

FACSIMILE TRANSMISSION

FROM:

CHIEF JUDGE CHARLES CLARK
UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT
245 EAST CAPITOL STREET, ROOM 302
JACKSON, MISSISSIPPI 39201

TELEPHONE: FTS 490-4445 - Comm. 601-965-4445

TO:

Mr. Mechem
and
Karen Siegel

Number of pages transmitted, including this page: 6

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

CHARLES CLARK
CHIEF JUDGE
248 EAST CAPITOL STREET, ROOM 302
JACKSON, MISSISSIPPI 39201

March 7, 1990

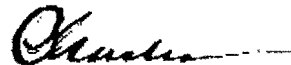
(601) 358-0911

VIA FACSIMILE

TO MEMBERS OF THE EXECUTIVE COMMITTEE

Attached is an exchange of correspondence between Judges Coffin, Nangle and me, which is self-explanatory. I will consider that all agree with Judge Coffin's proposal procedure unless you advise me to the contrary next week.

Sincerely,



Attachment

cc: Ms. Karen Siegel

United States District Court
Eastern District of Missouri
319 U.S. Court House & Custom House
St. Louis, Missouri

John F. Nangle
Chief Judge

(314) 530-3003
FAX 262-3003

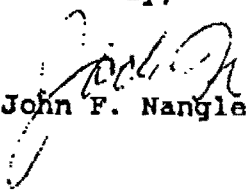
March 6, 1990

The Honorable Charles Clark
Chief Judge, Fifth Circuit
United States Court of Appeals
245 East Capitol Street, Room 302
Jackson, Mississippi 39201

Dear Charles:

I agree that Judge Frank Coffin's suggested procedure contained in his February 28th letter is the best way to go.

Sincerely,


John F. Nangle

JFN:bar

Jan 14:25

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

March 5, 1990

(601) 552-0911

CHARLES CLARK
CHIEF JUDGE
248 EAST CAPITOL STREET, ROOM 302
JACKSON, MISSISSIPPI 39201

The Hon. John F. Nangle
Chief Judge
United States District Court
1114 Market Street
St. Louis, Missouri 63101

Dear Jack:

I enclose Judge Coffin's letter. Please let me have your comment so both can be submitted to the Executive Committee. Judge Coffin's proposal seems eminently practical to me.

Sincerely,



Enclosure

United States Court of Appeals
For The First Circuit

CHAMBERS OF
FRANK M. COFFIN
U.S. CIRCUIT JUDGE

P.O. Box 311
PORTLAND, MAINE 04112

February 28, 1990

Honorable Charles Clark
Chief Judge
245 E. Capitol Street, Room 302
Jackson, MS 39201

Dear Judge Clark:

I am writing in further reference to our telephone conversation concerning a proposal advocated by Chief Judge Nangle to alter the computation of annuities under the Judicial Survivors' Annuities System (JSAS), as provided in 28 U.S.C. § 376(1). In view of the Executive Committee's recent consideration of this subject, I think it would be appropriate and helpful to summarize for you the discussion of this issue by the Judicial Branch Committee and how I propose to proceed. I want to be sure that the course I propose to follow honors the intent of the Executive Committee's instruction.

As you recall, the proposed change in the JSAS computation would allow annuities to be computed based on the salary the judicial officer was receiving at the time of death, rather than based on the average salary over the prior three years. The Judicial Branch Committee considered this proposal at its meeting on November 27, 1989, in Washington, DC. The proposal was presented to the committee along with other major suggestions for revisions to the JSAS program, including proposals for revisions to accommodate the recent inclusion in the program of bankruptcy judges and magistrates, pursuant to section 3 of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, amending 28 U.S.C. § 376. These deal with important measures to enable them to contribute to the system if they leave before age 65. Still other suggestions include one of general application to all participants -- to reduce the judges' contribution from 5 percent to 1 percent for active and senior judge and to 3-1/2 percent for resigned judges. As of next January, this would mean a saving of nearly \$5,000 a year for each judge.

We were also conscious of recent achievements in tying cost of living increases to civil service retirement increases (thus removing a threshold barrier of a 5 percent increase in the cost of living before any JSAS increase could take place) and a 10 percent increase in annuities and are also acutely aware of the impending 25 percent pay increase, due in January, 1991.

Finally, we know that senior executives will be receiving a substantial increase and will face the same rule on 3-year averages. Whether this will be helpful or not I don't know, but it adds to my concern over trying now for a single free-standing amendment rather than a carefully planned package.

After checking with a few Hill staffers, our staff reports that present effort for a repeal of the 3-year provision would receive a hostile reception, and that we should await action on the 25 percent increase. Another staffer stressed (perhaps overstressed) the cost implications in light of the budget deficit.

Accordingly, my judgment is that the course of wisdom is to remain flexible, to work closely with staff on the Hill, and to move for JSAS changes when it seems we can do so with maximum effort and minimum risk to other objectives.

I am sympathetic to Judge Nangle's proposal, but I would like to try to advance it consistently with all our other objectives.

I remain, of course, at your disposal for discussion in more detail at your convenience.

Sincerely,

Frank