

May 18, 2020

The Honorable Lindsey Graham
Chairman, Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

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

RE: Reproductive Justice Groups Oppose Confirmation of Cory Wilson Due to Lengthy Track Record of Undermining Abortion Access, Opposing the ACA, Hostility Toward LGBTQ Communities, and Attacking Voting Rights & Voter Protections for People of Color

Dear Chairman Graham, Ranking Member Feinstein, and Members of the Senate:

We are 21 reproductive justice and allied reproductive rights and health organizations writing to express our strong opposition to the confirmation of Cory Wilson to the United States Court of Appeals for the Fifth Circuit.

We are organizations based in the Fifth Circuit (Jane's Due Process and the Afiya Center, both based in Texas), national organizations, and organizations based throughout the country that advocate for reproductive rights, health, and justice.

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. We should be able to make decisions about their health care based on their own living conditions and circumstances. This also means that we should be able to plan whether or when to start or add to their family without outside interference, no matter where we seek care and without discrimination.

Given our commitment to reproductive rights and health, especially those most marginalized in our society, we are deeply troubled by Judge Wilson's nomination. His record shows a legal career built on opposition to issues that are fundamental to our ability to thrive and support for laws and policies that disproportionately harm people of color. Moreover, as organizations that work on a number of issues within the reproductive justice framework, including abortion

access, LGBTQ rights, access to healthcare, and voting rights, Judge Wilson's record of eroding these rights is alarming. Judge Wilson has dedicated his legal career to attacking the values and priorities for which our organizations fight for with our communities. It is especially inappropriate to push forth a judicial nominee with a record like this during a global pandemic and public health crisis that is disproportionately affecting communities of color. In light of this record, we believe he lacks the qualifications to serve with the fairness and impartiality required of a judge.

Undermining Abortion Access

One of the most disturbing aspects of Judge Wilson's record is his long standing commitment to eroding abortion access. In addition to publishing statements hostile to the holding in *Roe v. Wade*,¹² Judge Wilson has taken substantive steps to limit abortion access during his time as a state legislator. He voted for abortion bans that prohibited the procedure as early as 15³ and 6 weeks.⁴ He also voted for a bill that defunded Mississippi Planned Parenthoods.⁵ Further, Judge Wilson voiced support for a number of harmful policies regarding abortion access, such as parental involvement laws,⁶ which pose unnecessary barriers to abortion care for young people.

The barriers that Judge Wilson has supported disproportionately harm people of color. Because of systemic racism, communities of color face less access to care and health disparities, including the rate of unintended pregnancy.⁷ As such, women of color also have a greater need for abortion care.⁸ Restrictions on abortion care directly target and harm people of color, who already face barriers to accessing reproductive health care, such as lower incomes, lack of language access and culturally competent care, lost wages for time off to obtain such care, and lack of childcare.

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. As advocates for reproductive justice, we are deeply troubled by Judge Wilson's work to undermine abortion access and reproductive agency.

Opposition to Healthcare Access

¹ Cory Wilson, *My vote is with Romney*, Madison County Journal (March 8, 2012), <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p228.pdf>.

² Mississippi Right to Life Questionnaire (June 13, 2007), <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p489-493.pdf>.

³ Rewire News, *Mississippi Gestational Age Act (HB 1510)* (Nov. 20, 2018), <https://rewire.news/legislative-tracker/law/mississippi-gestational-age-act-hb-1510/>.

⁴ Rewire News, *Mississippi Heartbeat Abortion Ban (HB 732)* (April 11, 2019), <https://rewire.news/legislative-tracker/law/mississippi-heartbeat-ban-hb-732/>.

⁵ Rewire News, *Mississippi Bill Defunding Planned Parenthood (SB 2238)* (July 1, 2016), <https://rewire.news/legislative-tracker/law/mississippi-bill-defunding-planned-parenthood-sb-2238/>.

⁶ Mississippi Right to Life Questionnaire, *supra*.

⁷ Susan A. Cohen, *Abortion and Women of Color: The Bigger Picture*, Guttmacher Policy Review, Volume 11, Issue 3 (Aug. 6, 2008), <https://www.guttmacher.org/gpr/2008/08/abortion-and-women-color-bigger-picture>.

