



June 4, 2014

**Oppose Michael P. Boggs' Confirmation to
U.S. District Court for the Northern District of Georgia**

Dear Senate Judiciary Committee Members,

On behalf of The Leadership Conference on Civil and Human Rights and the 25 undersigned organizations, we write to express our opposition to the confirmation of Michael P. Boggs for the position of U.S. District Court Judge for the Northern District of Georgia. Based on his recent public statements and his voting record in the Georgia legislature, we must conclude that Judge Boggs' views make him a serious threat to the future of our domestic civil rights—particularly those relating to employment discrimination, voting rights, access to public accommodations, school desegregation, women's health, and marriage equality. Further, his conduct while serving as a state court judge raises considerable ethical concerns. We urge you to vote "no" on his confirmation.

The Leadership Conference and the undersigned organizations believe Judge Boggs' elevation to the federal bench would undermine the future of civil and human rights jurisprudence in the Northern District Court of Georgia. When seeking a state court judgeship, then-Rep. Boggs told voters that his record on various issues in the Georgia General Assembly demonstrated "where I stand," implying that his rulings on those issues as a judge would be consistent.ⁱ Boggs made no distinction between his own political views as a representative and being obligated to follow the law as a judge, which goes to his basic qualifications for the federal bench. In fact, the legislative record that Boggs made relevant in his statement is deeply alarming on issues of concern to the civil and human rights community. He acknowledged to senators at his hearing that he generally has not heard cases on these issues as a state judge, making his legislative record all the more important.

Michael P. Boggs served in the Georgia General Assembly between 2001–2004, when one of the most contentious civil rights battles in recent history occurred. After decades of unsuccessful attempts, the legislature finally decided to remove the Confederate battle symbol from its flag, which it had adopted in 1956 as a sign of resistance to the Supreme Court's landmark decision in *Brown v. Board of Education*. As the *Atlanta Journal-Constitution* editorialized at the time: "The shame of having a symbol of white supremacy on our state flag—and the insult it delivers to black Georgians—is magnified because that symbol was placed on the flag not despite its racist connotation, but because of it."ⁱⁱ Boggs voted against removal of the Confederate emblem several times, and even after it was banished, he supported legislation that could allow it to fly again.ⁱⁱⁱ Boggs' votes to support the most notorious symbol of racial inequality were cast just a little more than a decade ago. These votes are all the more troubling considering that African Americans comprised nearly 30 percent of his constituents.

Boggs' record in the legislature on issues of marriage equality serves as further evidence of the threat his nomination poses to civil rights jurisprudence. While in the Georgia state legislature, Boggs voted in favor of a constitutional amendment banning marriage for gay

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and lesbian couples.^{iv} Further, during his campaign for a seat on the Georgia Superior Court (trial court), Boggs was quoted in the press as stating, “I am proud of my record. You don’t have to guess where I stand – I oppose same-sex marriages...I have a record that tells you exactly what I stand for...”^v

Boggs’ legislative record also demonstrates a disregard for women’s health and a documented hostility to the fundamental right to privacy, views that call into serious question his willingness to recognize and faithfully apply Supreme Court precedent.

We urge the Senate Judiciary Committee to carefully scrutinize Michael P. Boggs’ views on race discrimination. Sixty years after the *Brown* decision, we question whether it would be beneficial to the future of American civil rights jurisprudence to appoint a man who supported maintaining a symbol of African-American oppression in Georgia. As a state court judge in Georgia, Michael P. Boggs has had little opportunity to develop a record on civil and human rights, largely due to weak or nonexistent state civil rights laws. In stark contrast, as a federal district court judge in Atlanta, Boggs would be called upon to decide a host of civil rights issues, involving voting rights, employment discrimination, fair housing, public accommodations, and school desegregation and based on his previous statements, we conclude that Boggs is likely to rule in ways that would attempt to turn back the clock on American civil rights and equality.

Moreover, Boggs’ political activities during his time serving as a state court judge raise significant ethical concerns. In 2012, Judge Boggs’ campaign committee contributed to Georgia Conservatives in Action, a group that endorses political candidates, despite the Georgia Canon of Judicial Ethics’ prohibition on contributions to political organizations.^{vi} Judge Boggs was also photographed with candidates for state elected office, including now-Governor Nathan Deal at a Georgia Conservatives in Action event in 2010 and now-Senator Tyler Harper at a campaign fundraiser in 2012. Even if such conduct were permitted by Georgia’s ethics rules, it would still raise doubts about the nominee’s capacity to remain impartial.^{vii}

Boggs’ public statements and legislative record on issues related to civil and human rights raises serious questions as to whether he would rule fairly and impartially on a broad range of these issues. During his hearing, Judge Boggs failed to adequately answer these questions.

For the above reasons, we urge you to reject the confirmation of Michael P. Boggs to the U.S. District Court for the Northern District of Georgia. If you have any questions, please feel free to contact Sakira Cook, Senior Policy Associate at cook@civilrights.org or (202) 263-2894 or Nancy Zirkin, Executive Vice President at Zirkin@civilrights.org or (202) 466-2880.

Sincerely,

African Ministers in Action
Alliance for Justice
The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
Daily Kos
Faithful America
GetEqual Action
Human Rights Campaign
Institute for Science and Human Values



Lambda Legal
The Leadership Conference on Civil and Human Rights
NAACP-LDF
NARAL Pro-Choice America
National Abortion Federation (NAF)
National Association for the Advancement of Colored People (NAACP)
National Association of Social Workers (NASW)
National Center for Lesbian Rights
National Council of Jewish Women
National Gay and Lesbian Task Force Action Fund
National Organization of Women (NOW)
National Partnership for Women & Families
National Womens Health Network
National Womens Law Center (NWLC)
People for The American Way (PFAW)
The Lawyers' Committee for Civil Rights Under Law
The National Education Association (NEA)

ⁱ *Candidates Give Answers at Forum*, WAYCROSS JOURNAL-HERALD at 1 (July 8, 2004)

ⁱⁱ Editorial, *Georgia House's Conscience Scores Victory*, ATLANTA J.-CONST. (Jan. 25, 2001).

ⁱⁱⁱ See *Boggs Pushes to Get New Health Lab Here*, WAYCROSS JOURNAL-HERALD at 28 (Jan. 22, 2001) (“There are a number of issues that are more important that need to be addressed at this time. Right here, jobs, roads, and education are important issues. From everything I hear, a vote to change won’t make it out of committee, and even if it does, there are not enough votes to change it. In ’93, there were not enough votes, and if you consider public sentiment, the people simply do not want the flag changed.”).

^{iv} *Boggs Stands Solidly Behind a Homosexual Marriage Ban*, WAYCROSS JOURNAL-HERALD at 1 (Mar. 8, 2004).

^v *Candidates Give Answers at Forum*, WAYCROSS JOURNAL-HERALD at 1 (July 8, 2004)

^{vi} Daniel Malloy and Jim Galloway, *John Lewis: ‘I would vote against the confirmation of Michael Boggs,’* ATLANTA J.-CONST. (May 19, 2014), <http://politics.blog.ajc.com/2014/05/19/john-lewis-i-would-vote-against-the-confirmation-of-michael-boggs/>.

^{vii} Jim Galloway and Daniel Malloy, *Lewis denounces White House judicial nominee Boggs*, ATLANTA J.-CONST. (May 20, 2014), <http://legalpronews.findlaw.com/article/cd30c77922994ecac0d0335c4c58f872#.U39LO3ZJTcs>