

## Obama nominates Sacramento judge for Fresno federal bench

By John  
Ellis



Magistrate Judge Dale A. Drozd

U.S. DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA

Longtime Sacramento federal magistrate Judge Dale A. Drozd has been nominated by President Barack Obama to become a U.S. District Court judge in Fresno, a move that comes three years after the White House learned current federal Judge Anthony W. Ishii was moving toward retirement.

The question is when — and if — Drozd can win approval from the U.S. Senate and start work in Fresno's overburdened federal court.

Sen. Dianne Feinstein noted that Drozd is the chief magistrate judge in California's eastern federal judicial district,

which includes both Fresno and Sacramento.

“I believe he knows the court very well and can hit the ground running,” Feinstein said in a statement. “I am hopeful for a smooth confirmation.”

California’s other senator, Barbara Boxer, was equally complimentary.

“He is a highly qualified nominee who as chief magistrate judge has served the Eastern District with distinction,” she said. “I hope my colleagues in the Senate will swiftly confirm him.”

The reality, however, is that Drozd’s confirmation is likely several months away, possibly even stretching to next summer. The U.S. Senate is currently in session, but there are several judicial nominees ahead of Drozd. They have already made their way through the Senate Judiciary Committee hearings and would take priority over Drozd for confirmation. Those are the ones who likely will see Senate votes this year. Drozd still must go through his Senate Judiciary Committee hearing.

Another potential problem is that when Drozd finally gets through that process, it will almost certainly be next year and Republicans will control the Senate. Drozd is a Democrat. On the other hand, supporters said he has extensive judicial experience and would likely not be seen as a controversial nominee, which should help his prospects — even in a Republican-controlled Senate.

In the meantime, U.S. District Judge Lawrence J. O’Neill will continue to toil under one of the nation’s largest caseloads, which exceeds 1,000 active cases. Ishii took senior status two years ago and in January moved to half time. When Drozd comes on board, Ishii will further reduce his work to about a quarter of his pre-retirement level. The caseload is so big that Sacramento’s federal court has had to step in to help with civil cases. The magistrate judges have also been able to help with civil cases when both parties consent to them, as opposed to district judges hearing cases.

“Magistrate Judge Drozd is a tireless worker,” O’Neill said. “When he arrives here, he’ll need to be.”

But Drozd, 59, will also face another challenge: meshing with Fresno’s legal community, where some are unhappy with the White House’s choice. From attorneys who work in the federal court to Ishii and O’Neill and beyond, there is consensus that Drozd has both the experience and qualifications to handle the job. But the problem is that he’s not from Fresno or from Fresno’s portion of the eastern district.

“There is an historical, and, if you will, an unwritten convention that in the appointment of a district judge ... the Fresno division is where the candidate normally would come from,” said Oliver W. Wanger, a former federal judge who stepped down in 2011 and returned to private practice.

Part of the problem, said several in Fresno’s legal community, was that the process of finding Ishii’s replacement took far too long.

Ishii told the Obama administration in November 2011 that he was going to take senior status, a heads-up for officials to start seeking a replacement. He officially moved to senior status — a move akin to retirement, but one that allows a judge to continue hearing cases — more than two years ago.

Under a long-standing arrangement, Feinstein and Boxer trade off making recommendations for filling federal judicial vacancies in the state. It was Boxer’s turn to find Ishii’s replacement. But months, then years, went by with no nominee.

In February 2013, Fresno attorney Don Fischbach, who chaired Boxer’s screening committee for the Eastern District of California, said the panel had been vetting candidates, but “we didn’t have a great number of applicants like we usually do.” Once the 2012 election was over and Obama won a second term, Fischbach said “the White House said put out the word for further applicants.”

Wanger said the delays were “an incredible deterrent to people wanting to put their lives in limbo waiting for the political process to operate.” As a result, he said, some qualified local candidates decided not to pursue the position. But there was word that some local names were vetted and moved forward in the process. Still, no official word came until Drozd emerged this week as the White House’s choice.

But while Wanger noted that there is some bitterness that Drozd isn’t local, he said it doesn’t mean the nominee can’t become part of the local legal community. U.S. District Bankruptcy Court Judge Whitney Rimel came from Sacramento, Wanger said, and has “integrated totally into the community.” In addition, Wanger said Drozd has committed to moving to the Fresno area.

“I have known Dale for more than 17 years,” Wanger said. “He is very experienced. He is very well qualified, and he has a sound judicial temperament. He will be a credit to the Fresno division. I hope sincerely that the Fresno legal community, and the legal community at large, rises to welcome and recognize that we have an excellent new judge.”

Drozd still faces an FBI background investigation. He was subjected to one in 1997, when he was appointed by the full-time district judges to the magistrate bench.

The judicial position pays \$199,100 annually.

For 14 years, Drozd was in private practice, primarily criminal defense, first in San Francisco and then in Sacramento. He began his legal career in Sacramento as a law clerk from 1980 to 1982 for now-retired U. S. District Judge Lawrence K. Karlton, a central figure in instituting the federally mandated San Joaquin River restoration plan. Karlton stepped down Sept. 30 after 35 years on the federal bench.

Drozd received his law degree with honors in 1980 from the UCLA School of Law. He earned an undergraduate degree magna cum laude in 1977 from San Diego State University.

“Judge Drozd has led a distinguished career as a jurist in our district, serving as a magistrate judge in our Sacramento Division for the past 17 years, and as our current chief magistrate judge,” Ishii said. “Upon his confirmation and appointment, he will prove to be an invaluable asset in his new role as a district judge.”

Anthony Capozzi, a local attorney who often has cases in Fresno’s federal court, said he worked with Drozd in the 1990s before he became a magistrate judge. Capozzi said Drozd was an “excellent attorney with an outstanding reputation ... He’s a very good choice.”

But it doesn’t mean things will be any easier in Fresno’s federal court, O’Neill said. The court is still in need of additional judges, he said.

Feinstein said she has been working — unsuccessfully, so far — to “create additional judgeships on the eastern district of California because I know how dire the caseload is for the judges and parties who appear before them.”

Given all that, O’Neill said he hopes the Senate will be willing to accelerate Drozd’s confirmation process.

“The good people who use the courts are entitled to the judicial access,” he said.

Contact John Ellis: [jellis@fresnobee.com](mailto:jellis@fresnobee.com), (559) 441-6320 or [@johnellis24](https://twitter.com/johnellis24) on Twitter. The Sacramento Bee’s Denny Walsh contributed this story.

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