



May 13, 2020

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OPPOSE THE CONFIRMATION OF CORY WILSON TO THE U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 220 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, I write in strong opposition to the confirmation of Cory Wilson to the U.S. Court of Appeals for the Fifth Circuit.

Mr. Wilson is a far-right firebrand whose record shows he is more suited to serve as a Fox News commentator than federal judge. He has lambasted access to health care, voting rights, LGBTQ rights, reproductive freedom, and common-sense gun safety laws. And he has engaged in *ad hominem* attacks on Barack Obama, Hillary Clinton, and other prominent Democrats. He is unfit to serve a lifetime appointment on the federal bench.

Mr. Wilson was put forward for the Fifth Circuit only after the previous nominee for this vacancy, Halil Ozerden, was withdrawn by the Trump administration after failing to pass the Senate Republicans' ideological purity test.¹ Mr. Wilson, by contrast, will pass that test with flying colors. He would tilt the Fifth Circuit – already the most conservative federal appellate court in the country – even further to the right. And he would exacerbate the lack of representation on the Fifth Circuit, which covers the most racially diverse population in America.

The Senate should not consider Mr. Wilson's nomination – or any judicial nomination – at this perilous time in our nation's history, when the Senate should be laser focused on efforts to save lives and mitigate the profound economic turmoil of COVID-19 on the American people. It is especially disturbing that the Senate would process judicial nominees like Mr. Wilson who seek to dismantle health care protections for vulnerable people. It was wrong for the Senate to dedicate important time and resources, as well as risk the health and safety of Senate personnel, by holding a hearing last week for controversial D.C. Circuit nominee Justin Walker, and it would be wrong to hold a hearing for Mr. Wilson. At this moment, the Senate should devote its attention to aiding the tens of millions of people in this nation struggling to survive during this public health emergency.

Hostility to Health Care: Mr. Wilson has repeatedly attacked the Affordable Care Act (“ACA”), which has provided critical health care coverage to tens of millions of Americans.

¹ <https://www.courthousenews.com/trump-taps-mississippi-judge-for-seat-on-fifth-circuit/>.

In a 2012 op-ed replete with bombast and hyperbole, Mr. Wilson wrote: “Then there is Obamacare, the ‘Affordable Care Act,’ which will produce an unaffordable \$2.6 trillion in new cost over the next ten years. Nancy Pelosi famously said we had to pass Obamacare to find out what was in it. A cadrillion dollars of spending, turns out. Instead of eleven weeks of vacation for every American worker, that would be over 28 weeks off. Which, coincidentally, will be the waiting time to see your government-assigned doctor once Obamacare kicks in fully.”² In another angry, ideological op-ed, Mr. Wilson called the ACA “a massive, unworkable intrusion by the federal government into one sixth of our economy (the same economy which has all but suffocated under Obama’s other policies).”³

After President Obama predicted that the Supreme Court would uphold the ACA because Congress had a constitutional basis for passing it, Mr. Wilson ranted: “I hope the Court checks Obama’s dangerous standard of what is constitutional: Obamacare ‘will be upheld because it should be upheld.’ A valid law is what King Barack says is a valid law.”⁴ Mr. Wilson then fumed that “Obama’s views reflect what Pelosi, Reid, and enlightened liberals everywhere have honestly believed from the inception of this debate: the power of government is unlimited and should be used by the governing class to impose whatever it wishes on the rest of us.”⁵

In a June 28, 2012 op-ed, “Obama’s day of reckoning,” Mr. Wilson predicted the Supreme Court would strike down the ACA, and he proclaimed: “If the law is struck down, Team Obama will flail, attack the Court, and try to explain how they wasted billions of dollars and even more political capital ramming a freedom-infringing mess down our throats. Colossal incompetence and arrogance, all while the economy moldered. If Obama’s agenda lies in ruins (amongst those Greek columns from 2008), it couldn’t happen to more deserving folks.”⁶ He added: “For the sake of the Constitution, I hope the Court strikes down the law and reinvigorates some semblance of the limited government the Founders intended.”⁷ Mr. Wilson, of course, was wrong, and the ACA was upheld.

