



U.S. Department of Justice

Executive Office for Immigration Review

Office of the Director

4297795
LP
D

5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

Director

July 18, 2019

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH:

THE DEPUTY ATTORNEY GENERAL

MA F. JAR
8.1.19

FROM:

James R. McHenry III
Director

See for JRM

SUBJECT:

Candidate for an Appellate Immigration Judge Position

PURPOSE:

To refer to the Attorney General for his consideration the paperwork to appoint a current immigration judge (IJ) that is a candidate to an open appellate immigration judge (AIJ) position located at the Atlanta Immigration Court (IC).

TIMETABLE:

At the Attorney General's earliest convenience.

DISCUSSION:

The Board of Immigration Appeals (BIA) is the Executive Office for Immigration Review's (EOIR) appellate component, having nationwide jurisdiction to hear appeals from decisions rendered by IJs and certain decisions by district directors of the Department of Homeland Security. By regulation the BIA has 21 AIJs. It currently has 15 AIJs and six vacancies.

In accordance with the AIJ (also known as Board Member) hiring procedures established on March 8, 2019, a three-member Finalist Panel (Panel) recently convened to evaluate the candidates recommended by EOIR to fill a current Board Member vacancy.

EOIR recommended multiple candidates to the Panel for the vacancy. The Panel reviewed the applicants' written materials and summaries of their interviews conducted by EOIR. The Panel then conducted its own interviews of the candidates for the vacancy. Finally, the Panel discussed the merits of the candidates and agreed to recommend the below listed individual for a vacancy.

The EOIR Director then consulted with the Office of the Deputy Attorney General and the Office of the Attorney General about each recommended candidate. Following these procedures and per the authority delegated by the Attorney General, the EOIR Director determined that IJ William A. Cassidy should be appointed for an AIJ position to be located at the Atlanta IC. Notwithstanding the delegation of authority to the EOIR Director, the Attorney General retains discretion over the final selection and appointment of candidates.¹

On October 3, 1993, William A. Cassidy entered on duty as an IJ after being appointed by then Attorney General Janet W. Reno. He served initially in the New York City IC before transferring to the Atlanta IC in 1995. During Judge Cassidy's time as an IJ, he has performed in an exemplary manner. Over the course of his career as an IJ, he has managed numerous cases involving high-profile respondents and novel issues of law and has addressed cases in an efficient manner consistent with due process. The candidate has a completed and favorably adjudicated background, and there is no derogatory information that would preclude him from being appointed as the nineteenth AIJ on the BIA, filling a new position established in February 2018. A copy of the candidate's application file is immediately available upon your request.

Judge Cassidy presents as an excellent candidate for an AIJ position and one who is eminently qualified for the position. He possesses approximately 32 years of experience in immigration law and has served as an IJ for over 25 years. Judge Cassidy also previously served as a temporary AIJ, including on a panel with Paul Schmidt and Fred Vacca that issued the precedential decision, *Matter of Khalifah*, 21 I&N Dec. 107 (BIA 1995), regarding the detention of aliens subject to criminal proceedings for alleged terrorist activities. He has an exceptional background of immigration knowledge which, combined with his experience as an IJ and a former temporary AIJ, will make him a strong addition to the BIA. Judge Cassidy's application materials denote a candidate well-qualified to serve as an AIJ.

¹ Previously, if a current IJ was recommended to become a Board Member, per Departmental guidance it was EOIR practice to put forth first a temporary appointment order establishing a new probationary period, followed by a permanent order upon successful completion of the probationary period. While this remains the practice for non-IJ candidates, for sitting IJs, the Office of Legal Counsel has advised, and the Office of the Deputy Attorney General has concurred, that an incumbent IJ converting to an AIJ position requires the same or similar skills and, therefore, should not be placed on a new not-to-exceeds appointment. Therefore, this candidate, having completed his probationary period as an IJ, will be placed on a permanent appointment.

From 1992 to 1993, Judge Cassidy served as of counsel, with the law firm of Squire, Sanders, and Dempsey. In this role he advised corporations on matters involving immigration issues. Prior to private practice, Judge Cassidy worked for the Department of Justice, Immigration and Naturalization Service, first as a general attorney from 1987 to 1991, then as assistant general counsel, director of Training from 1991 to 1992. In these roles Judge Cassidy advised attorneys and operating units regarding immigration law, and developed curricula regarding immigration issues for attorney training conferences.

Prior to his federal service, Judge Cassidy served in a variety of roles in the State of Ohio, serving as assistant county prosecutor, Civil and Criminal Divisions, Cuyahoga County, from 1986 to 1987; law director and prosecutor, City of North Ridgeville, from 1984 to 1986; and assistant county prosecutor, Criminal Division, Cuyahoga County, from 1981 to 1984. He also worked in the private practice sector in Ohio from 1981 to 1987.

Judge Cassidy holds a Bachelor of Arts degree from Kenyon College, Gambier, Ohio, and a Juris Doctor from Cleveland Marshall College of Law, Cleveland, Ohio.

Judge Cassidy's current federal service was vetted and no negative information that would preclude his appointment as an AIJ was reported.

Judge Cassidy's selection for this AIJ position was made in accordance with the IJ hiring procedures approved by the Attorney General.

Memorandum for the Attorney General
Subject: Candidate for an AIJ Position

Page 4

An Attorney General Order, appointing William A. Cassidy as an AIJ, is attached hereto for signature.

RECOMMENDATION: That the Attorney General sign the attached order.

APPROVE: 
Date: August 14, 2019

Concurring components:

OLC SE 7-30-19

DISAPPROVE: _____

Nonconcurring components:

None

OTHER: _____

Attachment