

## NOMINATION OF CHARLES ESQUE FLEMING

Madam President, tomorrow, in addition to confirming Ms. Brennan, the Senate will consider the nominations of Charles Fleming and Federal Magistrate Judge David Ruiz, both of whom are nominated to also serve in the Northern District.

Mr. Fleming is an assistant public defender, which is not always the route to being a Federal judge, but it is a key, key, key part of our judicial system. He is an assistant public defender in the Northern District, serving as trial team leader in the Northern District's largest public defender branch.

A career public servant, Mr. Fleming has extensive trial experience in Federal court, having served as a Federal public defender for 30 years. If confirmed, he would be the only Black man currently serving as an active-duty Federal district court judge for the Northern District.

Mr. Fleming has received uniformly enthusiastic reviews from judges he has appeared before and from attorneys he has tried cases against. As a lead public defender, he takes on what his supervisor has described as the "most difficult and challenging cases," as you can imagine. In his cases, he has always displayed exceptional empathy not only toward clients but also toward the victims of crime. One story illustrates his character well.

He was representing an individual charged with committing a violent crime. According to the judge, when making his arguments for what he believed was a fair sentence for his client, Mr. Fleming turned and faced the victim and her family. The judge said Mr. Fleming didn't alter his arguments, but he wanted to accord the victim and her family the dignity of hearing directly from him, the public defender.

That is the kind of empathy and respect we need on the bench. I urge my colleagues to join me in supporting his nomination.

## NOMINATION OF DAVID AUGUSTIN RUIZ

Madam President, the third judge, David Ruiz, has served as a Federal magistrate judge in the Northern District for 5 years. Before that, he served for 16 years as an assistant U.S. attorney in the Northern District and as a private practitioner.

As an assistant U.S. attorney and in private practice, he took on a wide spectrum of cases. Those who worked with him praised his temperament and his intellect and described him as "unflappable." However, perhaps Judge Ruiz's most powerful endorsement came from the judges who are already seated in the Northern District who selected him to serve as one of their magistrate judges. They selected Judge Ruiz to oversee groundbreaking, multi-million-dollar, multidistrict litigation involving the manufacturers and distributors of opioids, which have done huge damage to families and communities across our State.

He is also poised to make history as the first Latino district judge ever to

sit in the Northern District. If this body concurs, as the Judiciary Committee did, he will become Ohio's first ever Latino Federal judge. He is the grandson of immigrants. He is a descendant of migrant farmworkers who picked fruit in the fields of Texas and Michigan to provide better lives for their families. Judge Ruiz's success embodies the American dream of generations of immigrants.

Finally, I want to thank publicly, in this forum, all of the members of the bipartisan commission who recommended these nominees to Senator PORTMAN and me.

When I first came to the Senate, Senator Voinovich and I established this bipartisan commission process to help identify the best candidates for these important jobs. I am proud of the work that we have done with Senator PORTMAN to continue that tradition through Presidents of both parties.

The members took considerable time out of their busy schedules to identify and interview potential candidates. They undertook this task to ensure that the people living in the Northern District had access to justice and a bench that looks like the people they serve. This is by far the most diverse set of U.S. attorneys, U.S. Marshals, and U.S. Federal judges we have had ever in my State.

I thank the members of the commission for their work. I would particularly like to mention my representatives on this commission: Mohamed Al-Hamdani, Paul Demarco, Barbara Doseck, Dennis Eckart, Kayla Griffin, Jacqueline Johnson, Barbara Lum, Carole Rendon, Carter Stewart, and Margaret Wong. I want to especially thank the chair of our commission, Joyce Goldstein, who put so much effort and time into this and who put so much energy into ensuring this effort was a success. The Northern District of Ohio is better off because of their work.

Dr. King wrote: "[P]rogress never rolls in on wheels of inevitability." Each of these nominees will serve as wheels of progress for our State and for our country. I don't make predictions in politics often, but I am certain that every Member of this body, Republican and Democrat, who votes for these three judges will always be glad that they did.

I urge my colleagues to vote yes so that they can get to work immediately serving the people of my great State.

## JUDICIAL NOMINATIONS

Mr. DURBIN. Madam President, this week, the Senate will consider three judicial nominees for the Northern District of Ohio.

Before I speak on the nominees themselves, I would like to commend Senators BROWN and PORTMAN for working across the aisle to develop a bipartisan selection process.