⁸ *Id.*

Judge Wilson is also hostile to greater access to other forms of healthcare. It is unconscionable to move forward with the confirmation of a judicial nominee who is opposed to access to healthcare, especially during the global pandemic and public health crisis we are currently experiencing. Judge Wilson has persistently criticized the Affordable Care Act, calling it “illegitimate”⁹ and urging the Supreme Court to rule against it.¹⁰ The Affordable Care Act has greatly improved health insurance coverage for communities of color. Between 2010 to 2018, the rate of uninsured people decreased from 32.6% to 19% for Hispanic communities, 19.9% to 11.5% for Black communities, 13.1% to 6.8% for Asian communities, and 17.9% to 9.3% for Native Hawaiians and Pacific Islanders.¹¹

In Mississippi, Wilson opposed Medicaid expansion¹² and called it the “ever expanding welfare state.”¹³ This opposition was directly harmful to the health of Mississippians, 100,000 of whom would have qualified for healthcare access under the proposed expansion.¹⁴ Refusing to expand Medicaid disproportionately impacts people of color.¹⁵

As the data demonstrates, limited healthcare access directly harms communities of color. Judge Wilson’s record in opposition of healthcare access is particularly concerning for the Senate and the nation at this time, given that we are currently faced with a global pandemic and public health crisis. Due to racism resulting in health disparities, Black communities are currently facing significantly greater incidence of COVID-19 hospitalizations.¹⁶ Based on current data, 1 in 3 people who become sick enough with COVID-19 to be hospitalized are Black, while Black Americans make up 13% of the total United States population.¹⁷ Judge Wilson’s record shows that he opposes healthcare access, despite the impact such opposition has on the health and lives of communities of color. Confirming a judicial nominee who is opposed to healthcare access during the public health crisis we are currently in will harm communities of color even further.

⁹ Cory Wilson, *ACA: Big, intrusive government*, Madison County Journal (Feb. 20, 2014), <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p76-77.pdf>.

¹⁰ Cory Wilson, *Obama’s Day of Reckoning*, <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p193.pdf>.

¹¹ Samantha Artiga, Kendal Orgera & Anthony Damico, *Changes in Health Coverage by Race and Ethnicity since the ACA, 2010-2018*, Kaiser Family Foundation (Mar. 05, 2020), <https://www.kff.org/disparities-policy/issue-brief/changes-in-health-coverage-by-race-and-ethnicity-since-the-aca-2010-2018/>.

¹² Cory Wilson, *Obamacare train getting derailed in Mississippi* (Feb. 22, 2013), <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p143-145.pdf>.

¹³ *Id.*

¹⁴ Phil McCausland, *Residents suffer as Mississippi and 13 other states debate Medicaid expansion* (Nov. 4, 2019), <https://www.nbcnews.com/news/us-news/residents-suffer-mississippi-13-other-states-debate-medicaid-expansion-n1075661>.

¹⁵ Rachel Garfield, Kendal Orgera & Anthony Damico, *The Coverage Gap: Uninsured Poor Adults in States that Do Not Expand Medicaid* (Jan. 14, 2020), <https://www.kff.org/medicaid/issue-brief/the-coverage-gap-uninsured-poor-adults-in-states-that-do-not-expand-medi-caid/>.

¹⁶ Allison Aubrey, *CDC Hospital Data Point to Racial Disparity in COVID-19 Cases*, NPR (Apr. 8, 2020), <https://www.npr.org/sections/coronavirus-live-updates/2020/04/08/830030932/cdc-hospital-data-point-to-racial-disparity-in-covid-19-cases>.

¹⁷ *Id.*

Hostility Toward LGBTQ People

Judge Wilson has long situated himself as a vocal opponent of LGBTQ rights. Specifically, Judge Wilson made a number of concerning statements regarding marriage equality. In 2012, Judge Wilson wrote that the push for marriage equality was meant to cast those opposed to it as “intolerant, uncaring and even bigoted,”¹⁸ as opposed to a vital movement for LGBTQ equality. He also cited the “conviction held by many that homosexual marriage is wrong, or at least a marked departure from a few thousand years of social order”¹⁹ as validation for his argument.

In addition to this dehumanizing language regarding marriage equality, Judge Wilson voted for HB 1523 during his time as a state legislator.²⁰ HB 1523, which was eventually upheld as law, allows businesses to refuse service to LGBTQ people based on their sincerely held religious beliefs.²¹

Judge Wilson’s opposition to LGBTQ rights is directly contrary to the values of reproductive justice. As organizations advocating for reproductive health, rights, and justice, we advocate for freedom to define and make decisions about one’s sexuality and gender without resulting restrictions on basic civil rights and liberties. Judge Wilson’s dehumanizing statements and support for anti-LGBTQ legislation demonstrates his inability to ensure fairness for all as a member of the bench.