Still seething about the ACA in 2013, Mr. Wilson opined that “Obamacare is less about healthcare than it is about redistribution of wealth and power. For those objectives, liberals are apparently happy to shut down the American dream.”⁸ In another 2013 op-ed, he expressed opposition to Medicaid expansion in Mississippi and called the ACA “liberal-utopia-dictated healthcare.”⁹ In 2014, Mr. Wilson wrote an op-ed, “ACA: Big, intrusive government,” in which he labeled the law “perverse” and “illegitimate” and complained: “The big promises made by supporters have all proven false. ‘If you like your health care plan you can keep it,’ is 2013’s lie of the year.”¹⁰

² <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p176.pdf>.

³ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p189-190.pdf>.

⁴ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p220-221.pdf>.

⁵ *Id.*

⁶ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p193.pdf>.

⁷ *Id.*

⁸ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p93-94.pdf>.

⁹ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p143-145.pdf>.

¹⁰ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p76-77.pdf>.

These are not the statements and viewpoints of someone who is capable of serving as a fair and impartial jurist. Mr. Wilson would bring a strong bias to the federal bench and could not rule fairly on any matter involving the ACA or access to health care. Amidst the worst public health crisis this nation has witnessed in over a century and during a time in which access to health care is a life-or-death proposition, it would be folly to confirm an anti-health care activist like Mr. Wilson to the federal judiciary.

Defended Discriminatory Photo ID Laws: Mr. Wilson has expressed knee-jerk support for discriminatory photo ID laws and close-minded contempt for those who disagree with him on the merits of such laws. In a November 1, 2012 op-ed, “Supressing [sic] common sense,” he wrote: “The Democratic line is that voter ID is a solution in search of a problem, that there are no cases of voter fraud that ID would prevent. The Rachel Maddows of the media world have joined the chorus of ‘voter suppression’ right on cue from Team Obama. This is as phony as the ‘war on women’”¹¹

In an October 2, 2013 op-ed, Mr. Wilson took another potshot at the Obama administration’s approach to photo ID laws. He criticized Justice Department observers who had come to Mississippi to monitor a local election, and he complained: “Those same observers also might spend less time suing states to block voter ID, as Attorney General Eric Holder again announced they were doing in North Carolina on Monday. I think most of the mostly black Rowan voters came with IDs already out, ready to show. No intimidation observed. But facts have never deterred the Obama administration when politics could be played.”¹² In a September 19, 2013 op-ed, Mr. Wilson defended Mississippi’s photo ID law and declared: “Mississippi’s new voter ID law will help, assuming the Obama Justice Department will stop suing long enough for us to implement it.”¹³

In a February 1, 2012 op-ed, Mr. Wilson railed against Senator Dick Durbin for holding a hearing focusing on the emergence of restrictive voting laws in the South, including photo ID laws. Mr. Wilson griped: “What are the outrages for which Durbin is spending your money to stage show hearings? Florida’s voter law reduces the number of days for early voting from 14 to eight, restricts the ability of voters to change their addresses at the polls, and imposes tough new guidelines for voter-registration drives and penalties for those who violate them. Oh, the outrage. With evil like this afoot, the ACLU and other rent-a-mobs naturally will join the hunt for the GOP bogeyman, by whatever means.”¹⁴ Mr. Wilson’s zealous support of photo ID laws and other restrictive voting measures – and his utter lack of concern for their discriminatory impact on communities of color – is deeply disturbing.

Attacks on LGBTQ Rights: Mr. Wilson is a staunch opponent of LGBTQ rights and equality. As a state legislator, he voted for the controversial bill HB 1523,¹⁵ which has been called the nation’s most extreme anti-LGBTQ law.¹⁶ The law allows Mississippians with anti-LGBTQ religious beliefs to refuse service to married same-sex couples, people who have sex outside of marriage, and transgender people.

