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Navajo Nation President Joe Shirley, Jr., declines to remove Associate Justice Eleanor Shirley from Navajo Supreme Court

Judiciary Committee did not substantiate reasons for removal action

WINDOW ROCK, Ariz. – Navajo Nation President Joe Shirley, Jr., today declined to take action to remove Navajo Nation Supreme Court Associate Justice Eleanor Shirley from the high court, stating there is no basis to do so and that such an action would be perceived as political interference by one branch of government with another.

In a memorandum to Judiciary Committee Chairman Kee Allen Begay, he noted that Justice Shirley was recommended for permanent appointment by Supreme Court Chief Justice Herb Yazzie, received numerous and overwhelmingly positive comments from members of the Navajo Nation Bar Association and others, and that the overall performance of her duties was completed in a satisfactory and irreproachable manner.

“In this case, not only do I find no basis nor justifiable reason whatsoever for the recommendation to deny Justice Shirley a permanent appointment and, thus, remove her from the Navajo Nation Supreme Court, there has been no action on the part of the Committee over an eight-week period to provide my Office with the requested information to substantiate its action,” the President said.

“The obvious conclusion for the committee not doing so is that actual grounds for such an adverse action do not exist,” he continued.

On Oct. 12, 2010, the Judiciary Committee voted 4-3 on a resolution sponsored by Chairman Begay against the permanent appointment of Justice Eleanor Shirley, who has been on probationary status for two years. Removal of an Associate Justice requires a letter from the President informing her of the committee’s decision.

However, on Nov. 4, 2010, the President wrote to the committee to request “verbatim transcripts of the performance evaluation hearing that took place on October 12, 2010, and all other related hearings or meetings.”

“It is important to demonstrate that valid reasons exist in order for me to fully understand

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why it is necessary to remove Associate Justice Shirley,” President Shirley wrote. “A statement from the Speaker’s Office affirms that the Committee took this action ‘despite favorable recommendations for permanent appointment.’ The statement specifically cites the committee’s holding Associate Justice Shirley accountable for others’ actions, or lack thereof, and notes the committee based its decision on such insignificant grounds as her ‘demeanor’ and ‘poise’ before it.”

The President said it was his responsibility to ensure that when an action is taken to deny a permanent appointment to a probationary Associate Justice, it is consistent with the requirements of the law and based upon sufficient information, justification, and recommendations to support the adverse action.

“Removal of a Supreme Court Justice by a political body for anything less than the most serious, egregious, and justifiable cause would unavoidably be perceived as political interference with a stable and forthright Supreme Court, and a deliberate infringement upon the separation of powers among the branches,” the President said.

“This is particularly true given the circumstances of the past 18 months, a statement before the Court by an attorney from the Office of Legislative Counsel that threatened this adverse action, and numerous statements since by Council Delegates that cast suspicion on the motives for such an adverse action.”

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