



# NAACP

May 5, 2020

The Honorable Lindsey Graham  
Chairman, Senate Judiciary Committee  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Dianne Feinstein  
Ranking Member, Senate Judiciary Committee  
152 Dirksen Senate Office Building  
Washington, DC 20510

**RE: OPPOSITION TO CONFIRMATION OF CORY WILSON TO THE  
U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT**

Dear Chairman Graham and Ranking Member Feinstein:

On behalf of the NAACP, our nation's oldest, largest and most widely-recognized grassroots civil rights organization, I strongly urge you to oppose the confirmation of Cory Wilson to the U.S. Court of Appeals for the Fifth Circuit.

As a longtime resident of Mississippi, I know from personal experience that the federal courts in Mississippi are of vital importance to the NAACP and the larger civil rights community. Mississippi has the highest percentage of African-American residents—38%—of any state. Its federal courts have always been crucial to the progress of civil rights. For example, the first [case](#) brought by the Justice Department after President Johnson signed the Voting Rights Act of 1965 was filed in Mississippi, challenging the state's poll tax.

The Fifth Circuit Court of Appeals has an incredible civil rights legacy. During the civil rights movement, judges serving on the Fifth Circuit became the "Unlikely Heroes," as Jack Bass's iconic book called them, who courageously enforced the Supreme Court's ruling in *Brown v. Board of Education* in the face of massive resistance and grave personal danger. Committed to the rule of law, these judges extended the principles of *Brown* to desegregate public institutions of all types throughout the South.

For decades, the NAACP has fought to ensure that judicial nominees to the Fifth Circuit are diverse, fair, independent, and committed to the progress our nation has made in civil rights. The Fifth Circuit remains critically important today. The three states comprising the Fifth Circuit—Mississippi, Louisiana, and Texas—have the largest percentage of persons of color of any circuit in the country. As a result, the Fifth Circuit presides over a tremendous number of civil rights cases involving voting rights, equal educational opportunity, employment discrimination, fair housing, environmental justice, and the criminal justice system, including the death penalty. Its residents are entitled to fair and impartial judges at all times, regardless of who is president and who is serving in Congress.

Given this history and context, Cory Wilson is completely unfit to serve on the Fifth Circuit. His record bears all the hallmarks of a dangerous and intemperate ideologue, who cannot be fair and impartial in voting rights cases and other important civil rights cases on this docket. The Senate must not confirm him.

### **NO MORE JUDICIAL CONFIRMATIONS**

As a threshold matter, the Senate should refuse to consider all of Donald Trump’s judicial nominations in this time of crisis. The nation is now engaged in a herculean struggle against a worldwide, once-in-a-century pandemic. Shockingly, the United States just surpassed more than one million confirmed cases of coronavirus. And, tragically, more than 60,000 American lives have been lost. The President and the Senate must focus their complete and undivided attention on saving the lives and livelihoods of the American people. No other course of action is remotely acceptable. The country desperately needs Congress to do everything within its power to help stem the harm from this deadly disease and move the nation forward with an equitable recovery. The country does not need any more Trump judges. It certainly does not need Cory Wilson confirmed to the Fifth Circuit during this extraordinary moment of crisis.

Additionally, the Senate should halt consideration of all circuit court nominations this late in the presidential term. The Senate has already confirmed 51 circuit court appointments by Donald Trump. This is in stark contrast to the Senate’s actions toward President Barack Obama where the Senate confirmed only 55 of his circuit court nominees in eight years and refused to confirm many more—including multiple nominees of color—in his last year in office. In the final year of President Obama’s presidency, Senate Majority Leader Mitch McConnell allowed confirmation of only one circuit nominee, Judge Luis Restrepo who was confirmed to the Third Circuit in January 2016. Majority Leader McConnell also notoriously refused to move President Obama’s nomination of Merrick Garland to the Supreme Court, made on March 16, 2016, relying on the theory that the voters should decide who fills a vacancy occurring in an election year. If the Senate were to follow its own practices, confirmation of Trump’s appellate nominees should end now.

