

January 23, 2023



**SUPPORT THE CONFIRMATION OF NATASHA MERLE
TO THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK**

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 230 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, we write to express our strong support for the confirmation of Natasha Merle to the U.S. District Court for the Eastern District of New York. The Leadership Conference intends to include your position on the confirmation of Ms. Merle in our voting record for the 118th Congress.

Ms. Merle's distinguished career and demonstrated commitment to civil rights make her extremely well qualified to serve on the federal bench. She is currently the deputy director of litigation at the NAACP Legal Defense and Education Fund, Inc. (LDF). Prior to this role, she held a number of different positions at LDF, including senior counsel, assistant counsel, and fellow. Ms. Merle also served as an assistant federal public defender in the Capital Habeas Unit for the Federal Public Defender for the District of Arizona and as an Equal Justice Works fellow at the Gulf Region Advocacy Center. Additionally, she worked in private practice as an LDF fellow at Fried, Frank, Harris, Shriver & Jacobson LLP. Ms. Merle has also trained future lawyers, teaching at New York University School of Law and Columbia Law School. A graduate of the University of Texas at Austin and New York University Law School, she clerked for Judge Robert Carter of the Southern District of New York and Judge John Gleeson of the Eastern District of New York. Ms. Merle possesses vast experience protecting the rights of all people and will be an excellent addition to the Eastern District of New York.

Throughout her impressive career, Ms. Merle has possessed a deep commitment to equal justice. During her time at LDF, she led critical civil rights lawsuits on many important issues, including defending the freedom to vote, which is foundational to the functioning of our democracy. For example, after Alabama banned the use of curbside voting during the 2020 election — despite the ongoing COVID-19 pandemic — Ms. Merle served as co-lead counsel in a challenge to the ban.¹ The district court declared the law in violation of both the Voting Rights Act and the Americans with Disabilities Act, though ultimately the Supreme Court allowed the ban to go into effect.² Still, Ms. Merle and her team's efforts led to Alabama allowing "no-excuse absentee voting," which allowed thousands of voters to cast their ballots by mail.³ She once again challenged a restrictive voter ID law in Alabama, which limited voting only to those who

¹ *People First v. Merrill*, 467 F. Supp. 3d 1179 (N.D. Ala. 2020), *stay pending appeal denied*, 815 F. App'x 505 (11th Cir. 2020), *stay granted*, 141 S. Ct. 190 (2020); 491 F. Supp. 3d 1076 (N.D. Ala. 2020), *stay pending appeal granted in part*, No. 20-13695-B, 2020 WL 6074333 (11th Cir. 2020).

² *People First v. Merrill*, 467 F. Supp. 3d 1179 (N.D. Ala. 2020), *stay granted*, 141 S. Ct. 25 (2020).

³ [Alabama Extends No-Excuse Absentee Voting Through November Elections](#), NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. (July 20, 2020).

possessed specific forms of identification — which voters of color were less likely to possess — or a waiver from the Alabama Enforcement Agency (ALEA).⁴ The case was brought after the state closed a significant number of ALEA offices in 8 of the 11 predominantly Black counties, severely restricting the number of voters able to cast a ballot.⁵ Although the case was dismissed, the litigation led to state reform efforts that made it easier to acquire the identification necessary to access the ballot box.

In addition, Ms. Merle has fought bias in our criminal-legal system as a federal public defender for the District of Arizona and during her time at LDF. If confirmed, Ms. Merle would be the first public defender to be confirmed to this court in nearly 30 years and only the second judge in this court’s history to ever serve as a public defender.⁶ This, in addition to her experience at LDF, will be invaluable to the court. While at LDF, Ms. Merle took on some notable cases. For example, she served as co-counsel for Duane Buck, whose case was brought to the Supreme Court after he was sentenced to death in Texas. The jury based its sentencing decision in part due to appalling testimony, given by an expert witness called by his own counsel, that Mr. Buck’s race made him more likely to commit future violent crimes — an egregious claim that the witness made in similar cases.⁷ The Supreme Court agreed with LDF’s claims that Mr. Buck’s death sentence was an unconstitutional product of racial discrimination.⁸ Ms. Merle also was a key member of the legal team that helped implement a court-ordered monitoring program that was part of a settlement agreement after several residents of the New York City Housing Authority brought a class action suit against the City of New York for subjecting residents to illegal stop-and-frisks. As this robust experience demonstrates, Ms. Merle is eminently qualified to serve as a federal judge.

In addition to the important professional experience she would bring to the court, Ms. Merle would bring other vital representation to the federal bench. If confirmed, she would only be the fourth Black woman to ever sit on this court.⁹ The historic exclusion of Black women from the judiciary is a well-documented problem.¹⁰ A federal bench that represents and reflects the vast diversity of our nation is vital to robust and informed decision-making¹¹ and helps foster more public trust in our judiciary.¹² The confirmation of Ms. Merle would be an important step towards ensuring that our federal courts reflect and represent the diversity of our nation.

⁴ *Greater Birmingham Ministries v. Merrill*, 284 F. Supp. 3d 1253 (N.D. Ala. 2018), *aff’d*, 992 F.3d 1299 (11th Cir. 2021).

⁵ *Id.*

⁶ [Biographical Directory of Article III Federal Judges, 1789-present](#), Federal Judicial Center (Accessed April 2022) (Search includes all judges for the U.S. District Court for the Eastern District of New York who listed “community defender”, “public defender” or “federal defender” as non-volunteer work experience).

⁷ *Buck v. Davis*, 137 S. Ct. 759 (2017).

⁸ *Id.*

⁹ See [Biographical Directory of Article III Federal Judges, 1789-present](#), FEDERAL JUDICIAL CENTER.

¹⁰ Sen, Maya, *Diversity, Qualifications, and Ideology: How Female and Minority Judges Have Changed, or Not Changed, Over Time*, WIS. L. REV. 367 (2017).

¹¹ Berry, Kate, [Building a Diverse Bench: Selecting Federal Magistrate and Bankruptcy Judges](#), BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW AND AMERICAN BAR ASSOCIATION JUDICIAL DIVISION (2017).

¹² Sen, *supra* note 6



Ms. Merle would be an excellent addition to the federal bench, and we strongly urge the Senate to confirm her to the Eastern District of New York. If you would like to discuss this matter further, please contact Lena Zwarenstejn, senior director of the fair courts program, at (202) 466-3311.

Sincerely,

A handwritten signature in black ink that reads "Maya Wiley". The signature is written in a cursive, flowing style.

Maya Wiley
President & CEO

A handwritten signature in black ink that reads "Jesselyn McCurdy". The signature is written in a cursive, flowing style.

Jesselyn McCurdy
Executive Vice President of Government Affairs