



July 29, 2020

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**OPPOSE THE CONFIRMATION OF STEPHEN MCGLYNN TO THE  
U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS**

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 opposition to the confirmation of Stephen McGlynn to be a U.S. District Judge in the Southern District of Illinois.

Amidst the worsening COVID-19 public health crisis and national outrage over racial injustice, the Senate should be prioritizing solutions to these urgent problems rather than processing judicial nominations. The Senate should be particularly cautious about considering nominees like Mr. McGlynn, who has troubling views on reproductive freedom, LGBTQ equality, the Affordable Care Act, and other civil and human rights issues. Mr. McGlynn should not be confirmed for a federal judgeship.

**Hostility to Reproductive Freedom:** Mr. McGlynn has a disturbing record of opposition to reproductive freedom, and to abortion in particular. As chair of the Illinois Republican Party Platform Committee in 2004, he was the primary author of the party platform, which listed as a core plank: “To protect the fundamental right to life and dignity of every human life including the lives of unborn children.”<sup>1</sup> The platform also asserted: “From the first beat of a heart to the last breath drawn, we recognize each individual’s dignity and worth.”<sup>2</sup> This is well before many people know that they are pregnant.

Charlie Johnston, a man who described himself as one of Mr. McGlynn’s closest friends, wrote the following about Mr. McGlynn’s role in writing the platform: “He came up with the idea of eliminating the usual section devoted to pro-life and instead imbuing the platform with a pro-life view from the start and defining the unborn as a human person entitled to all the protections of the constitution throughout the document.... I regarded it then – and regard it now – as the most comprehensively pro-life platform in the nation.”<sup>3</sup>

In 2007, Mr. McGlynn was a member of Illinois Federation Right to Life, an organization that describes itself as “working to end abortion and restore legal protection to those members of the human family who are threatened by abortion, infanticide, and euthanasia.

<sup>1</sup> <http://civilrightsdocs.info/pdf/judicial-nominations/documents/McGlynn-SJQ-Attachments-1.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> <https://illinoisreview.typepad.com/illinoisreview/2008/05/for-a-pro-life.html>.

Diverse though we are, we hold one common belief – that every human being has an inalienable right to life that is precious and must be protected.”<sup>4</sup> According to a 2008 news article entitled “It’s the law: McGlynn says political signs have to stay,” Mr. McGlynn explained that a Catholic church would have to allow an Obama sign to be placed on its property on election day even though, in Mr. McGlynn’s words, “Obama is so outrageously pro choice.”<sup>5</sup> His deeply held beliefs are reflected in his words and actions.

**Anti-LGBTQ Equality Views:** In a 2016 television interview, Mr. McGlynn criticized the Supreme Court’s ruling in *Obergefell v. Hodges* that recognized marriage equality in America, calling it “a full frontal assault on people’s religious liberties.”<sup>6</sup> Mr. McGlynn stated: “I think there are people that want a chance to go through an election to let them know what they thought of the case that involved Obamacare, what they thought of the case that involved gay marriage. There certainly has been a line of cases and efforts from this administration to – a full frontal assault on people’s religious liberties in this country.”<sup>7</sup> His description of *Obergefell* and the Supreme Court decision upholding the Affordable Care Act (*NFIB v. Sebelius*) as a “full frontal assault on people’s religious liberties” is disturbing, and it suggests he would not be fair and impartial in matters that came before him involving these issues.

In the same interview, describing Justice Scalia’s dissent in the *Obergefell* case, Mr. McGlynn stated: “He wrote: I really don’t care one way or the other about gay marriage. What I care about is making sure that the Court recognizes there’s limitations on their own power and that the people are in charge. It’s the people that run this country, and it’s not five judges that decide: You know what, even if everybody thinks something else, we in our great judicial wisdom decide that society is going to change in the following ways. That’s not democracy and I agree with him.”<sup>8</sup>

In his response to a written question for the record submitted by Senator Booker about comments he made during this interview, Mr. McGlynn wrote: “I remained neutral throughout the interview with respect the [sic] ACA, *Sebelius*, and *Obergefell*.” In response to a written question for the record submitted by Senator Blumenthal, Mr. McGlynn stated: “I did not express the opinion that ACA was an assault on religious liberties. In fact, I remained personally neutral on that issue. I was merely pointing out that opponents of ACA made that claim.” Mr. McGlynn’s explanations are not credible.

Mr. McGlynn also expressed his anti-LGBTQ equality views in the 2004 Illinois Republican Party platform, where he wrote: “Our laws should strongly support and celebrate the loving commitment a man and a woman make to each other in marriage.... No device, whether by judicial fiat or by the exercise of the powers of office, should be allowed to infringe upon the sanctity of marriage.”<sup>9</sup>

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<sup>4</sup> <http://ifrl-blog.blogspot.com/p/about-ifrl.html>.

<sup>5</sup> <http://civilrightsdocs.info/pdf/judicial-nominations/documents/McGlynn-SJQ-Attachments-2.pdf>.

<sup>6</sup> <https://www.youtube.com/watch?v=rGrFDFCWpSM> at 6:40.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 17:50.

<sup>9</sup> <http://civilrightsdocs.info/pdf/judicial-nominations/documents/McGlynn-SJQ-Attachments-1.pdf>.