### **LACK OF JUDICIAL DIVERSITY**

The NAACP objects to Cory Wilson’s nomination in particular because it represents a powerful strike against the judicial diversity of the Fifth Circuit. We continue to be gravely concerned about the lack of racial and ethnic diversity among Trump’s nominations to the Fifth Circuit. Cory Wilson is a white male. Although the Fifth Circuit has the highest percentage of residents of color, five of President Trump’s six appointees to this court are white. The court has no active Hispanic representation for the first time in decades. This refusal to diversify appointments to the Fifth Circuit is part of an extremely disturbing pattern in Trump’s judicial selections overall. He has nominated 37 white males to the appellate courts but has refused to nominate even one African American. As a result, our federal courts are losing diverse representation in historic proportion, which diminishes the public’s trust and confidence in the judiciary.

### **OPPOSED VOTING RIGHTS**

Cory Wilson’s abysmal record on voting rights renders him wholly unfit to serve on the Fifth Circuit. Wilson is the latest example of Donald Trump’s effort to pack the courts with individuals who support voter suppression. Judicial selection is a central feature of this administration’s assault on voting rights which has occurred on multiple fronts—from failing to enforce the Voting Rights Act to standing up a sham voter fraud commission to attempting to insert a citizenship question on the 2020 Census. As the NAACP’s [report](#) “Weaponizing the Bench to Suppress the Vote” demonstrates, many of Trump’s judicial nominees have

defended or enabled voter suppression. Trump's installation of Article III judges who will undermine voting rights will be a lasting legacy. We cannot allow this president to pack the courts with those who would restrict the vote. These are lifetime strikes against our democracy.

The nomination of Cory Wilson to the Mississippi seat on the Fifth Circuit is particularly offensive. Mississippi's voters of color have struggled more than most to obtain and retain the franchise. These obstacles, including efforts to suppress the vote, have resulted in representation that does not reflect the rich diversity of the state's population. Mississippi has the highest share of African-American residents of any state but has not elected a Black candidate to statewide office since Reconstruction. Nominated to sit on the federal appellate court for Mississippi, Cory Wilson is singularly unsuited to hear voting rights cases filed in this circuit. The personal animosity he has shown toward many facets of voting rights protections disqualifies him from the federal bench. That Donald Trump wants to place Cory Wilson on a federal appellate court seat from Mississippi is no accident. This is as intentional as it gets.

Cory Wilson has used his experience in voting and election matters to oppose free and full exercise of the franchise for communities of color. He served as Deputy Secretary of State and Chief of Staff to Secretary of State Delbert Hosemann for the State of Mississippi from 2008 to 2011. In this position, he [managed](#) day-to-day operations and was engaged in policymaking in election administration during a critical time for voting rights in Mississippi. Mr. Hosemann served as Secretary of State from 2008 to 2020 where he was the defendant in several voting rights cases, including a [challenge](#) to the ban against voting by previously incarcerated individuals, a [challenge](#) to requiring proof of citizenship for naturalized citizens when registering to vote, and a recent [case](#) alleging that Mississippi's Constitution prevents statewide election of Black candidates by virtue of the requirement that statewide candidates win a majority of the popular vote and a majority of state House districts. Cory Wilson also litigated election cases as a private attorney.

During Cory Wilson's tenure with the Mississippi Secretary of State, the office [sponsored](#) a voter ID petition, which met the signature requirement and eventually appeared on the November, 2011 general election ballot. Known as Initiative 27, it amended the Mississippi Constitution to require voters to submit a government-issued photo identification before being allowed to vote. There is every reason to believe Cory Wilson was deeply involved in this effort. He later wrote several op-eds defending the voter ID measure, including [one](#) in which he stated: "I can say from personal experience that a lot of thought went into making voter ID fair, workable, and affordable for every Mississippi voter." He also [wrote](#), "Bloated voter rolls are a problem in Mississippi. Removing long-gone voters from the rolls was a focus during Secretary of State Delbert Hosemann's first term. I participated in the hard push for real progress while I was Delbert's Deputy, but the problem persists. It also shows why voter ID is important. Without ID, anyone can show up for a person on the rolls."

The voter ID amendment was [approved](#) by Mississippians with 62% support. Because Section 5 of the Voting Rights Act was still in effect, the measure was [submitted](#) to the Department of Justice for preclearance. Mississippi Secretary of State Delbert Hosemann [defended](#) the measure by stating: "The Supreme Court has ruled that voter ID is constitutional, and we believe that Mississippi's plan for implementing voter ID will be constitutional as well." The Mississippi NAACP, which I headed at the time, and the ACLU [asked](#) the Justice Department to reject the measure because it would prevent African Americans from exercising their right to vote. While the measure was under consideration by the Justice Department, the Supreme Court issued *Shelby County v. Holder*, which gutted the protection of Section 5 and [cleared](#) the way for Mississippi to use the voter ID requirement in 2014.