All three of these nominees were recommended to the White House through a judicial commission that Senators BROWN and PORTMAN established.

As Senator PORTMAN noted at our hearing on these nominees, the members of the bipartisan screening commission committed significant time and effort to ensure that they recommended well-qualified candidates for the bench.

As a result of that process, we will soon vote on three distinguished nominees.

The first nominee to the Northern District of Ohio is Bridget Brennan.

For almost 15 years, Ms. Brennan has served as a prosecutor, rising through the ranks of the U.S. Attorney's Office for the Northern District of Ohio.

Last year, as a testament to her skills and leadership, she was named Acting U.S. Attorney for the Northern District of Ohio.

Ms. Brennan has a wide breadth of experience, having led her office's Civil Rights and Criminal Divisions.

She has received a "Qualified" rating from the American Bar Association, has the strong support of Senators BROWN and PORTMAN, and received a bipartisan vote in the Judiciary Committee.

Ms. Brennan has demonstrated a commitment to justice, integrity, and the rule of law, all of which will serve her well as a district court judge.

We also will be considering Charles Fleming, another highly qualified nominee to the U.S. District Court for the Northern District of Ohio.

Mr. Fleming is an experienced litigator who has demonstrated a decades-long commitment to ensuring equal justice under the law. He has earned degrees from Kent State University and Case Western Reserve University Law School. After graduating, he spent a year working in private practice before dedicating his career to public service.

For more than three decades, Mr. Fleming has worked as an Assistant Federal Public Defender in the Northern District of Ohio. During this time, he has tried 17 cases to verdict and has gained a truly remarkable breadth of courtroom experience.

As I noted, Mr. Fleming has the strong support of Senators BROWN and PORTMAN. He received a bipartisan vote in the Judiciary Committee. He also has received a "Well Qualified" rating from the American Bar Association.

He is clearly committed to maintaining a fair, respectful temperament in his courtroom and will decide cases based on the law, the facts, and precedent—not on his preferred outcome. He will make an excellent addition to the District Court.

Finally, we have David Ruiz. For more than 5 years, Judge Ruiz has served as a U.S. Magistrate Judge in the Northern District of Ohio. In this role, he has presided over more than 80 cases that have gone to verdict or judgment.

Prior to assuming the bench, Judge Ruiz served as an Assistant U.S. Attorney for several years. And before that, he spent 10 years as a litigator in private practice.

Judge Ruiz received his undergraduate degree from The Ohio State University and his law degree from The Ohio State University Moritz College of Law. And he received a unanimous “Well Qualified” rating from the American Bar Association.

As I mentioned at the outset, Judge Ruiz has the strong, bipartisan support of Senators BROWN and PORTMAN.

He also received bipartisan support in the Judiciary Committee—with Ranking Member GRASSLEY, Senator GRAHAM, and Senator TILLIS joining with Democratic members to support his nomination.

Senator PORTMAN stated that Judge Ruiz’s “experience, temperament, and high ethical standards have served him well as a federal magistrate judge” and “make him well-qualified to continue serving the Northern District of Ohio as a federal judge.”

Once confirmed, he will be the first person of Hispanic origin to serve as an article III Federal judge in Ohio’s history.

I urge my colleagues to join me in supporting all three of these outstanding nominees.

Mr. BROWN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORNYN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUPREME COURT NOMINATIONS

Mr. CORNYN. Madam President, last week when the Senate was in recess, Justice Stephen Breyer announced he will soon retire from the U.S. Supreme Court. I want to first thank Justice Breyer for his service—more than four decades, including nearly three decades on the Supreme Court itself.

Although I have disagreed with his rulings from time to time, I maintain deep respect for Justice Breyer’s commitment to the rule of law and the integrity of our judicial system.

Last year, when some of our Democratic colleagues renewed their threats to expand the Supreme Court and pack it with partisans, Justice Breyer, to his credit, spoke up. He echoed the comments of the late Ruth Bader Ginsburg and warned about the potentially dangerous consequences of Democrats’ Court-packing threats. As I said, I have great respect for Justice Breyer’s defense of the Court and the rule of law and protecting the Court as an institution, especially at a moment when sound, principled leadership was needed.

Once again, I want to thank Justice Breyer for his service and wish him a well-deserved retirement.

