

Intersections of Our Lives

October 30, 2019

The Honorable Charles Grassley
Chairman Senate Committee on the Judiciary
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dianne Feinstein
Ranking Member Senate Committee on the Judiciary
331 Hart Senate Office Building
Washington, D.C. 20510

RE: Reproductive Justice Groups Oppose Confirmation of Sarah Pitlyk

Dear Chairman Grassley, Ranking Member Feinstein, and Members of the Senate Committee on the Judiciary:

We, In Our Own Voice: National Black Women's Reproductive Justice Agenda, the National Asian Pacific American Women's Forum, and the National Latina Institute for Reproductive Health, write to express our strong opposition to the confirmation of Sarah Pitlyk to the U.S. District Court for the Eastern District of Missouri.

Reproductive Justice is a framework rooted in the human right to control our bodies, our sexuality, our gender, and our reproduction. Reproductive Justice will be achieved when all people, of all immigration statuses, have the economic, social, and political power and resources to define and make decisions about our bodies, health, sexuality, families, and communities in all areas of our lives with dignity and self-determination.

Every individual should have the right to make their own reproductive decisions, without facing impossible obstacles. They should be able to make decisions about their health care based on their own living conditions and circumstances. This also means that they should be able to plan whether or when to start or add to their family without outside interference, no matter where they seek care and without discrimination.

Given our commitment to Reproductive Justice, we are deeply troubled by Ms. Pitlyk's nomination. Her record shows a career built on opposition to issues that are fundamental to Reproductive Justice and the issues that uniquely impact people of color. In light of her record, we believe she lacks the qualifications to serve with the fairness and impartiality required of a judge.

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Ms. Pitlyk has dedicated her legal career to attacking the Reproductive Justice values for which our organizations fight. Most notably, as an attorney for the Thomas More Society, an anti-abortion organization, Ms. Pitlyk has consistently advocated to limit access to reproductive health care and perpetuated racist and false stereotypes about women of color.

Supporting Sex and Race-Selective Abortion Bans

One of the most concerning aspects of Ms. Pitlyk’s legal work has been her reliance on racist and harmful stereotypes about women of color in arguing for abortion bans that undermine abortion access. Last year, she co-authored an amicus brief in *Box v. Planned Parenthood of Indiana and Kentucky*, in which she argued in favor of sex and race-selective abortion bans, which prohibit abortion providers from performing abortions if the reason for the abortion is the race or sex of the fetus.¹

In support of sex-selective abortion bans, the brief argued that Asian American and Pacific Islanders (AAPI) have a preference for sons and thus have a widespread practice of obtaining abortions based on the sex of the fetus.² The brief ignored a 2014 University of Chicago study that found that AAPIs actually give birth to more girls than white women do.³ Instead, the brief relied on false, racist, and xenophobic stereotypes that AAPI immigrants are bringing “backward” values of son preference with them. This stereotype about AAPIs is not only ugly—it is dangerous. These bans could lead to AAPI patients being subject to racial profiling and even being denied care. Contrary to the brief’s arguments, these bans do not promote gender equality; they promote racist stereotypes about AAPI women and are part of a larger campaign to limit abortion access.

The brief also advances racist and false narratives about Black women and Latinas to support race-selective abortion bans. These bans are based on the absurd premise that women of color, particularly Black women and Latinas, are being coerced into choosing to have abortions on the basis of the race of the fetus, and perpetuate the racist and oppressive notion that women of color can not be trusted to make their own reproductive decisions. Ms. Pitlyk’s brief argues that abortion providers like Planned Parenthood “target” communities of color, particularly Black communities, and points to higher rates of abortion among women of color for support.⁴ However, these arguments have been shown to be false⁵ and disregard the numerous studies that have shown that women of color have higher rates of abortion due to higher rates of unintended

¹ Brief of the Restoration Project; Pastor Joseph Parker, Pastor of Greater Turner Chapel A.M.E. Church; Everlasting Light Ministries; Protect Life and Marriage in Texas; and the Thomas Moore Society as Amici Curiae, *Box v. Planned Parenthood of Indiana and Kentucky* 139 S.Ct. 1780 (2019).

² *Id.* at 27.

³ University of Chicago, *Replacing Myths with Facts: Sex Selective Abortion Laws in the United States*, <https://static1.squarespace.com/static/5ad64e52ec4eb7f94e7bd82d/t/5d2ca0d5cd54a90001b97595/1563205847373/replacing-myths-with-facts.pdf> (June 2014).

⁴ Brief of the Restoration Project, *supra.* at 16.

⁵ Guttmacher, *Claim that Most Abortion Clinics are Located in Black or Hispanic Neighborhoods is False*, <https://www.guttmacher.org/article/2014/06/claim-most-abortion-clinics-are-located-black-or-hispanic-neighborhoods-false>, (2014).