¹¹ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p164.pdf>.

¹² <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p95-97.pdf>.

¹³ <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p98-99.pdf>.

¹⁴ <http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-Supressing-the-truth/3/3/24665?s=1>.

¹⁵ <https://www.jacksonfreepress.com/news/2016/apr/02/roll-call-who-voted-and-against-anti-lgbt-house-bi/>.

¹⁶ <https://www.aclu-ms.org/en/news/lgbtq-advocates-condemn-mississippi-hb-1523>.

The law permits state employees to refuse to issue marriage licenses to same-sex couples, public school counselors to turn away LGBTQ youth in crisis, and health care providers to deny transgender people access to health care at any time.¹⁷

In a strident 2012 op-ed, Mr. Wilson wrote that “gay marriage is a pander to liberal interest groups and an attempt to cast Republicans as intolerant, uncaring and even bigoted.”¹⁸ He continued: “At the time [1990s], the idea of homosexual marriage was so beyond seriousness that I thought it could never happen. I soon came to see that ‘tolerance,’ as that term is used by liberals, really means zero tolerance for traditional, religious or conservative views. The culture warriors on the left demand unconditional surrender.”¹⁹

And in another 2012 op-ed, “Eat more chicken,” Mr. Wilson defended the CEO of Chick-fil-A against calls for boycotts of the company in the wake of the CEO’s public opposition to marriage equality. Mr. Wilson declared: “So it has come to this. Private citizens who dare oppose marriage ‘equality’ (read: full sanction of homosexual marriage) will now be bashed, banned, and bankrupted, simply for expressing their views.”²⁰

As his discriminatory statements and rhetoric demonstrate, Mr. Wilson possesses a fervent anti-LGBTQ agenda, and it would make him incapable of ruling even-handedly on matters affecting LGBTQ rights. These views would make it impossible for any LGBTQ litigant to feel as though Mr. Wilson could treat them fairly and impartially.

Attacks on Reproductive Freedom: Mr. Wilson also holds extreme views on reproductive freedom. In response to a Mississippi Right to Life candidate questionnaire he filled out when running for the state legislature, he checked the “Yes” box in response to the question: “Do you support the complete and immediate reversal of the *Roe v. Wade* and *Doe v. Bolton* decisions, thereby allowing the state legislatures and the Congress to once again protect unborn children?”²¹ He expressed support for a requirement that a person considering an abortion receive a lecture about the unproven theory that fetuses experience pain; support for laws that would allow the murder of a pregnant person to be treated as a double homicide crime regardless of fetal viability; and support for bans on embryonic stem cell research.²²

As a state legislator, Mr. Wilson voted for legislation to gut critical protections guaranteed by *Roe* and the Constitution. He voted for a bill, HB 732, which would ban abortions after cardiac activity is detected,²³ which can be as early as six weeks and well before many people even know they are pregnant.²⁴ Mr. Wilson also voted for HB 1510, which would prohibit abortions after 15 weeks and which was struck

¹⁷ *Id.*

¹⁸ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p200-201.pdf>.

¹⁹ *Id.*

²⁰ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p187-188.pdf>.

²¹ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p489-493.pdf>.

²² *Id.*

²³ <http://billstatus.ls.state.ms.us/2019/pdf/votes/house/0370021.pdf>.

²⁴ <https://rewire.news/legislative-tracker/law/mississippi-heartbeat-ban-hb-732/>.

down as unconstitutional by a federal judge in 2018.²⁵ And he supported legislation to defund Planned Parenthood.²⁶ Mr. Wilson would be incapable of serving as a fair and unbiased judge in reproductive freedom cases.

