

The Honorable Charles Grassley
Chairman, Judiciary Committee
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member, Judiciary Committee
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

July 18, 2017

Dear Chairman Grassley and Ranking Member Feinstein,

We are former clerks to Justice David R. Stras of the Minnesota Supreme Court, and write in support of his candidacy to fill a judicial vacancy on the United States Court of Appeals for the Eighth Circuit. We share the common privilege of having worked for Justice Stras early in our legal careers. As Democrats, Republicans, and independents, we hold a wide range of political views and have varying opinions of the current administration. Each of us, however, knows from our experience as law clerks that Justice Stras is well qualified to serve on the federal bench.

As former law clerks to Justice Stras, we have had the unique opportunity to observe how he approaches cases and writes legal opinions. We can attest to his integrity, fairness, and intellectual rigor when dealing with the cases before him. He thoroughly examines all sides of every case. He strives to be fair to each litigant and to decide each case based on its legal merits, rather than the identities of the parties or the popularity of the outcome. Justice Stras's decisions reflect a consistent approach to interpreting statutes and constitutions. In every case, large or small, he puts forth great effort to reach the result that best reflects the law and adheres to precedent.

Justice Stras's opinions speak for themselves. However, we know from first-hand experience his thoroughness and attention to detail when writing. Justice Stras drafts his opinions with an eye toward clarity and directness. He gives careful consideration to each issue in a case, often asking his clerks to revise his drafts again and again to find the best way to communicate an idea. Justice Stras has a sharp and curious legal mind, but just as importantly he is careful that his opinions decide only what needs to be decided. He often reminded us that the goal in writing an appellate opinion is to clearly explain the law and the court's decision to the parties, trial court judges, future litigants, the executive and legislative branches, and the public. His opinions achieve that goal by providing detailed and fair analysis of the parties' arguments and the rationales that support his conclusions.

Behind the opinions and the oral arguments that are visible to the public, Justice Stras maintains the highest standards when he prepares for cases. From our discussions with Justice Stras about bench memoranda, briefs, prior cases, pending petitions for review, and trends in other

jurisdictions, we saw how he ensures that he understands every angle of every case. He comes to every oral argument and every court conference thoroughly prepared.

Justice Stras values and guards his independence as a judge, and he is not shy to take a stance that differs from that of the majority of his colleagues. Justice Stras decides cases based on a consistent approach grounded in his own views of the law, rather than based on politics or personality, and he sticks to his judicial philosophy, even when that means writing only for himself. His independence is reflected not only in his single-author dissents, but also in those divided cases in which justices appointed by both liberal and conservative governors have joined his opinions.

In chambers, Justice Stras fostered an environment in which we were encouraged to offer our views about any issue in any case, even—and perhaps especially—when we disagreed with his views. Justice Stras treated us as valued members of a team, and actively sought our advice and opinions. He treats his law clerks as trusted aides, not as mere scribes, and used us to inform and improve his written opinions. Justice Stras gave back to us as much as he demanded, and his background as a professor ensured that we learned as much as he could teach us in one year about the law and judging. His lessons about legal thinking and persuasive writing were invaluable to us as we began our careers as attorneys.

In short, we wish to convey to your committee that working for Justice Stras proved to us that he is as smart and as deliberate as his resume suggests. We hope that your committee will act expeditiously and hold a hearing to consider Justice Stras's nomination, and that you will recommend that the full Senate confirm him.

Sincerely,

Ashley Brosius
Samuel Eisenberg
Dan Ellerbrock
Peter Farrell
Tim Franzen
Brian Hagerty
Meggen Lindsay
Emily Polachek
Nathan Sellers¹

cc:

Majority Leader Mitch McConnell
Minority Leader Charles Schumer
Senator Amy Klobuchar
Senator Al Franken

¹ Please note that professional ethics rules prevented several individuals from signing this letter.