



United States Senate  
Washington, D.C. 20510

May 5, 2020

**Re: Opposition to nomination of Cory Wilson to the Fifth Circuit Court of Appeals**

Dear Senator:

On behalf of the Lawyers' Committee for Civil Rights Under Law (hereinafter Lawyers' Committee), we write to express our opposition to the nomination of Cory Wilson to the Fifth Circuit Court of Appeals. The Lawyers' Committee is a nonprofit civil rights organization founded in 1963 by the leaders of the American bar, at the request of President John F. Kennedy, to help defend the civil rights of racial minorities and low-income people. Mr. Wilson's record advocating against voting rights and access to health care, as well as his expressions of racial hostility towards President Barack Obama, lead us to doubt his ability to serve as an impartial federal judge with an open mind on any civil rights issues impacting communities of color. As such, we oppose his nomination to the Fifth Circuit Court of Appeals.

Mr. Wilson's advocacy against voting rights and access to health care has defined his career as a lawyer and politician. He has spent years touting disproven theories of widespread voter fraud in order to support voter ID laws that suppress voter turnout by people of color. Additionally, he has attacked efforts to prevent disenfranchisement and has attacked efforts to expand access to health care for low-income Mississippians. Mr. Wilson has also voted for unconstitutional restrictions on access to abortion. As the COVID-19 pandemic has caused a health crisis unlike any since 1918, impacting our elections and disproportionately killing African Americans, it is more important now than ever before that the right to vote and access to health care for all be protected rather than stripped away. This country cannot risk granting Mr. Wilson a lifetime appointment to the Fifth Circuit Court of Appeals when he has made it clear that he seeks to suppress voter turnout and access to health care.

Mr. Wilson's writings espouse troubling views that will put voting rights and access to health care at risk for marginalized communities within the Fifth Circuit. Additionally, his history of attacking President Barack Obama indicate his temperament is not befitting of a circuit court judge. Mr. Wilson has:

- vigorously defended discriminatory voter ID laws and criticized the Department of Justice for sending election observers — there to ensure fair treatment for all voters — to his home state of Mississippi. Despite Mississippi's long, troubling

history of voter suppression against African Americans, Mr. Wilson wrote "...it was unclear who the observers thought was doing any intimidating. They might spend less time chasing agendas that aren't there...."<sup>1</sup> Despite the preclearance provisions of the Voting Rights Act that Mississippi was subject to due to past discrimination, Mr. Wilson expressed contempt for the Department of Justice's review of Mississippi's voter ID law writing, "[s]o why don't we (finally) have voter ID in place? The Obama Justice Department."<sup>2</sup> Mr. Wilson went on to declare the Justice Department's fight against voter ID laws to be "as phony as the 'war on women'."<sup>3</sup> Mr. Wilson used his position as a former Deputy Secretary of State in Mississippi to perpetuate myths of widespread voter fraud, despite evidence to the contrary. The right to vote is the bedrock of participation in our democracy, which is why the Lawyers' Committee has fought for decades to protect and secure that right for all citizens, including, of course, African Americans and other people of color. It is deeply troubling that a circuit court nominee who would hear cases from states with well-documented records of voter suppression would espouse such dangerous views.

- actively opposes access to health care, including access to vital reproductive health care. Mr. Wilson called the Affordable Care Act "perverse," "illegitimate," and stated "[f]or the sake of the Constitution, I hope the Court strikes down the law and reinvigorates some semblance of the limited government the Founders intended."<sup>4</sup> Mr. Wilson also opposed the expansion of Medicaid in Mississippi, to the detriment of low-income residents in a state known for its high poverty rate.<sup>5</sup> While Mr. Wilson served in the Mississippi legislature, he voted for HB 732, a "heartbeat" bill that would ban abortion as early as 6 weeks, and supported HB 1510, a bill that banned abortions at 15 weeks and was signed into law.<sup>6</sup> The Fifth Circuit upheld the district court decision that found HB 1510 unconstitutional, blocking it from taking effect.<sup>7</sup> Mr. Wilson's active advocacy against access to health care indicates he will not be impartial when cases concerning the Affordable Care Act, Medicaid, or access to abortion come before him.

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<sup>1</sup> Cory Wilson, "Hattiesburg puts finishing touches on divisive mayoral election sequel," Press-Register (Mobile, Ala.) Oct. 2, 2013, at 1, reprinted in Madison County J., Oct. 3, 2013 <https://lawyerscommittee.org/wp-content/uploads/2020/04/Hattiesburg-puts-finishing-touches-on-divisive-mayoral-election-sequel.pdf>.

<sup>2</sup> Cory Wilson, "Supressing (sic) common sense," Madison County J., Nov. 1, 2012.

<sup>3</sup> *Id.*

<sup>4</sup> Cory Wilson, "ACA: Big, intrusive government," Madison County J., Feb. 20, 2014 <https://lawyerscommittee.org/wp-content/uploads/2020/04/ACA-Big-intrusive-government.pdf>; Cory Wilson, "Obama's day of reckoning," Madison County J., June 28, 2012 <https://lawyerscommittee.org/wp-content/uploads/2020/04/Obamas-day-of-reckoning.pdf>.

<sup>5</sup> Cory Wilson "Obama's day of reckoning," Madison County J., June 28, 2012.