**Hostility to Health Care Access:** In addition to describing the Supreme Court case upholding the Affordable Care Act as a “full frontal assault on people’s religious liberties in this country,” Mr. McGlynn also referred to the ACA as “a bad law.”<sup>10</sup> In the 2016 television interview, he declared: “Let’s start with the Obamacare case. The way the legislation was written, if it was enforced as it was written, there were very serious problems with it. And what the Chief Justice, joined by four others, decided: You know what, we’re not gonna throw out Obamacare or the Affordable Care Act even though [Host interrupting: “it’s a bad law”] it’s a bad law, or we’re gonna enforce certain provisions that are simply not enforceable.”<sup>11</sup>

In response to a written question for the record from Ranking Member Feinstein, Mr. McGlynn stated “I did not assert ACA was bad law,” and he indicated that only the host of the show had called it “a bad law.” While it is true that the host used that term first, Mr. McGlynn embraced and repeated it. Mr. McGlynn’s denials call into question his honesty and judgment.

**Insensitivity to Native Americans:** In another section of Mr. McGlynn’s 2004 Illinois Republican Party platform, he criticized people who wanted the University of Illinois to stop using its sports mascot, Chief Illiniwek, which had long been controversial for its racist depiction of Native Americans. Writing for the U.S. Court of Appeals for the Seventh Circuit in a 2004 case, Judge Terence Evans noted: “The first sounds of protest over Chief Illiniwek in 1975 have grown to a crescendo. Many people today find him to be offensive, including the Peoria Tribe of Indians of Oklahoma, known collectively as the Illiniwek or Illinois Nations, who just a few years ago formally voted to ask the university to stop using him as a mascot.”<sup>12</sup> Unsympathetic to this perspective, Mr. McGlynn lashed out at elected officials who threatened to cut funding for the university unless it stopped using the racist mascot. In his 2004 platform, Mr. McGlynn wrote: “This shameless effort to foment racial dissention by the Democrat Leadership is deplorable. Threatening school funding unless the University, its proud students and Alumni, sacrifice Chief Illiniwek upon the alter [sic] of political correctness, is unconscionable.”<sup>13</sup> The racist mascot was banned in 2007.

**Support of Voter Fraud Myth:** Mr. McGlynn has promoted the misleading idea that dual voter registrations for some voters amount to voter fraud. The fact that a voter may be registered to vote in two different jurisdictions can be attributable to several innocent reasons, such as a voter moving to a different residence without asking the previous jurisdiction to remove their name from the voter rolls. It does not mean the voter will vote in both jurisdictions. But in a 2004 news article, Mr. McGlynn forebodingly called dual registration “a recipe for massive fraud.”<sup>14</sup>

**Ideological and Partisan Affiliations:** Since 2005, Mr. McGlynn has been a member of the National Rifle Association (“NRA”), the extremist advocacy organization that has engaged for decades in a

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<sup>10</sup> <https://www.youtube.com/watch?v=rGrFDFCWpSM> at 14:55.

<sup>11</sup> *Id.*

<sup>12</sup> *Crue v. Aiken*, 370 F.3d 668, 674 (7th Cir. 2004).

<sup>13</sup> <http://civilrightsdocs.info/pdf/judicial-nominations/documents/McGlynn-SJQ-Attachments-1.pdf>.

<sup>14</sup> <http://civilrightsdocs.info/pdf/judicial-nominations/documents/McGlynn-SJQ-Attachments-5.pdf>.

massive lobbying campaign to oppose common-sense gun safety laws. From 2005-2013, he was also a member of the NRA's Illinois affiliate, the Illinois State Rifle Association.

Before becoming a state court judge, Mr. McGlynn was a high-level Republican political operative. He served as co-chair of the Illinois Republican Party.<sup>15</sup> From 2002 to 2005, he served as co-chair of the Illinois Republican State Central Committee. He was chair of the Saint Clair Republican Party from 1996 to 2002 and the Republican State Central Committeeman for the 12<sup>th</sup> Congressional district from 1998 to 2002. He was a delegate for President Bush at the 2000 and 2004 Republican national conventions, and he has been a financial contributor to Republican candidates. In the 2016 television interview discussed above, Mr. McGlynn defended the shameful decision by Senate Majority Leader Mitch McConnell not to give a hearing to President Obama's Supreme Court nominee. Rarely is a person with this level of deep, partisan involvement nominated to a federal judgeship, a position requiring a fair and impartial mindset.

We acknowledge that Mr. McGlynn has performed pro bono work on behalf of the NAACP, as discussed in his Senate paperwork. The NAACP is the nation's oldest and largest nonpartisan civil rights organization, and a core member of The Leadership Conference coalition. We also recognize Mr. McGlynn's representation of the family of a young Black man who was brutally killed by a police officer in 2003. However, we cannot ignore Mr. McGlynn's troubling overall record on social justice issues.

**Disturbing Lack of Diversity:** Mr. McGlynn, like the vast majority of President Trump's judicial nominees, is white and male. 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. Of his 56 appellate nominees, not a single one is Black, only one is Latino, 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 Stephen McGlynn to be a district judge in the Southern District of Illinois. 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 Zwarensteyn, Fair Courts Campaign Director, at (202) 466-3311.

Sincerely,



Vanita Gupta  
President & CEO

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<sup>15</sup> <http://civilrightsdocs.info/pdf/judicial-nominations/documents/McGlynn-SJQ-Attachments-4.pdf>.