



June 19, 2020

United States Senate
Washington, D.C. 20510

Re: Letter from Board of Directors of the Lawyers' Committee for Civil Rights Under Law in Opposition to Nomination of Cory Wilson to the Fifth Circuit Court of Appeals

Dear Senator:

We, the undersigned members of the Board of Directors of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"), write to urge you to oppose the nomination of Cory Wilson to the United States Court of Appeals for the Fifth Circuit. Since its founding in 1963, at the request of President John F. Kennedy, the Lawyers' Committee has been devoted to the recognition and defense of the civil rights of racial minorities and low-income people in the United States.

As members of the private bar, we expect and rely on the judiciary to ensure fair trials and secure equal rights for all by upholding the rule of law. Historically, in evaluating nominees, we have considered whether their record demonstrates exceptional competence to serve on the Court, and profound respect for the importance of protecting the civil rights afforded by the Constitution and the nation's civil rights laws.

Mr. Wilson's record on voting rights and access to health care, as well as his judicial temperament, indicates that he is unfit to serve as a fair and impartial appellate judge and, if confirmed, would cause harm to African-Americans, other people of color, and low-income people within the Fifth Circuit, which includes Louisiana, Mississippi and Texas. Furthermore, he lacks federal judicial experience and received the American Bar Association's lowest qualified rating for his 2019 nomination to the United States District Court for the Southern District of Mississippi. Our nation requires judges of the utmost integrity to ensure that every party who comes before the court is treated fairly, impartially, and with dignity. While we have made significant strides towards equal justice under the law — in large part due to the work of the Lawyers' Committee and other civil rights organizations — unlawful discrimination still exists for many who call America home.

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. The COVID-19 pandemic has caused a health crisis unseen since 1918 that is disproportionately hospitalizing and killing African Americans across the country, particularly in the South, as existing barriers to getting health care make them "especially

vulnerable in public health emergencies.”¹ Additionally, Mr. Wilson’s history of attacking President Barack Obama indicates racial hostility and a temperament that is simply not acceptable for any judge and, in particular, a judge sitting on a federal court of appeals.

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....”² Despite the preclearance provisions of the Voting Rights Act that Mississippi was subject to based on its history of voting 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.”³ Mr. Wilson went on to declare the Justice Department’s fight against suppressive voter ID laws to be “as phony as the ‘war on women’.”⁴ Mr. Wilson used his position as a former Deputy Secretary of State to perpetuate myths of widespread voter fraud, despite evidence to the contrary.⁵ His lack of objectivity and inability to accurately assess voter suppression tactics is particularly problematic for a circuit court judge who would hear cases in a circuit that includes states with histories of suppressing votes by people of color.
- actively opposed access to health care, including access to vital reproductive health care. Mr. Wilson called the Affordable Care Act “perverse” and “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.”⁶ 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.⁷ While Mr. Wilson served in the Mississippi legislature, he voted for

¹ Centers for Disease Control and Prevention, “Coronavirus Disease 2019 (COVID-19): Racial and Ethnic Minority Groups,” Apr. 22, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html>.

² 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>.

³ Cory Wilson, “Supressing (sic) common sense,” Madison County J., Nov. 1, 2012.

⁴ *Id.*

⁵ Lorraine C. Minnite, “The Misleading Myth of Voter Fraud in American Elections,” Jan. 2014. https://scholars.org/sites/scholars/files/ssn_key_findings_minnite_on_the_myth_of_voter_fraud.pdf.

⁶ 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>.

⁷ Cory Wilson “Obama’s day of reckoning,” Madison County J., June 28, 2012.

HB 732, a “heartbeat” bill that could ban abortion as early as at 6 weeks, and supported HB 1510, a bill that banned abortions at 15 weeks and was signed into law.⁸ The Fifth Circuit upheld the district court decision that found HB 1510 unconstitutional, blocking it from taking effect.⁹ Mr. Wilson’s active advocacy against access to health care indicates he will not be impartial when legal matters concerning the Affordable Care Act, Medicaid benefits, or access to abortion come before him.

- 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”¹⁰ and the “Anointed One.”¹¹ These attacks by a judicial nominee on our nation’s first Black president are deeply troubling.

