



January 26, 1986

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**MALDEF
SAN ANTONIO**

The Honorable Lloyd Bentsen
U.S. Senate
Washington, D.C. 20510

Dear Senator Bentsen:

I am writing to you on behalf of the Mexican American Legal Defense and Educational Fund to urge your opposition to Senate confirmation of Sidney A. Fitzwater as U.S. District Judge for the Northern District of Texas.

Mr. Fitzwater's conduct while a State judge, particularly his attempts to intimidate minority citizens from exercising their right to vote cast grave doubt on his commitment to equal justice. As the attached letter to the members of the Senate Judiciary Committee more fully details, the record reveals a fundamental insensitivity on the part of Mr. Fitzwater to the standards of integrity that should be honored by any individual in public office -- most particularly by a federal judge.

Mr. Fitzwater's conduct shows that he has failed to meet the basic standards required of a federal judge. I urge you to oppose his confirmation.

Sincerely,

C. Mario Moreno
Associate Counsel

GMM:aa

*Sample
Letters*

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January 26, 1986

The Honorable Strom Thurmond *& all other judiciary members*
Senate Committee on the Judiciary
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the Mexican American Legal Defense and Educational Fund (MALDEF), a national civil rights organization dedicated to preserving civil and constitutional rights of persons of Mexican and Hispanic descent, I would like to inform you of our strong opposition to the nomination of Mr. Sidney A. Fitzwater to serve as federal judge on the U.S. District Court of the Northern District of Texas. Judge Fitzwater's conduct while a state judge, particularly his attempts to intimidate minority citizens from exercising their right to vote, casts grave doubt on his commitment to equal justice, which is a necessary characteristic of a federal judge.

As a Republican judicial candidate in November 1982, Judge Fitzwater personally participated in the Texas Ballot Security Program by posting intimidating signs in minority precincts. The Program clearly targeted black areas with 90% of the black precincts posted with warning signs compared to about 10% of the other precincts. Indeed the program was so clearly directed at minority voters that the Justice Department launched an investigation. A letter from the Department of Justice over the signature of William Bradford Reynolds to Dallas County Election Administrator Connie Drake, a copy of which is attached, states that "most of the the signs were placed at precincts where black voters were assigned to vote. We are concerned that no nonracial justification has been offered for placing most of the signs at minority precincts."

We are concerned that Mr. Fitzwater's involvement in the posting of these election signs was not fully probed at his confirmation hearing. Furthermore it is our opinion that Mr. Fitzwater misled the Judiciary Committee at his hearing when he testified that all of the statements on the signs were in accordance with the law. A number of the statements on those signs can at best be characterized as misstatements of the law.

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For example, the signs threatened imprisonment "if you offer, accept or agree to offer or accept money or anything else of value to vote or not to vote." Such a statement could have caused voters to fear that if they accepted a ride to the polling place they had broken the law. In fact, a Texas Attorney General's opinion has long held that rides to the polls could be both offered and accepted. Also among the "crimes" cited in the poster is "if you influence or try to influence a voter how to vote." It is not, of course, a crime for one citizen to try to convince another to vote for a particular candidate. If anything, this is a constitutionally protected right. It is obvious that voters could be intimidated by such a misstatement of the law.

While it is not improper to enforce state law designed to prevent fraud, what raises grave concern is the manner in which he chose to enforce the law. No information existed at the time of his actions that fraud was any more likely to occur at the black voting precincts than at white voting precincts. His actions put into question his sense of fairness and judgment, both important qualities of a federal judge.

Judge Fitzwater's conduct shows that he has failed to meet the basic standards and obligations required of a federal judge. We, therefore, urge the Judiciary Committee to deny his confirmation.

Sincerely,



G. Mario Moreno
Associate Counsel

GMM:aa
Enclosures
cc:Senator Gramm
Senator Bentsen



January 31, 1986

The Honorable Lloyd Bentsen
U.S. Senator - Texas
Room 703, Hart Building
Washington, D.C. 20510

Dear Senator Bentsen:

I am writing regarding the nomination of Sidney A. Fitzwater to the U.S. District Court for the Northern District of Texas. As a practicing attorney and Associate Counsel for MALDEF in San Antonio, Texas, I urge you to use the powers of your high office to oppose the nomination.

I was not able to attend the Senate Judiciary Committee meeting on December 4, 1985 on Mr. Fitzwater's nomination to the federal bench. I was stunned, though, to learn that Mr. Fitzwater's name continues to be seriously considered in spite of his active participation in the Texas Ballot Security Program, also known as the "Election Accuracy Program."

Several of my colleagues in the private bar share my concern that this nation is steadily regressing in the protection of individual civil rights. We are particularly concerned that Mr. Fitzwater has evidenced a plain, open lack of commitment to the goals of equal justice as mandated by our Constitution.

I urge you to advise the Senate Judiciary Committee to pursue its thorough investigation of Mr. Fitzwater's qualifications to impartially and fairly enforce the Constitution and the civil rights laws of this country. Please communicate to the Committee our strong dissatisfaction with the candidate's anti-civil rights beliefs, as evidenced by his actions.

Sincerely,

Norma V. Cantu

Norma V. Cantu, Esq.
Associate Counsel

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