



May 12, 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: 18 LGBT Groups Oppose the Nomination of Cory Wilson

Dear Chairman Graham and Ranking Member Feinstein:

We, the undersigned 18 national, state and local advocacy organizations representing the interests of lesbian, gay, bisexual, and transgender (“LGBT”) people and everyone living with HIV, urge you to oppose the nomination of Mississippi Court of Appeals Judge Cory Wilson to the U.S. Court of Appeals for the Fifth Circuit. If confirmed for a lifetime appointment to the federal bench, Judge Wilson’s addition to the Fifth Circuit will significantly increase the likelihood that LGBT people living in these states will continue to experience discrimination with no meaningful access to justice for generations to come. We strongly urge you to oppose this nomination.

The largest percentage (35%) of LGBT people in the United States live in the South. Approximately 772,000 LGBT people live in the states under the Fifth Circuit’s jurisdiction (Louisiana, Mississippi, and Texas) and there are an estimated 57,000 same-sex couples living in those states. LGBT families in the South are more likely to lack employment protections, earn less than \$24,000 a year, report that they cannot afford food or health care, and are less likely to have insurance than anywhere else in the country.<sup>1</sup> While there is widespread support for nondiscrimination protections for LGBT people in these states, there are few local protections.<sup>2</sup>

Judge Cory Wilson is only 49 years old. Before becoming a state court judge, he spent much of his career hurling partisan invective through a series of writings that expressed his opposition to a wide array of civil rights protections on issues ranging from voting rights to reproductive rights. In particular, he invested significant time and effort becoming one of the most outspoken opponents of LGBT equality in the South. For example, in one article, Judge Wilson fulminated against public awareness and accountability campaigns directed at businesses that use their corporate profits to support anti-LGBT political causes, including most notably Chick-Fil-A. He fretted that such businesses might be “bashed,

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<sup>1</sup> The Williams Institute, *LGBT in the South* (Mar. 2016), available at <https://williamsinstitute.law.ucla.edu/>.

<sup>2</sup> *Mississippi’s Equality Profile*, Movement Advancement Project (2020), available at [https://www.lgbtmap.org/equality-maps/profile\\_state/MS](https://www.lgbtmap.org/equality-maps/profile_state/MS).

banned and bankrupted” for expressing (and funding) their opposition to LGBT equality.<sup>3</sup> His concern about the “bashing” of these businesses demonstrates a grave insensitivity to the reality that the people actually getting “bashed” are the thousands of victims of anti-LGBT hate crimes every year. It also reflects the disdain for LGBT people that has been a hallmark of his public writing. For example, in another article, Judge Wilson disparaged the fight for marriage equality as a demand for “unconditional surrender” and he minimized the freedom to marry, because—for him—the idea of marriage equality “was so beyond seriousness.”<sup>4</sup> He also wrote a scathing commentary attacking President Obama for refusing to defend the Defense of Marriage Act (DOMA), characterizing it as “one more step in eroding traditional values.”<sup>5</sup>

As a state legislator, Judge Wilson put these beliefs into action to inflict grave harm on the LGBT community of Mississippi. Most notably, Wilson supported HB 1523,<sup>6</sup> one of the most sweeping anti-LGBT measures enacted in recent years.<sup>7</sup> The law allows entities to refuse services to LGBT people (and unmarried people) based on religious or moral beliefs by condoning three state-sanctioned “beliefs” for special legal protection in Mississippi. Those beliefs are that: 1) marriage should only be recognized as the union of one man and one woman; 2) sexual relations are properly reserved to marriage; and 3) male and female refer to an individual’s “immutable biological sex” as determined by anatomy and genetics at the time of birth.<sup>8</sup> As U.S. District Court Judge Carlton Reeves noted in his decision enjoining HB 1523, “there are almost endless explanations for how HB 1523 condones discrimination against the LGBT community, but in its simplest terms it denies LGBT citizens equal protection under the law.”<sup>9</sup> HB 1523 has been described by media as the “worst anti-LGBT law in the country.”<sup>10</sup>

When considering whether Judge Wilson is capable of administering fair and impartial justice to the LGBT community, it is significant to note that his support for HB 1523 has not wavered. In his recent Senate Judiciary hearing, he characterized the law as balancing the “earnestly held rights on both sides

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<sup>3</sup> Cory Wilson, *Eat More Chicken*, MADISON COUNTY J. (Madison, Miss.) (July 26, 2012), available at <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p187-188.pdf>.

<sup>4</sup> Cory Wilson, *When tolerance is really ‘zero tolerance’*, PRESS REGISTER (June 1, 2012), available at <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p187-188.pdf>.

<sup>5</sup> Cory Wilson, *A Nation of Laws, Not of Men*, MADISON COUNTY J. (Feb. 17, 2011).

<sup>6</sup> H.B. 1523, 2016 Reg. Sess. (Miss. 2016), available at <http://billstatus.ls.state.ms.us/2016/pdf/votes/house/0460003.pdf>.

<sup>7</sup> HB 1523 was partially drafted and supported by the Alliance Defending Freedom—an organization notorious for its campaigns against LGBT people. The Southern Poverty Law Center (SPLC) has designated ADF as a hate group for their vicious attacks on LGBT people. See *Alliance Defending Freedom*, Southern Poverty Law Center (2019), available at <https://www.splcenter.org/fightinghate/extremist-files/group/alliance-defending-freedom>.