<sup>6</sup> H.B. 732, 2019 Reg. Sess. (Miss. 2019) (roll call available at <http://billstatus.ls.state.ms.us/2019/pdf/votes/house/0370021.pdf>); H.B. 1510, 2018 Reg. Sess. (Miss. 2018) (roll call available at <http://billstatus.ls.state.ms.us/2018/pdf/votes/house/0320008.pdf>). H.B. 732 was not signed into law, but an identical heartbeat bill, S.B. 2116, was advanced through the Mississippi Senate and signed into law. The Fifth Circuit upheld the district court's decision blocking the law. *Jackson Women's Health Org. v. Dobbs*, No. 19-60455 (5th Cir. Feb. 20, 2020).

<sup>7</sup> *Jackson Women's Health Organization v. Dobbs*, 945 F.3d 265 (5th Cir. 2019) (*Dobbs I*).

- repeatedly exhibited racial hostility through racially-charged attacks directed at President Barack Obama that are unbecoming of a federal judge. Mr. Wilson regularly mocked President Obama with titles such as “King Barack”<sup>8</sup> and the “Anointed One.”<sup>9</sup> These attacks by a judicial nominee on our nation’s first Black president are particularly troubling.

The nomination of Cory Wilson, a white male, also continues the current administration’s disturbing trend of making the federal bench less racially and ethnically diverse, particularly in comparison to the demographics of the population the courts hear cases from. Over the past three years, the Trump Administration has filled more than a quarter of federal circuit court seats but has not nominated a single African American for any of them and has nominated only one Hispanic. The Fifth Circuit hears cases from one of the most racially and ethnically diverse regions of our nation as African Americans, Hispanics, Asians and American Indians comprise the majority of residents in Louisiana, Mississippi and Texas.<sup>10</sup> Moreover, the Fifth Circuit consists of the two states, Mississippi and Louisiana, with the highest Black population in the country at 37% and 33% respectively.<sup>11</sup> Yet, there are currently only two African American judges on the Fifth Circuit—making up less than 12% of the judgeships on the Fifth Circuit.<sup>12</sup> Representation is even more appalling for Hispanic judges on the Fifth Circuit as there are currently none,<sup>13</sup> despite the fact that Texas’s population is 40% Hispanic.<sup>14</sup> Our nation’s diversity should be reflected on the federal bench as studies have shown it positively affects decision-making and strengthens the legitimacy of the courts to the public.<sup>15</sup>

The American public expects and relies on the Senate to take its constitutionally mandated duty to vet judicial nominees seriously and fully weigh the impact of granting

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<sup>8</sup> Cory Wilson, “Contempt of Court,” Madison County J., Apr. 5, 2012 <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p220-221.pdf>.

<sup>9</sup> Cory Wilson, “The Democrat’s new math,” Madison County J., Sept. 6, 2012 <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p176.pdf>. See also Cory Wilson, “Obamination,” Madison County J., May 30, 2013 <https://lawyerscommittee.org/wp-content/uploads/2020/04/Obamination.pdf>.

<sup>10</sup> United States Census Bureau, “Quick Facts: Texas,” <https://www.census.gov/quickfacts/TX> last accessed Apr. 30, 2020; United States Census Bureau, “Quick Facts: Louisiana,” <https://www.census.gov/quickfacts/LA> last accessed Apr. 30, 2020; United States Census Bureau, “Quick Facts: Mississippi,” <https://www.census.gov/quickfacts/MS?> last accessed Apr. 30, 2020.

<sup>11</sup> United States Census Bureau, “Quick Facts: Louisiana,” <https://www.census.gov/quickfacts/LA> last accessed Apr. 30, 2020; United States Census Bureau, “Quick Facts: Mississippi,” <https://www.census.gov/quickfacts/MS?> last accessed Apr. 30, 2020.

<sup>12</sup> American Constitution Society, “Judicial Nominations: Fifth Circuit” <https://www.acslaw.org/judicial-nominations/> last updated Apr. 27, 2020.

<sup>13</sup> *Id.*

<sup>14</sup> United States Census Bureau, “Quick Facts: Texas.”

<sup>15</sup> See Danielle Root et al., “Building a More Inclusive Federal Judiciary,” Oct. 3, 2019, <https://www.americanprogress.org/issues/courts/reports/2019/10/03/475359/building-inclusive-federal-judiciary/>. See also Nancy Scherer, “Diversifying the Federal Bench: Is Universal Legitimacy for the U.S. Justice System Possible?”, *Northwestern University Law Review* 105 (2) (2011): 587–634, available at <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1169&context=nulr>.

lifetime appointments to judges with ideological views that fall outside of the legal mainstream. Thank you for your consideration of our opposition to the nomination of Mr. Wilson to a lifetime appointment on the Fifth Circuit. We welcome the opportunity to discuss his nomination with your office further. If you have any questions or concerns please contact, Erinn D. Martin, Policy Counsel, at [emartin@lawyerscommittee.org](mailto:emartin@lawyerscommittee.org).

Sincerely,

A handwritten signature in black ink that reads "Kristen Clarke". The signature is written in a cursive style and is placed over a light gray rectangular background.

Kristen Clarke  
President & Executive Director

Lawyers' Committee for Civil Rights Under Law  
Washington, D.C.