The nomination of Cory Wilson, a white male, also continues the current administration’s disturbing trend of making the federal bench less racially diverse, particularly in comparison to the demographics of the populations from which the courts hear cases. 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. The Fifth Circuit consists of the two states, Mississippi and Louisiana, with the highest Black population in the country at 37% and 33% respectively.¹² 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.¹³ Our nation’s diversity should be reflected on the federal bench as studies have shown that it positively affects decision-making and strengthens the legitimacy of the courts in the minds of the public.¹⁴

⁸ 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).

⁹ *Jackson Women’s Health Organization v. Dobbs*, 945 F.3d 265 (5th Cir. 2019) (*Dobbs I*).

¹⁰ 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>.

¹¹ 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>.

¹² United States Census Bureau, “Quick Facts: Louisiana,” *last accessed* Apr. 29, 2020, <https://www.census.gov/quickfacts/LA>; United States Census Bureau, “Quick Facts: Mississippi,” *last accessed* Apr. 29, 2020, <https://www.census.gov/quickfacts/MS?>.

¹³ American Constitution Society, “Judicial Nominations: Fifth Circuit” <https://www.acslaw.org/judicial-nominations/> *last updated* Apr. 27, 2020.

¹⁴ 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>.

It is imperative to members of the private bar and all who call America home, that federal judges be fair and neutral arbiters of the law. Mr. Wilson's open and extreme hostility towards voting rights, health care and our first Black President demonstrate that he is not qualified to occupy a seat on the federal bench. Furthermore, the confirmation of a vocal opponent of health care access during the COVID-19 pandemic puts the well-being of vulnerable Americans at risk when it is threatened the most. Thank you for your consideration of our opposition to the nomination of Mr. Wilson to a lifetime appointment on the United States Court of Appeals for the Fifth Circuit.

Respectfully,

Thomas Sager, Co-Chair	Wilmington, DE
Shira Scheindlin, Co-Chair	Brooklyn, NY
Eleanor Smith, Secretary	Washington, DC
Kristen Clarke, President & Executive Director	Washington, DC
Stanley Brown	New York, NY
Robert E. Harrington	Charlotte, NC
James P. Joseph	Washington, DC
Adam Klein	New York, NY
Jane Sherburne	Washington, DC
Michael Swartz	New York, NY
Roy Austin	Washington, DC
Judy Barasso	New Orleans, LA
Lynne Bernabei	Washington, DC
Victoria Bjorkland	New York, NY
Jonathan Blackman	New York, NY
Jack Block	Chicago, IL
David Bodney	Phoenix, AZ
John W. Borkowski	South Bend, IN
William H. Bradley	New York, NY
Alvin Bragg	New York, NY
Chava Brandiss	Washington, DC
David Brown	New York, NY
Todd R. Chandler	New York, NY
Jim Chanin	Oakland, CA
Kami Chavis	Winston-Salem, NC
Michael Cooper	New York, NY
Emma Dickson	New York, NY
Paul F. Eckstein	Phoenix, AZ
John Ericson	New York, NY
John Fleming	Atlanta, GA
Marc Gary	New York, NY

Keith Harrison
Kirkland Hicks
Jay Himes
Stephen Kastenber
Jerome C. Katz
Andrew W. Kentz
Charles Kerr
Loren Kieve
Greg Landis
Brian Landsberg
Jerome Levine
John Libby
Marjorie Press Lindblom
Ambassador Tom McDonald
Robert McDuff
Kenneth McNeil
John Nonna
Richard Parker
Bradley Phillips
Paul Saunders
Errol Taylor
Dr. Sandra Thompson
Peter Van Cleve
Alan Vickery
Brenda Wright

Washington, DC
Orlando, FL
New York, NY
Philadelphia PA
New York, NY
Washington, DC
Irrington, NY
San Francisco, CA
Seattle, WA
Sacramento, CA
New York, NY
Los Angeles, CA
New York, NY
Washington DC
Jackson, MS
Houston, TX
White Plains, NY
Washington, DC
Los Angeles, CA
New York, NY
New York, NY
Irvine, CA
St. Louis, MO
New York, NY
Newton, MA