Attacking Voting Rights and Voter Protections for Communities of Color

Judge Wilson also attacked voting rights protections and advocated for laws that suppress the votes of Black communities and other communities of color. Voter suppression efforts disproportionately impact people of color and have historically been wielded to limit the political power of Black communities.²²

Most notably, Judge Wilson criticized the Justice Department’s decision to send election observers to Mississippi to ensure fairness and access to voting.²³ Judge Wilson not only critiqued the presence of election observers, he also claimed that such efforts would have been better spent combating individual voter fraud,²⁴ a practice which is actually very rare but often claimed in order to further restrict access to fair voting procedures for communities of color.²⁵

¹⁸ Cory Wilson, *When tolerance is really ‘zero tolerance’* (June 1, 2012),

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

¹⁹ *Id.*

²⁰ *Mississippi Protecting Freedom of Conscience from Government Discrimination Act (HB 1523)* (Feb. 23, 2019),

<https://rewire.news/legislative-tracker/law/mississippi-protecting-freedom-conscience-government-discrimination-act-hb-1523/>.

²¹ *Id.*

²² Theodore R. Johnson and Max Feldman, *The New Voter Suppression*, Brennan Center for Social Justice (Jan. 16,

2020), <https://www.brennancenter.org/our-work/research-reports/new-voter-suppression>.

²³ Cory Wilson, *Hattiesburg puts finishing touches on diverse mayoral election sequel* (Oct. 02, 2013),

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

²⁴ *Id.*

²⁵ Vann R. Newkirk II, *How Voter ID Laws Discriminate*, The Atlantic (Feb. 18, 2017),

<https://www.theatlantic.com/politics/archive/2017/02/how-voter-id-laws-discriminate-study/517218/>.

Judge Wilson also wrote in support of such practices as instituting voter ID laws and the purging of voter rolls²⁶ practices which have similarly targeted communities of color.

It is troubling that Judge Wilson relies on myths frequently used to restrict the right to vote among communities of color. Voter ID laws, like the one that currently exists in Mississippi, have been proven to suppress the right to vote for people of color. Although supporters like Judge Wilson claim that these laws are intended to end voter fraud, they are actually intended to suppress the right to vote for communities of color.²⁷ For example, one study found that voter ID laws doubled the gap between the rate of turnout between white voters and Latinx voters in general elections and doubled the gap between white voters and Black voters in primary elections.²⁸

Further, communities of color face a number of obstacles in obtaining an accepted ID if they do attempt to comply with the law. Lack of language access, lack of time off of work, lost wages, and difficulty obtaining transportation to go to the appropriate offices in each state may make obtaining an ID extremely challenging.

Voter ID laws, like the one Judge Wilson voted for, directly harm communities of color. Judge Wilson's voting rights record demonstrates that he would not be a fair and equitable judge, and that his place on the bench would further erode civil rights for communities of color.

* * *

For people of color, threats to reproductive rights, healthcare access, LGBTQ rights, and voting rights are threats to our bodily autonomy and undermine our ability to make decisions about our own lives and families. People of color rely on the protections enforced by courts, yet Judge Wilson has repeatedly demonstrated a career-long commitment to rolling back the rights that determine our health, freedom, and well-being. As a judge in the Fifth Circuit, Judge Wilson will have the power to decide many cases involving critical legal protections for groups and civil rights he has long worked against. We cannot support a nominee who will disregard the daily realities and needs of communities of color. For the foregoing reasons, we strongly urge you to oppose the confirmation of Cory Wilson to the U.S. Court of Appeals for the Fifth Circuit.

Sincerely,

National Asian Pacific American Women's Forum (NAPAWF)

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

National Latina Institute for Reproductive Justice (NLIRJ)

²⁶ Cory Wilson, *Suppressing Common Sense*, <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p164.pdf>.

²⁷ Newkirk, *supra*.

²⁸ Zoltan Hajnal, Nazita Lajevardi, and Lindsay Nielson, *Voter Identification Laws and the Suppression of Minority Votes*, University of California San Diego, <http://pages.ucsd.edu/~zhajnal/page5/documents/voterIDhajnaletal.pdf>.

SisterReach

SIECUS: Sex Ed for Social Change

URGE: Unite for Reproductive & Gender Equity

Positive Women's Network-USA

We Testify

The Afiya Center

SPARK Reproductive Justice NOW!, Inc.

SisterSong Women of Color Reproductive Justice Collective

SisterLove, Inc.

Jane's Due Process

Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)

National Network of Abortion Funds

If/When/How: Lawyering for Reproductive Justice

Religious Coalition for Reproductive Choice

Civil Liberties and Public Policy

National Women's Health Network

Physicians for Reproductive Health

National Abortion Federation