Opposes Common-Sense Gun Safety Laws: Mr. Wilson opposes reasonable firearms restrictions that would make our communities safer. As a state legislator, he voted for a bill, HB 1083, to allow the carrying of concealed, loaded guns on all public property, including college campuses.²⁷ The bill was opposed by a prominent education organization, the Mississippi State Institutions of Higher Learning, which stated: “HB 1083 compromises our ability to protect and ensure the safety of those on our campuses because it nullifies and prohibits any policies and/or authority to designate sensitive areas of campus where weapons should not be allowed.”²⁸ Fortunately, the bill was not passed by the state senate.

Mr. Wilson has been a member of the National Rifle Association (“NRA”), the extremist advocacy organization that has engaged for decades in a massive lobbying campaign to oppose common-sense gun safety laws. In 2015, Mr. Wilson filled out an NRA questionnaire and took several dangerous and irresponsible positions. He stated that he opposed any restrictions on the sale or possession of semi-automatic firearms (the kind used in the Marjory Stoneman Douglas High School shooting, as well as the mass shooting in Las Vegas) and any limits on the capacity of their magazines; he opposed universal background checks on all private sales or transfers of firearms; and he opposed any type of state registration or licensing of firearm owners.²⁹

Ideological and Hyperpartisan Comments: Mr. Wilson’s far-right world view is further demonstrated by his bombastic and malicious comments about Hillary Clinton, Barack Obama, the Democratic Party, and the media.

- In an August 23, 2016 tweet, Mr. Wilson wrote “#Crooked Hillary” after asserting: “More emails, more evidence of Clinton pay-for-play and dishonesty. Hillary and Bill Clinton, Inc.”³⁰ A few weeks later, he tweeted: “Felony dumb or willfully ignorant? Troubling read: FBI Data Dump Shows #CrookedClinton Is Criminal and Clueless.”³¹ Mr. Wilson also tweeted, in September 2016, that “Clinton mishandled classified, but sure knew how to destroy docs under subpoena.”³² And on November 3, 2016 – just days before Election Day – Mr. Wilson amplified a Fox News hatchet job on Hillary Clinton, tweeting: “Worth the listen. @BretBaier lays out details of FBI investigation into Clinton emails, Foundation pay-to-play. #Scandalabra.”³³

²⁵ <https://rewire.news/legislative-tracker/law/mississippi-gestational-age-act-hb-1510/>.

²⁶ https://yallpolitics.com/index.php/yp/post/rep- cory_wilson_session_recap_msleg/feed/.

²⁷ <http://billstatus.ls.state.ms.us/2018/pdf/votes/house/0370002.pdf>.

²⁸ <https://mississippitoday.org/2018/02/07/sec-officials-threaten-repercussions-on-concealed-carry-bill/>.

²⁹ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p450-453.pdf>.

³⁰ <https://twitter.com/CoryWilsonMS/status/768171181052755968>.

³¹ <https://twitter.com/CoryWilsonMS/status/773487358956171264>.

³² <https://twitter.com/CoryWilsonMS/status/773490203717664768>.

³³ <https://twitter.com/CoryWilsonMS/status/794188293546000388>.

