

Received(Date): 13 NOV 2001 19:43:22
From: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
To: Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
Cc: h. christopher bartolomucci (CN=h. christopher bartolomucci/OU=who/O=eop@eop [WHO])
Subject: : Re: Estrada Press Conference
[P_G7EP4004_WHO.TXT_1.wpd](#)

Begin Original ARMS Header #####
RECORD TYPE: PRESIDENTIAL (NOTES MAIL)
CREATOR: Brett M. Kavanaugh (CN=Brett M. Kavanaugh/OU=WHO/O=EOP [WHO])
CREATION DATE/TIME: 13-NOV-2001 19:43:22.00
SUBJECT: : Re: Estrada Press Conference
TO: Bradford A. Berenson (CN=Bradford A. Berenson/OU=WHO/O=EOP@EOP [WHO])
READ: UNKNOWN
CC: h. christopher bartolomucci (CN=h. christopher bartolomucci/OU=who/O=eop@eop [WHO])
READ: UNKNOWN
End Original ARMS Header

I got it,

Bradford A. Berenson
11/13/2001 07:22:47 PM
Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, H. Christopher
Bartolomucci/WHO/EOP@EOP
cc:
Subject: Estrada Press Conference

I'm assuming one of you has the lead on this . . . I haven't been doing
anything on it.

----- Forwarded by Bradford A. Berenson/WHO/EOP on
11/13/2001 07:22 PM -----

Chris_Myers@src.senate.gov (Chris Myers)
11/13/2001 02:56:21 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Estrada Press Conference

COORDINATION MEETING: Wed @ 1:30pm in Russell 120
(Note: There will be no meeting today!!)

Estrada Press Conference

DATE: Thursday, 11/15

TIME: 11:15

LOCATION: to be determined (SRC will find a spot)

SENATORS : Nickles & Domenici are confirmed. Hatch & Jud Com members are invited and will attend, pending the business of the Jud Com.

HOUSE MEMBERS: Diaz-Balart, Bonilla, Ros-Lehtinen & others will be invited. (Send me suggestions.)

COALITIONS: Barbara Ledeen (SRC), Kay Daly, Gay Westbrook (Conference Vice Chair)

PRESS: SRC will distribute an advisory. Others can & should do the same.

TRANSLATOR: SRC is looking into to making available a translator so that office may distribute releases in Spanish.

TALKING PTS: Rena Johnson (Jud Com) has provided the attached

- Estrada Memo.wpd

Message Sent

To:

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ATT CREATION TIME/DATE: 0 00:00:00.00

File attachment <P_G7EP4004_WHO.TXT_1>

MEMORANDUM

To: File, Miguel Angel Estrada Castaneda
Nominee for United States Courts of Appeals for the District of Columbia Circuit

Date: November 13, 2001

Re: Legal Review

BACKGROUND

Education

- J.D., *magna cum laude*, 1986, Harvard Law School
- A.B., *magna cum laude*, 1983, Columbia College

Employment

- Gibson, Dunn & Crutcher LLP, Of Counsel, then Partner, 1997 - present
- U.S. Department of Justice, Assistant to the Solicitor General, 1992-94
- Wachtell, Lipton, Rosen & Katz, Associate, 1987-88, 1989-90, 1992
- Assistant United States Attorney, S.D.N.Y., 1990-92
- U.S. Supreme Court, Law Clerk to Hon. Anthony Kennedy, 1988-89
- U.S. Court of Appeals for the Second Circuit, Law Clerk to Hon. Amalya Kearse, 1986-87
- Harvard Law School, Research Assistant to Prof. Hal Scott, 1985-86

Selected Activities

- U.S. Supreme Court Historical Society, Trustee
- Center for the Community Interest, National Board of Directors,
- American Bar Association
- Edward Bennett Williams White Collar Crime Inn of Court, Barrister
- Edward Coke Appellate Inn of Court, Barrister
- The Barristers
- Federalist Society
- Center for the Community Interest, Board Member