In 2012, shortly after his tenure ended with the Mississippi Secretary of State, Cory Wilson published a scathing [op-ed](#), “Suppressing Common Sense,” that was extraordinarily dismissive of efforts to protect voting rights. In it, Wilson demonstrated his strong support for voter ID laws and questioned whether “voter suppression,” which he repeatedly placed in quotes, truly exists. Wilson wrote that he never had to justify the voter ID requirement as necessary when he served as Deputy Secretary of State because “it was all but an assumption that [it was]. That assumption is held by a huge majority of the people.” This may be the case for white Mississippians, but he ignored the law’s devastating impact on hundreds of thousands of Black Mississippians disproportionately burdened by this requirement. He then complained that the law was not “finally in place,” not because of its potential for discrimination, but because of the “Obama Justice Department.” He wrote:

“Attorney General Eric Holder has made clear that he views voter ID as ‘voter suppression’ on the part of dastardly Republicans. The DOJ, with some help from our own Attorney General Jim Hood, has slow-pedaled consideration of Mississippi’s law. Earlier this fall, the DOJ asked for ‘more information’ to determine whether the law has a discriminatory effect. That new request puts any final decision well past November 6.

But the Obama DOJ is fighting voter ID provisions in Texas, South Carolina, and even Pennsylvania, which is a state not subject to the ‘preclearance’ (i.e., advance approval by the feds) requirement of the Voting Rights Act. The Democratic line is that voter ID is a solution in search of a problem, that there are no cases of voter fraud that ID would prevent. The Rachel Maddows of the media world have joined the chorus of ‘voter suppression’ right on cue from Team Obama. This is as phony as the ‘war on women.’ During my three years at the Secretary of State’s office, we had more than a few calls and substantiated cases of voter impersonation, dead people who came back to vote one last time, and other forms of cheating. The only votes we were interested in ‘suppressing’ were the illegal ones...Voter ID is part of ensuring cleaner elections.”

In another [op-ed](#) after his tenure with the Secretary of State, entitled “Suppressing the Truth,” Cory Wilson criticized a Senate Judiciary Committee hearing in Florida addressing a recent voter suppression law: “What are the outrages for which [Senator] Durbin is spending your money to stage show hearings? Florida’s voter law reduces the number of days for early voting from 14 to eight, restricts the ability of voters to change their addresses at the polls, and imposes tough new guidelines for voter-registration drives and penalties for those who violate them. Oh, the outrage.” Wilson then attacked national civil rights organizations, such as the NAACP, which challenge voting rights violations: “With evil like this afoot, the ACLU and other rent-a-mobs naturally will join the hunt for the GOP bogeyman, by whatever means.” He also criticized the Help America Vote Act (HAVA) as a law that “imposed top down, federal largesse and federal mandates about how elections must be conducted.”

In a 2013 [op-ed](#), entitled “Voter ID and the IRS,” Cory Wilson railed against the Department of Justice for using voting rights laws to challenge voter ID requirements. Again, he championed Mississippi’s voter ID law as the “clearest expression of the popular will.” He called it a “common-sense measure aimed at ensuring fair elections,” and lamented that the Department of Justice was responsible for it not taking effect. He criticized Attorney General Eric Holder’s argument against voter ID as “a whine” about an “orchestrated effort by Republicans to suppress poor and minority voting.” He stated that “there really is voting fraud,” and he accused the Obama administration of retaliating against citizens who attempted to expose voter

fraud: “They smear anyone who simply wants fair and clean elections as seeking to use neutral voter identification at the polls to suppress votes. Isn’t that ironic? Or is ‘tyranny’ the better word.”

In another [op-ed](#), “Ensuring the Integrity of the Vote,” Cory Wilson wrote that he had spent his summer representing challenges in a series of election contests, where “the integrity of the election process was on trial.” He opined that Mississippi’s election laws were flawed and that election logistics are often burdensome to election officials. He stated: “Illegal votes are counted, valid votes are not.” After citing the need for integrity in elections, Wilson wrote: “Mississippi’s new voter ID law will help, assuming the Obama Justice Department will stop suing long enough for us to implement it.”

