats and liberals in Congress very long to figure out that the prime beneficiaries who might otherwise leave the Court presumably are Justices Thomas and Scalia. The Democrats might be perfectly happy to have them leave and would see little incentive to act on separate legislation devoted solely to Supreme Court justices if the apparent purpose is to keep Justices Scalia and Thomas on the Court. Moreover, the fact that Representative Stearns is a conservative Republican may not help dissuade the Democrats and liberals from this view.

Even as I dictated this memorandum, Chip Tangen phoned the AO General Counsel's Office wanting to know what we are doing about getting legislation prepared and said that Representative Stearns' office is eager to move ahead. He plans to offer the amendment to our appropriations bill but apparently does not think there is a sense of urgency as shown by his leisurely commission approach. Yet, I understand that Justice Thomas clearly told him that in his view departures would occur within the next year or so. If Stearns' objective is to do something about justices' compensation, he ought to offer an amendment to the appropriations bill simply raising the justices' compensation directly.

I await your advice and counsel as to how you would like us to handle this delicate matter.



Leonidas Ralph Mecham

jc

cc: Jim Duff