WRITINGS

The bulk of Mr. Estrada's writings have been appellate and Supreme Court briefs. In *City of Chicago v. Morales*, he drafted *pro bono* an *amicus curiae* brief on behalf of the U.S. Conference of Mayors, the National League of Cities, and the National Governors' Association supporting the City of Chicago's ordinance making it unlawful for members of street gangs to loiter in public spaces. The Supreme Court struck the ordinance on grounds that it was overbroad and void for vagueness. In a similar case, *NAACP Anne Arundel County Branch v.*

City of Annapolis, Mr. Estrada represented the City of Annapolis *pro bono* in defending its ordinance prohibiting loitering with the intent to engage in drug dealing. In April 2001, after the district court issued a ruling declaring the ordinance unconstitutionally vague and overbroad, the City decided not to pursue appellate review.

LEGAL EXPERIENCE

Mr. Estrada emigrated to the United States from Honduras when he was 17 years old. He graduated near the top of his class in 1986 from Harvard Law School, where he was a law review editor.

Mr. Estrada began his legal career with pair of federal judicial clerkships: The first for Second Circuit Judge Amalya Kearse, and another for U.S. Supreme Court Justice Anthony Kennedy. His first job as a practicing attorney was as an associate at Wachtell, Lipton in New York, where he worked as a corporate lawyer engaged primarily in transactional work. He left Wachtell, Lipton in 1990 to join the U.S. Attorney's Office for the Southern District of New York in Manhattan, where he became deputy chief of the appellate section.

In 1992, Mr. Estrada joined the Office of the Solicitor General at the Justice Department, where his practice principally involved representing the United States before the U.S. Supreme Court in criminal cases. He also handled some cases in the federal circuit courts of appeal, and advised government agencies on opposing petitions for certiorari and determining whether to appeal adverse trial court rulings. In 1997, Mr. Estrada joined the Washington, D.C., office of Gibson, Dunn, where his practice primarily involves handling appellate matters in civil cases. His litigation experience can be summarized as follows:

Federal:	99%	Criminal:	70%	Jury Trials:	90%
State	1%	Civil:	30%	Non-Jury:	10%

In addition, Mr. Estrada has argued fifteen Supreme Court cases, most of them during his tenure as assistant solicitor general. Some of these cases are summarized below:

- *Richards v. Wisconsin* (1997): Mr. Estrada appeared on behalf of the United States as *amicus curiae* in support of the state's position that, in felony drug investigations, police should be allowed to execute search warrants at residences without knocking before entering. The Supreme Court ruled that the Fourth Amendment does not permit blanket exceptions to the common law "knock and announce" requirement for entire categories of criminal investigations, but ruled that the officers' failure to knock and announce in this case was reasonable.
- *Stickler v. Greene* (1999): Mr. Estrada represented a death row inmate *pro bono* in a federal habeas challenge to his conviction and death sentence. The principal issue was whether the prosecution committed a *Brady* violation by failing to disclose to defense counsel that an eyewitness to the crime had been repeatedly interviewed by the police and had made statements causing doubt on her in-court identification. The Supreme Court ruled that the evidence was exculpatory under *Brady*, but not sufficiently material to

create a reasonable probability of acquittal.

- *Degen v. U.S.* (1996): Mr. Estrada represented the United States in its attempt to defend the common law fugitive disentitlement doctrine. The Supreme Court invalidated the doctrine, ruling that federal courts lack inherent authority to civilly forfeit a fugitive's property without a hearing.
- *Austin v. U.S.* (1993): Mr. Estrada represented the United States in an unsuccessful attempt to persuade the Supreme Court that civil forfeitures are not subject to the Excessive Fines Clause of the Eighth Amendment.
- *National Organization for Women, Inc. v. Scheidler* (1994): Mr. Estrada appeared in this case on behalf of the United States as *amicus curiae* in support of NOW. The issue was whether the RICO statute incorporates a "pecuniary purpose" requirement for civil or criminal liability. The Supreme Court agreed with NOW that RICO embodies no such requirement.