NAACP Legal Defense Fund Expresses Concern About Trump Administration’s Nominees to Federal Bench

Today’s announcement by the Trump Administration of 10 federal judicial nominees should sound the alarm for anyone who cares about the integrity and independence of the federal courts. Many of these nominations were made without the benefit of evaluation by the nonpartisan American Bar Association, which for over half a century has played a vital role in the judicial selection process by assessing nominees based on competence, integrity, and temperament. Federal judges are not meant to serve as rubber stamps for the president’s agenda. As we have seen over the past three months, the independence of the federal judiciary is the cornerstone of our democracy.

What’s more, two of these circuit court vacancies exist only because Senate Republicans refused to act on President Obama’s qualified nominees, securing these seats for President Trump the same way they preserved a vacancy on the Supreme Court: through nakedly partisan delay.

LDF is particularly concerned that the announcement of these nominees also flies in the face of efforts to bring greater and much-needed diversity to our nation’s federal courts. One seat that President Trump now seeks to fill, for example, is on the Eleventh Circuit Court of Appeals.

President Obama’s exceptional nominee for this seat was Judge Abdul Kallon, who the ABA rated unanimously well qualified. Judge Kallon’s nomination languished in the Senate for over 300 days without even a hearing. Judge Kallon was unanimously confirmed to the Northern District of Alabama in 2009 with the support of Senator Richard Shelby and then-Senator Jeff Sessions, and has since earned the wide respect of both the bench and bar.

Judge Kallon would have been the first African American from Alabama on the Eleventh Circuit; since 1891, only white males have represented Alabama on the federal court of appeals. He also would have added critical diversity to the entire court. The population within the Eleventh Circuit—which hears
federal appeals from Alabama, Florida, and Georgia—is 25 percent African American, yet the court has only one Black judge among its 11 current members.

President Trump’s rejection of Judge Kallon will perpetuate the lack of diversity on that court.

Moreover, we have reservations about Kevin Newsom, the nominee advanced by President Trump for this seat. After an initial review, we are concerned about the views he has expressed on a number of important civil rights issues, including equality in education, voting rights, and capital punishment. We will continue to examine his record to determine whether he has demonstrated a clear and firm commitment to upholding the nation’s civil rights laws.

In another example, President Trump did not re-nominate Justice Myra Selby, who President Obama had nominated to the Seventh Circuit vacancy in Indiana. Justice Selby made history as the first African-American and first woman on the Indiana Supreme Court, and would have been the first African-American judge from Indiana on the Seventh Circuit.

Before any of the nominees announced today can be confirmed as life-tenured judges, we expect the Senate to fulfill its constitutional obligation to advise the President of its evaluation of the candidate and consent to the nomination only after a thorough probe of his or her records and views. Unfortunately, the Senate has too often neglected this responsibility in recent years, choosing partisan advantage over a diverse judiciary committed to the rule of law.

We call on every member of the United States Senate to vigorously examine each nominee as they exercise their constitutional “advise and consent” responsibility, and to put aside partisan allegiances to preserve the integrity and independence of our courts.

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Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation’s first civil and human rights law organization and has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.