Cory Wilson published another [op-ed](#) deeply critical of voting rights in the aftermath of a bitterly contested mayoral election in Hattiesburg, Mississippi, in which he was involved. Wilson had represented the white candidate in filing an election contest against the Black candidate, who won by 37 votes. The contest resulted in a mistrial and the judge ordered a special election, which the Black candidate won. Wilson included this lawsuit in his list of ten most significant litigated matters in [response](#) to the Senate Judiciary Committee’s questionnaire. Mississippi Congressman Bennie Thompson (D-MS) later [complained](#) to the Department of Justice that the African-American community in Hattiesburg was targeted for prosecution and intimidation in the aftermath of this election: “This particular mayoral election was bitterly fought and was divided, chiefly, along racial lines as many elections are in Mississippi. The divisive election was exacerbated by challenges of voter fraud and electioneering that resulted in a court-ordered new election.”

Cory Wilson began his op-ed about the mayoral election by stating: “[W]hile normal people were preparing to watch Alabama play Old Miss, the Hattiesburg election commission was finishing its final count in the mayor’s race.” He described the election contest which he litigated as one in which “witnesses testified to voter impersonation, disenfranchised felons voting, and unlawful witness intimidation.”

Wilson included the following breathtaking passage:

“U.S. Department of Justice observers, there to guard against ‘voter suppression,’ interviewed voters who were turned away for not being on the rolls. Given that all the poll workers were African-American, it was unclear who the observers thought was doing any intimidating. They might spend less time chasing agendas that aren’t there, and more time investigating the voter fraud and other irregularities that came out at trial. Those same observers might spend less time suing states to block voter ID, as Attorney General Eric Holder again announced they were doing in North Carolina on Monday. I think most of the mostly Black voters came with IDs already out, ready to show. No intimidation observed. But facts have never deterred the Obama administration when politics could be played.”

These simply cannot be the words of someone who hopes to be confirmed to the federal appellate court presiding over Black voters in Mississippi. Wilson’s writings appeared around the time of the Supreme Court’s 2013 ruling in *Shelby County v. Holder*, which gutted the heart of the Voting Rights Act and dismissed all of the record evidence compiled by Congress of modern-day voter discrimination and suppression. Wilson repeatedly indicated his disdain for the concept of voter suppression by placing it in quotes and referring to it as part of “agendas that aren’t there.” Instead, he perceived the more egregious conduct to be voter fraud which, according to every [study](#) that has ever examined it, does not exist. Indeed, Donald Trump’s own commission charged with investigating voter fraud was forced to [disband](#). Wilson also attacked the long-revered Department of Justice federal observer program which monitors procedures

in polling places to ensure fair elections, is not a partisan activity, and is [authorized](#) by the Voting Rights Act itself. Furthermore, he chastised the Justice Department for filing a voting rights lawsuit against North Carolina's photo ID law, which the Fourth Circuit ultimately [held](#) "targeted African Americans with almost surgical precision."

### **OPPOSED AFFORDABLE HEALTH CARE**

Cory Wilson's opposition to accessible and affordable health care renders him a completely unsuitable candidate for the Mississippi seat on the Fifth Circuit during a global pandemic. As Mississippians struggle to stay alive during the coronavirus crisis, the last thing residents of this State need is an appellate court judge predisposed to ruling against their health and safety.

With its significant Black population, Mississippi is experiencing stark racial disparities in coronavirus's impact on its residents. Of its 6,500 confirmed cases of coronavirus, more than half of those infected are African Americans. Almost 60% of deaths in the state are Black Mississippians. Lack of access to affordable health care is a major contributor. Mississippi is one of the poorest states in the nation and [ranks](#) at the bottom in terms of accessible and affordable health care. Approximately 21% of Mississippi's Black population [is](#) uninsured, leading to the tragic consequences we are witnessing today.

Cory Wilson has publicly condemned the expansion of health care coverage, which is critical to addressing disparities in health outcomes for African Americans. He opposed the Affordable Care Act, which provided health care for Black Mississippians that they would not otherwise obtain and is now helping to save their lives. In a Mississippi [op-ed](#) entitled "ACA: Big, Intrusive Government," Wilson condemned the Affordable Care Act as "illegitimate" and "perverse." He stated: "Now, Obama Democrats reveal themselves as the party of subsidized government dependency. Never mind those of us who will have to work harder to pay for the 'freedom' of others not to work." In another [op-ed](#), "Contempt of Court," Wilson accused the Obama administration of "launching an orchestrated attack on the legitimacy of the Supreme Court" in case it failed to uphold the Affordable Care Act. He devoted still another [op-ed](#), "Obama's Day of Reckoning," to his own hope that the Supreme Court would overturn the law: "For the sake of the Constitution, I hope the Court strikes down the law and reinvigorates some semblance of the limited government the Founders intended."