- In a May 30, 2013 screed entitled “Obamination,” Mr. Wilson fumed: “This needs to be repeated, from every possible outlet, until the American people realize the seriousness of what is going on. The chain of scandals related to Benghazi coverup, IRS targeting of conservatives, and Department of Justice intrusion into Associated Press journalists’ phone records represent a chilling pattern of behavior by our government.... This is a systematic abuse of power by the most paranoid and politicized White House since Nixon’s. Many of us thought that electing as President a radical leftist with no experience in governing was a disaster waiting to happen. It’s no longer waiting.... For those who still support this President, it’s time to put down the Kool-aid, and start paying attention.”³⁴
- In a November 2012 op-ed following President Obama’s re-election, Mr. Wilson grouched: “The most important election in our lifetimes has turned into the most disappointing outcome of our lifetimes” and “Obama waged the smallest, most cynical, and among the most dishonest campaigns in our history.”³⁵
- In a September 6, 2012 op-ed entitled “The Democrat’s [sic] new math,” Mr. Wilson continued to attack Democrats. He asserted that his 8-year-old child “conceptualizes numbers the way Democrats do. In other words, he, like they, has no real concept or concerns. We of course are praying that he grows out of it, and think he will. Not so with Democrats.”³⁶
- In a May 24, 2012 op-ed, Mr. Wilson sarcastically wrote that “an intellectually honest Democrat” was a “rare sighting” and “exotic creature.”³⁷ In the op-ed he declared that then-Mayor Cory Booker had “demolished and diminished Team Obama’s self-righteous class warfare.”³⁸ In a 2013 op-ed, Mr. Wilson declared: “Republicans are the adults in the room. Obama & Co. are increasingly shrill, dishonest and intellectually bankrupt.”³⁹
- In an August 11, 2013 op-ed, “White House baloney not fooling anyone,” Mr. Wilson wrote that “a ‘parade of distractions’ and ‘political posturing’ are the essence of Obama’s leadership” and: “Remember the ‘war on women’? That was certainly phony, pretty much like all the Obama 2012 campaign. Obama’s ‘green jobs’ initiatives (Solyndra, among others) also qualify as phony, except the billions of wasted tax dollars were all too real.”⁴⁰
- In a July 28, 2018 tweet, Mr. Wilson disparaged congressional candidate Alexandria Ocasio-Cortez, ranting: “The new face of @TheDemocrats. As we say in the South, ‘bless her heart.’ And this claptrap is rapidly becoming the Dem agenda. #CanSheFindVenezuelaOnAMap.”⁴¹

³⁴ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p120.pdf>.

³⁵ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p162-163.pdf>.

³⁶ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p176.pdf>.

³⁷ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p202-203.pdf>.

³⁸ *Id.*

³⁹ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p100.pdf>.

⁴⁰ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p111-113.pdf>.

⁴¹ <https://twitter.com/CoryWilsonMS/status/1023250752104476673>.

- Mr. Wilson has made paranoid, Trump-like grievances about the media. In a November 22, 2012 op-ed, he asserted: “The ‘media’ are now so slanted as to be dangerously unreliable.”⁴² In an October 11, 2012 op-ed, he argued: “The mainstream media seem to be actively rigging the 2012 election. Rather than reporting news, the media are ‘shaping’ facts to guide the public to vote as they ‘should.’ There are many blatant examples of tampering with news to fit a leftist ‘narrative.’”⁴³ In an August 23, 2012 op-ed, Mr. Wilson alleged: “Sort of like President Obama’s miserable record in office, the media’s heavy left slant has now been so frequently pointed out, with clear evidence, that it becomes background noise.... The mainstream media has been a willing lapdog for the Obama administration, in some cases taking headlines and content directly from White House operatives.”⁴⁴
- Mr. Wilson, demonstrating intolerance for non-Christians, complained about what he views as “political correctness” in America. Despite the reality that nearly a third of Americans do not identify as Christian,⁴⁵ Mr. Wilson grumbled that “store clerks and cashiers seem clearly to have been trained not to say ‘Merry Christmas.’ And, we were at a restaurant recently for dinner, when we said ‘Merry Christmas’ to our waiter, he said with relief, ‘I am glad you said that. When I said it earlier, a patron replied that it wasn’t politically correct’.... Whole segments of America live in a perpetual state of being ‘offended’.... More Christmas, not less, would be a good part of the antidote.”⁴⁶

Mr. Wilson’s many diatribes and denunciations reveal an extreme ideological bias that would make him ill-equipped to assess facts and render impartial decisions in cases involving any issues that have a social justice, racial justice, or political dimension. Mr. Wilson lacks the temperament and objectivity necessary to serve as a federal judge.

