

April 9, 2010

The Honorable Patrick J. Leahy, Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510  
Fax: 202-224-9516

Dear Senator Leahy:

I urge the Senate to confirm Professor Goodwin Liu as a judge on the United States Court of Appeals for the Ninth Circuit.

Professor Liu has established himself as a premier scholar on constitutional law, especially issues involving educational opportunity and equality. He is invariably thorough and thoughtful, and never dismissive of alternative viewpoints in these highly emotional, politically charged controversies. He has demonstrated not only the qualifications and skills but also the discretion and temperament required of a federal judge.

If Professor Liu and I were pressed to compare our beliefs on a wide range of issues that might come before the Ninth Circuit, especially on a questionnaire that accurately reflected that court's docket, I imagine that we would agree on a heavy majority of those issues. Even if I were to disagree with Professor Liu on certain issues, his views fall well within the legal mainstream.

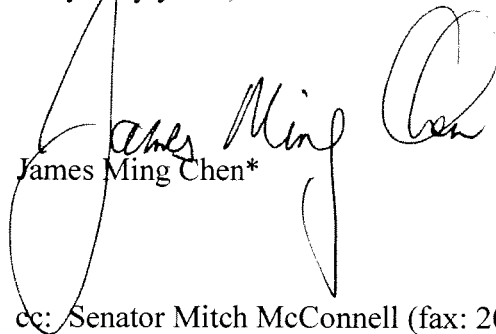
Although I believe that the Senate should examine a judicial nominee's stance on vital legal issues, this responsibility must be weighed against the President's presumed prerogative to choose well qualified judges who reflect his own view of the law. The President after all "is a representative of the people just as the members of the Senate and of the House" and in certain respects "is rather more representative" than Congress inasmuch as "the President [is] elected by all the people." *Myers v. United States*, 272 U.S. 52, 123 (1926); *accord INS v. Chadha*, 462 U.S. 919, 948 (1983). Quite evidently President Obama endorses Professor Liu's views, and it is enough that those views fall within the rich diversity of sound legal judgment.

Professor Liu's relative youth may give some Senators pause. I encourage the Senate to see his youth in a positive light. Professor Liu has covered enormous ground in his career. He has practiced as an appellate litigator. In addition to clerking for Judge David Tatel of the D.C. Circuit and Justice Ruth Bader Ginsburg of the Supreme Court, he has worked in federal agencies. His rapid accession to the position of associate dean speaks powerfully to the trust he has earned among his colleagues at Berkeley.

Both the federal judges for whom I was privileged to clerk were appointed to the federal bench at a comparably young age. Justice Clarence Thomas was appointed to the D.C. Circuit at age 42; J. Michael Luttig was appointed to the Fourth Circuit at age 39. Both proceeded to serve very ably and admirably. "Juniority" in this sense is hardly a vice, but rather a virtue.

I urge the Senate to give Professor Liu a full and fair hearing. I am confident that the Senate will ultimately conclude that Goodwin Liu is an eminently qualified choice for the federal bench and deserves speedy confirmation.

Very truly yours,

A handwritten signature in cursive script that reads "James Ming Chen". The signature is written in black ink and is positioned above the printed name "James Ming Chen\*".

cc: Senator Mitch McConnell (fax: 202-224-2499)  
Senator Jim Bunning (fax: 202-228-1373)

\*Dean and Professor of Law, University of Louisville. Although I write solely in my personal capacity, I am supplying this information for purposes of identification.

April 9, 2010

The Honorable Jeff Sessions, Ranking Member  
Committee on the Judiciary  
United States Senate  
152 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator Sessions:

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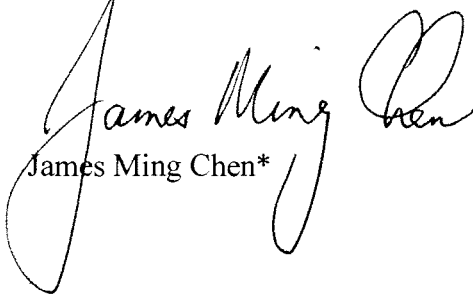
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