Cory Wilson also openly fought Medicaid expansion in Mississippi. This legislation would have [ensured](#) health care coverage for 100,000 residents. It was critical to reducing racial disparities in health care in Mississippi, where nearly [half](#) of the Black children are in families living below the poverty level. But Cory Wilson [publicly opposed](#) expanding Medicaid in the state, calling it part of the "ever-expanding welfare state." He [chastised](#) a Democratic legislator for saying that "too many Mississippi souls are on the line" not to expand Medicaid, stating, "Dems must really think salvation comes through government."

### **DEPLORABLE JUDICIAL TEMPERAMENT**

In addition to disqualifying views on voting rights and access to health care, Cory Wilson's record is filled with inflammatory diatribes against public officials and many other civil rights issues which could come before him as a judge.

His attacks against President Obama constitute some of the most offensive statements of any Trump judicial nominee about our former president. He referred to President Obama as "[King Barack](#)" and the "[Anointed](#)

[One](#).” In an [op-ed](#) entitled “Obamination,” Wilson called President Obama a “radical leftist” who was committing a “systemic abuse of power by the most paranoid and politicized White House since Nixon’s.” Additionally, Wilson mockingly [referred](#) to Attorney General Eric Holder as “another pillar of impartial justice.” He [called](#) Hilary Clinton “Crooked Clinton,” and said she was “criminal and clueless.” Wilson also [called](#) Congresswoman Alexandria Ocasio-Cortez a “claptrap.” These appalling statements further demonstrate his unsuitability for a federal judgeship.

As a Mississippi state legislator, Cory Wilson [voted](#) to allow businesses to discriminate against LGBT persons. He also wrote a scathing [op-ed](#) in 2012 against marriage equality. “Gay marriage is a pander to liberal interest groups and an attempt to cast Republicans as intolerant, uncaring and even bigoted...The radical left has lost election after election in their effort to redefine traditional marriage. But what they cannot win at the ballot box, they intend to win in the courts. And, by re-electing Obama, who could then appoint two or three more Supreme Court justices, they may well achieve redefinition of marriage by judicial decree. But while the fawning media praise Obama’s enlightened ‘evolution’ toward gay marriage, they merely pay lip service to the conviction held by many that homosexual marriage is wrong, or at least a marked departure from a few thousand years of social order.”

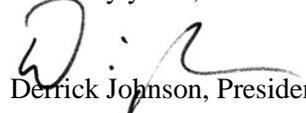
As a state legislator, Cory Wilson also [voted](#) for Mississippi’s “heartbeat” abortion ban which would have prohibited abortion after detection of a heartbeat, and he [voted](#) for a 15-week abortion ban. Additionally, he answered “yes,” to the Mississippi Right to Life’s [questionnaire](#) about supporting the “complete and immediate reversal of *Roe v. Wade*.” True to form, he published an [op-ed](#) in which he called for the appointment of “judicial conservatives who will follow the law and not legislate from the bench.” He also said this: “Forty years on, we still live under *Roe v. Wade*, the result of a liberal activist court.”

## **CONCLUSION**

Mississippi has come a long way since the Justice Department filed its first case under the Voting Rights Act against the state in 1965. But it still has far to go to make real the promise of that seminal law, as evidenced by the fact that its high percentage of African Americans in the electorate has not translated into the ability of Black candidates to win statewide office. The federal courts are the guardians of the right to vote, which the Supreme Court has [called](#) fundamental and “preservative of all other rights.” Judges serving on those courts must have respect for the rule of law and for the advances our nation has made in ensuring equal justice for all. Cory Wilson wholly lacks these essential qualities and also the requisite temperament to sit in judgment of the rights of residents within this critical circuit in the Deep South. We urge the Senate to reject his nomination to the Fifth Circuit.

Thank you for considering the NAACP’s strong opposition to this appalling nomination. Should you have any questions or comments, please contact Hilary Shelton, Director of the Washington Bureau and Senior Vice President for Policy and Advocacy at his office at (202) 463-2940.

Sincerely yours,

  
Derrick Johnson, President and CEO