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pregnancies, which are caused by pervasive and persistent health disparities between women of color and white women. Contrary to the brief's arguments, race-selective abortion bans do not prevent race discrimination or address racism in health care. Instead, they perpetuate racist narratives about women of color and are simply another means for anti-abortion legislators to chip away at reproductive rights at the expense of our communities.

Supporting Barriers to Reproductive Health Care Access

As an attorney at the Thomas More Society, Ms. Pitlyk has also advocated strongly for the 2019 final Title X rule,⁶ often referred to as the Domestic Gag Rule which revokes federal family planning grants through Title X for medical providers who also provide or refer to abortion care.⁷ This illegal and unethical regulation has forced providers out of the fifty-year-old family planning program and prevents individuals seeking care from accessing comprehensive and evidence-based information about their health care options.⁸ Due to the affordable cost and availability of services of Title X-funded health centers to communities with low incomes, these centers disproportionately serve women of color.⁹ This rule has caused medical providers to limit their services and stop providing life-saving health care services on a sliding scale, making care even more inaccessible to communities of color.

Ms. Pitlyk has also advocated against birth control access, authoring an amicus brief in support of the employers in *Hobby Lobby v. Sebelius*, a Supreme Court case which allowed private employers with religious objections to deny coverage of contraception to their employees.¹⁰ The brief helped to ensure greater barriers to birth control access, especially for women of color with lower incomes who would not be able to afford the out-of-pocket costs of birth control without insurance coverage by their employers.

Opposition to Reproductive Autonomy and Agency

In addition to supporting barriers to reproductive health care, Ms. Pitlyk's work has also undermined reproductive agency. For example, she has demonstrated a strong and consistent opposition to assisted reproductive technologies, such as in vitro fertilization and surrogacy, that allow for individuals to make their own reproductive choices. An amicus brief that she authored opposed a California law protecting the right to assisted reproductive technologies, including in

⁶ Thomas Moore Society, *Federal Judges Stomp on Law Protecting Taxpayers from Forced Abortion Funding*, <https://www.thomasmoresociety.org/federal-judges-stomp-on-law-protecting-taxpayers-from-forced-abortion-funding/>.

⁷ Department of Health and Human Services, Office of Population Affairs. *Statutes and Regulations: Title X Notice of Final Rule*. <https://www.hhs.gov/opa/title-x-family-planning/about-title-x-grants/statutes-and-regulations/index.html>, (March 4, 2019).

⁸ *Id.*

⁹ Department of Health and Human Services, *Title X Family Planning Annual Report* <https://www.hhs.gov/opa/sites/default/files/title-x-fpar-2018-national-summary.pdf>, (2018).

¹⁰ Brief of 65 Catholic Theologians and Ethicists as Amici Curiae, *Sebelius v. Hobby Lobby* 571 U.S. 1067 (2013).

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vitro fertilization and surrogacy, claiming that such technologies are “harmful to children” and “diminish respect for motherhood”.¹¹

Ms. Pitlyk also represented the plaintiffs in a lawsuit challenging a St. Louis ordinance that barred discrimination in housing and employment based on an individual’s pregnancy or reproductive health decisions, including the use of contraception and the decision to have an abortion.¹² Protection from discrimination is essential for the ability to make reproductive decisions free from oppression and outside interference.

Ms. Pitlyk’s work to undermine reproductive agency is deeply troubling. Women of color, historically and presently, have faced reproductive oppression through policies, laws, and structures that have limited their ability to make their own reproductive decisions. Given this historical and ongoing oppression, it is critical to our communities that our courts uphold our most basic and fundamental rights.

* * *

For women of color, threats to reproductive rights and access to care are threats to our bodily autonomy and undermine our ability to make decisions for our own lives and families. Women of color rely on the protections enforced by courts, yet Ms. Pitlyk has repeatedly demonstrated a career-long commitment to rolling back the rights that determine our health, freedom, and wellbeing. As a district court judge, Ms. Pitlyk will have the power to decide many cases involving critical legal protections for groups and civil rights she has long worked against. We cannot support a nominee who will ignore the needs and autonomy of communities of color. For the foregoing reasons, we urge you to strongly oppose the confirmation of Sarah Pitlyk to the United States District Court for the Eastern District of Missouri.

Sincerely,

In Our Own Voice: National Black Women’s Reproductive Justice Agenda

National Asian Pacific American Women’s Forum

National Latina Institute for Reproductive Health

¹¹ Motion and Brief of American Association of Pro-Life Obstetricians & Gynecologists, Charlotte Lozier Institute, National Association of Catholic Nurses- U.S.A., and Catholic Medical Association as Amici Curiae, *M.C. v. C.M.* 7 Cal.App.5th. 1188 (2017).

¹² Plaintiff’s Motion for Summary Judgment, *Our Lady’s Inn v. City of St. Louis* in the United States District Court for the Eastern District of Missouri, No. 4:17-cv-01543-AGF.