

Prepared Statement of Michael P. Allen
Nominee to be Judge
United States Court of Appeals for Veterans Claims

Thank you Chairman Isakson, Ranking Member Tester, and distinguished Members of the Committee. I am honored to have been nominated by the President of the United States to serve as a Judge on the United States Court of Appeals for Veterans Claims. I want to begin by thanking this Committee and its excellent staff for the work done in connection with my nomination. And I too want to thank the White House Counsel's Office, and in particular Associate Counsel Rob Luther, for the guidance provided in connection with this process. It most certainly has been an adventure.

Before moving to substance, I must thank some people who have been instrumental in my life. My wife Debbie and my sons Ben and Noah mean everything to me. They have stood by me through good times and bad. I thank them for everything and love them a great deal. My life would not be the same without them in it. I'm also grateful for the support of my in-laws Bob and Judy Brown, my sister Mary and her family, and my brother-in-law Bob Brown and his family. Both my parents have passed away, but I thank them for bringing me up and hope – and believe – that they would be proud of me today. I also want to acknowledge the thousands of students I have interacted with at Stetson University College of Law over the past sixteen years. They have given me far more than I ever taught them. And finally, I thank my best friend Jason Stearns, a veteran of the United States Navy, who has always been there for me. Through his example, I've learned a great deal about living your life with integrity and what it really means to always stand shoulder to shoulder with a friend no matter what.

Prior to 1988, veterans who believed they had been wrongfully denied benefits by the then-Veterans Administration had no recourse. Unlike almost any other class of people in our country, veterans had to rely solely on the VA to "get it right" with essentially no judicial oversight. The Supreme Court described this period as one of the VA's "splendid isolation."

The era of "splendid isolation" came to an end when Congress enacted the Veterans Judicial Review Act of 1988. That Act provided for judicial review of VA decisions – now decisions of the Department of Veterans Affairs – for the first time. That review would be conducted by a new federal court, the Court of Appeals for Veterans Claims. The original judges of the court faced a truly awesome task. They not only had to create law where none had existed before, they also had to build an institution. As the court approaches its 30th anniversary, it is worth stopping for a moment to recognize what has been accomplished since the VJRA became law by the men and women who have served on the court. We truly owe them a debt of gratitude.

I firmly believe that the creation of the court and the introduction of judicial review has been a success. Nevertheless, there is much work still to be done as the court enters its next

phase. As the Members of this Committee know all too well, there are serious challenges facing the veterans' benefits system. The system is staggering under the weight of more than a million and a half applications for benefits coming in the door each year. There is also a large backlog of appeals in the Department and veterans are facing delays of years to have their appeals adjudicated at the agency. This Committee has recently considered this very issue and, no doubt, Congress and the Department will continue to do so. But I believe the court will also play a pivotal role in addressing these systemic challenges. At the same time, of course, the court will also need to be cognizant of the need to resolve individual veteran's appeals fairly and expeditiously. As I said, there is much work to be done. I confess that I'm very excited to get to be a part of addressing these issues.

I believe that I have the experience to make a meaningful contribution to the court's efforts and am well-suited to hit the ground running. I graduated from Columbia Law School 25 years ago. After law school, I spent nine years in private practice at the international law firm Ropes & Gray based in Boston, Massachusetts. Since 2001, I have been a Professor of Law at Stetson University College of Law in Tampa Bay, Florida teaching Constitutional Law, Remedies, Complex Litigation, Civil Procedure, and Federal Courts.

Like many things in life that turn out to shape us, I came to veterans law accidentally. I was asked to speak to the judicial conference of the United States Court of Appeals for Veterans Claims in 2006. I knew nothing about this area of law and, in fact, was asked to speak precisely for that reason. The court wanted an expert in the federal court system to look at veterans law without the baggage of being immersed in the existing system. Quite simply, I was hooked after that introduction to veterans law.

After speaking at that judicial conference, I spent the next nearly 12 years focusing on veterans law and, in particular, the Court of Appeals for Veterans Claims. In that time, I have spoken to groups across the country about veterans law, presented at more judicial conferences of the Court of Appeals for Veterans Claims and the United States Court of Appeals for the Federal Circuit, become the Director of the Veterans Law Institute at Stetson University, written numerous law review articles about veterans law, and testified before this Committee as well as its counterpart in the House of Representatives. It's embarrassing for me to say this because I don't particularly like talking about myself, but I ended up becoming a national expert on the law of veterans' benefits. The result of all of this is that I firmly believe that I am the right person at the right time to fill one of the vacancies on the court.

I wish to end in many respects where I began. Thank you all for considering my nomination to this incredibly important court. It will be the highlight of my career should I be confirmed and take a seat on the Court of Appeals for Veterans Claims. I can promise you that I will strive every day that I am a judge to deliver justice under the law to everyone who comes before me.

In March 1865, only a few hundred yards from where this hearing is being held, President Lincoln gave his famous Second Inaugural Address. Only a few weeks before he

would be assassinated, President Lincoln called on the country to come together and bind its wounds. He then called on the Nation to “care for him who has borne the battle and his widow and his orphan.” By becoming a judge on this court, I will be able to carry out President Lincoln’s exhortation on a daily basis. I can’t think of a better way to devote my professional energies.

Thank you again Mr. Chairman. I would be pleased to answer any questions that you or other Members have about my nomination.