All eyes are now on the White House as we await news of President Biden’s nominee to succeed Justice Breyer. Although this is the President’s first opportunity to nominate a Supreme

Court Justice, he is standing at a very familiar fork in the road, outlining two separate and distinct paths.

One of those paths involves convention and virtuous leadership. President Biden could select an individual whose stellar credentials and experience are matched by a deep respect for the rule of law and the Constitution. He could nominate someone who agrees that Supreme Court Justices are meant to act as umpires, not as players in the game. They are supposed to call balls and strikes, not to help their preferred team score runs.

Of course, there is another path, one that was cleared and paved by the radical left. The President could listen to the liberal activists who want to select somebody who will deliver partisan wins regardless of the facts. He could nominate someone who would attempt to use a position on the Supreme Court to rule based on personal policies or preferences rather than what the law commands a Justice to do.

As I have said, President Biden has found himself looking down these two diverging paths a number of times. When he first took office, he could have worked with Republicans to build on Congress’s perfect record of bipartisan pandemic relief. With the border crisis, he could have endorsed bipartisan efforts to address the virtually uninhibited flow of migrants across our southern border during this last year.

With a 50-50 Senate, he could have embraced the opportunity to work across the aisle to make progress on our shared priorities, but at every single decision point, the President basically ignored the opportunity to build consensus. Even when he supported the infrastructure bill, it was only as a last resort after his attempt, along with that of Speaker PELOSI, to join the infrastructure bill to the Build Back Better bill, which he knew did not have the support that it needed, even among Members of his own party.

The President has repeatedly bowed to the radical left’s demands, and the results speak for themselves. Last spring, the American people were stuck with a nearly \$2 trillion bill for unnecessary partisan spending. Illegal border crossings remain at historic highs, with more than 2 million apprehensions since January of last year when he took office.

Many of our Democratic colleagues abandoned their longstanding support for the filibuster or the bipartisan consensus-building requirement of our cloture rules and tried to blow up the foundation of the Senate in order to clear a path for even more partisan legislation.

Now we find ourselves 1 year into a Democratic-controlled government with a short list of legislative accomplishments.

Time and time again, President Biden has abandoned bipartisanship and tradition in order to appease the progressive base in his political party, and the American people are the ones who have suffered the consequences.

Once again, I would hope he would remember his inspiring words at his inauguration on January 20, just about a year ago, where he called for a healing of the divisions in our country and working together in a shared desire to improve the quality of life for Americans and to make their place in the world one of leadership and peace.

The left has already begun its campaign to replace Justice Breyer with a judicial activist. In fact, the very fact that Justice Breyer decided to retire is an indication that the radical left is successful in browbeating a sitting Supreme Court Justice into retiring rather than finishing his term of office.

But clearly these folks on the left don’t want him to be succeeded by another principled jurist who evaluates cases based on the law and the facts. They want a partisan who will deliver sure political wins. Our Nation does not need a radical ideologue serving on the highest Court in the land.

We all know that the Supreme Court is a third and coequal branch of government. We also know that the role of a judge is far different from that of a legislator. Legislators are elected in order to represent their constituents and make public policy proposals that hopefully will become law which will improve their lot in life and their future.

The Supreme Court—or any judge, for that matter—is not supposed to start with a desired result and work backward from there. The Supreme Court is not a substitute for working together to pass legislation in the legislative branch with the signoff by the executive branch. The Supreme Court—or any court—is not a failsafe that can be utilized to deliver particular results that can’t be secured through the legislative process.

Judges should not be legislators in black robes. They shouldn’t advocate for any particular policy outcome or promote a specific agenda. Our democracy and the rule of law depends on Justices embracing not personal politics, not personal beliefs, and not a preference for a particular result in a case. The key to our constitutional Republic is a judge that calls balls and strikes, who decides each case based on the facts and the law.

It is important because, every time a judge acts as an activist and takes away an issue that should be decided by the political branches, it shrinks the capacity of the American people to make their own choices at the ballot box when they elect members of the legislature and executive branch.

In fact, that is the reason why our Constitution gives Justices lifetime tenure—so they will be insulated from politics, not so they can use that tenure in order to impose their political preferences without retribution by the voters.

Conversely, those of us in Congress are precisely elected in political elections for policy purposes, and the fact is we either listen to our constituents