<sup>8</sup> Neely Tucker, *Emails Show Outside Group’s Influence on Mississippi’s ‘religious freedom’ bill*, WASHINGTON POST (July 21, 2016), available at [https://www.washingtonpost.com/national/emails-show-outside-groups-influence-on-mississippis-religious-freedom-bill/2016/07/21/e836f064-4f4f-11e6-a7d8-13d06b37f256\\_story.html](https://www.washingtonpost.com/national/emails-show-outside-groups-influence-on-mississippis-religious-freedom-bill/2016/07/21/e836f064-4f4f-11e6-a7d8-13d06b37f256_story.html).

<sup>9</sup> *Barber v. Bryant*, 193 F. Supp. 3d 677, 700 (S.D. Miss. 2016), *rev’d*, 860 F.3d 345 (5th Cir. 2017).

Unfortunately for the people of Mississippi, the Fifth Circuit – the court to which Judge Wilson has been nominated – vacated Judge Reeves’ decision on ripeness grounds, and this dangerous and stigmatizing law remains on the books today. See *Barber v. Bryant*, 860 F.3d 345 (5th Cir. 2017).

<sup>10</sup> Samantha Allen, *SCOTUS Lets Mississippi’s HB 1523, America’s Most Anti-LGBT Law, Stay in Place*, THE DAILY BEAST (January 11, 2018), available at <https://www.thedailybeast.com/scotus-lets-mississippis-hb-1523-americas-most-anti-lgbt-law-stay-in-place>.



of that issue.”<sup>11</sup> Judge Wilson’s longstanding support for a law that explicitly empowers discrimination against LGBT people (and unmarried people) demonstrates his fundamental view of LGBT people as second class citizens not worthy of equal protection under the law.

Judge Wilson’s support of HB1523 alone should be enough to render implausible any notion that LGBT litigants would receive equal justice in his courtroom. But when viewed in the context of his longstanding antipathy towards LGBT people as expressed in his personal writings, any suggestion that Judge Wilson will undergo some kind of “confirmation conversion,” and suddenly put aside all of these longstanding beliefs when donning the robe of a federal judge, is impossible to take seriously.

LGBT rights are not the only area where there are legitimate questions about Judge Wilson’s fitness for a lifetime appointment to the federal court of appeals. He has repeatedly expressed incredible hostility towards the Affordable Care Act (“ACA”), describing it as “perverse” and “illegitimate.”<sup>12</sup> Using such inflammatory language to describe a duly-enacted law that has provided approximately 20 million people with health care coverage suggests that Judge Wilson lacks the temperament necessary for a lifetime appointment to a position of public trust. Moreover, he was oddly disturbed by the potential expansion of Medicaid in Mississippi under the ACA.<sup>13</sup> Thanks in part to Judge Wilson’s advocacy, Mississippi chose not to expand their Medicaid coverage—leaving over 100,000 vulnerable Mississippians without health care coverage.<sup>14</sup> Judge Wilson’s outsized and misplaced hostility toward providing health care coverage to vulnerable populations would be concerning at any time, but the devastating consequences of his extreme views have become particularly evident during the current COVID-19 pandemic.

For these reasons, we are gravely concerned that Judge Wilson’s appointment to the federal bench would cause serious harm to the LGBT community, as well as other communities who rely on the federal judiciary for vindication of the foundational guarantee of equal justice under law. We urge you to reject the nomination of Judge Wilson for the U.S. Court of Appeals for the Fifth Circuit.

Thank you for considering our views on this important issue. Please do not hesitate to reach out if we can provide additional information throughout the confirmation process. You can reach us through Sasha Buchert, Senior Attorney for Lambda Legal, at [sbuchert@lambdalegal.org](mailto:sbuchert@lambdalegal.org).

Very truly yours,

Lambda Legal  
Alliance for Justice  
Bayard Rustin Liberation Initiative

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<sup>11</sup> Committee on the Judiciary, *Nominations* (January 8, 2020), available at <https://www.judiciary.senate.gov/meetings/01/08/2020/nominations>.

<sup>12</sup> Cory Wilson, *ACA: Big, Intrusive Government*, MADISON COUNTY J. (Feb. 20, 2014), available at <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p76-77.pdf>.

<sup>13</sup> Cory Wilson, *You Don’t Want to Know What’s in it*, MADISON COUNTY J. (July 19, 2012), available at <https://afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p189-190.pdf>.

<sup>14</sup> See Phil McCausland, *Residents Suffer as Mississippi and 13 other States Debate Medicaid Expansion*, NBC NEWS (Nov. 4, 2019), available at <https://www.nbcnews.com/news/us-news/residents-suffer-mississippi-13-other-states-debate-medicaid-expansion-n1075661>.



CenterLink  
Equality California  
Equality North Carolina  
Family Equality  
FORGE, Inc.  
National Action Network, DC Bureau  
National Association of Social Workers  
National Center for Transgender Equality  
National Council of Jewish Women  
National Health Law Program  
National LGBTQ Task Force Action Fund  
PFLAG National  
Pride at Work  
Silver State Equality-Nevada  
Transgender Legal Defense & Education Fund