Ideological Affiliations: Mr. Wilson is a long-time member of the far-right Federalist Society, having joined this extremist organization in 1992 as a first-year law student. He is currently a member of the Federalist Society Mississippi Chapter. This out-of-the-mainstream legal organization represents a sliver of America’s legal profession – just four percent – yet over 80 percent of President Trump’s circuit court nominees, and a significant number of his district court nominees, have been Federalist Society members. Mr. Wilson has also served as a partisan Republican operative, working on nearly two dozen political campaigns and contributing thousands of dollars to right-wing Republican candidates.

Stacking the Fifth Circuit: In 1981, journalist Jack Bass wrote a book entitled “Unlikely Heroes,” which chronicled the courage of Fifth Circuit judges in vigorously implementing *Brown v. Board of Education* in the South despite public resistance to judicial rulings. But over the years, the Fifth Circuit has become the country’s most conservative circuit court,⁴⁷ and President Trump – having already

⁴² <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p162-163.pdf>.

⁴³ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p170-171.pdf>.

⁴⁴ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p179-180.pdf>.

⁴⁵ <https://www.pewforum.org/religious-landscape-study/>.

⁴⁶ <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p83-84.pdf>.

⁴⁷ <https://www.texastribune.org/2018/08/30/under-trump-5th-circuit-becoming-even-more-conservative/>.

installed five extreme ideologues on that court: Don Willett, James Ho, Stuart Duncan, Kurt Engelhardt, and Andrew Oldham – has tipped it even further to the right. Mr. Wilson’s nomination is a continuation of the relentless effort by the Trump administration to pack the Fifth Circuit with judges who possess a demonstrated hostility to civil and human rights. This will jeopardize the Fifth Circuit’s historically significant role in vindicating the civil rights of its diverse population.

Disturbing Lack of Diversity: The Fifth Circuit covers the most racially diverse population of all the circuits. Two of the three Fifth Circuit states – Mississippi and Louisiana – have the largest percentage of African Americans in the country, 38 percent and 32 percent, respectively.⁴⁸ The third state, Texas, is a majority minority state and has the second largest percentage of Hispanics in the country (40 percent).⁴⁹ Yet the judges serving on the Fifth Circuit are racially monolithic: none are Latinx and only two are African-American. Mr. Wilson, a white male, would exacerbate the lack of representation on the Fifth Circuit. If he were confirmed to this court, 14 of its 17 active judges would be white (82 percent), and 13 of the 17 would be male (76 percent). President Trump has made seven nominations to the Fifth Circuit, and all but one are white. None are women.

More broadly, President Trump’s lack of commitment to diversifying the federal judiciary continues to be deeply disturbing – he has appointed the least diverse group of nominees in decades.⁵⁰ Of his 56 appellate nominees, not a single one is African American. Only one is Latinx. And only 11 are women. His district court nominees are similarly homogenous. Our nation’s great diversity should be reflected in its government institutions, especially the federal judiciary, which serves as the ultimate guardian of our rights and liberties. At a time when the legal profession has more women and attorneys of color than ever before, President Trump’s record on judicial diversity is truly appalling.

For the foregoing reasons, The Leadership Conference urges you to oppose the confirmation of Cory Wilson to the U.S. Court of Appeals for the Fifth Circuit. Thank you for your consideration of our views. If you have any questions or would like to discuss this matter further, please contact Mike Zubrensky, Chief Counsel, or Lena Zwarenstejn, Fair Courts Campaign Director, at (202) 466-3311.

Sincerely,



Vanita Gupta
President & CEO

⁴⁸ <https://www.kff.org/other/state-indicator/distribution-by-raceethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

⁴⁹ *Id.*

⁵⁰ <https://www.usatoday.com/story/news/politics/2018/02/13/trumps-87-picks-federal-judges-92-white-just-one-black-and-one-hispanic-nominee/333088002/>.