

New York Office
40 Rector Street, 5th Floor
New York, NY 10006-1738

T 212.965.2200
F 212.226.7592



Washington, D.C. Office
700 14th Street, NW, Suite 600
Washington, D.C. 20005

T 202.682.1300
F 202.682.1312

May 25, 2022

Senator Dick Durbin
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Senator Chuck Grassley
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Grassley:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (“LDF”), I write to express LDF’s support for the nomination of Nancy Abudu to serve as a judge on the Court of Appeals for the Eleventh Circuit.

Founded in 1940 by Thurgood Marshall, LDF is the country’s first and foremost civil rights law firm. It has been an entirely separate organization from the NAACP since 1957. Through litigation, advocacy, and public education, LDF seeks structural changes to expand democracy, eliminate disparities, and achieve racial justice in a society that fulfills the promise of equality for all Americans.

LDF has examined and reviewed the record of judicial nominees for decades. Our examination of the record of judicial nominees is focused on an assessment of the capacity of judicial nominees to undertake their work with fairness and impartiality, and with respect for the rights of those who are often most marginalized in our society. The role of a federal judge is among the most central to maintaining the rule of law and the preservation of our constitutional democracy. Article III judges enjoy lifetime tenure and are subject to the rigorous process of Senate confirmation to ensure their independence and integrity, and to equip them to hold a position of the highest public trust. As such, it is important that individuals who serve as judges have a demonstrated commitment to fairness and to upholding the rule of law.



The Eleventh Circuit carries special significance for LDF. Many of LDF’s most important cases were litigated in the Eleventh Circuit—representing Dr. Martin Luther King Jr. and the marchers in Selma, Alabama in 1965,¹ and litigating seminal cases interpreting the scope of the Voting Rights Act.² Furthermore, LDF has historically worked in communities across the South to strengthen and protect the ability of Black citizens to participate in a political process free from discrimination.³ The decisions of the Eleventh Circuit have played, and continue to play, an influential role in the development of civil rights law and protections. Notably, the Eleventh Circuit covers Alabama, Georgia and Florida, with roughly 8.5 million Black residents.⁴ Given the history of pervasive voter suppression and racial discrimination in the states within the Eleventh Circuit, it is critical that nominees to the Circuit have extensive voting rights experience and robust civil rights expertise.

Throughout her distinguished career, Nancy Abudu has established herself as a preeminent civil rights attorney and voting rights expert. Ms. Abudu has dedicated her career to safeguarding the right to vote and strengthening democracy. Her confirmation will bring much needed expertise and perspective to the Eleventh Circuit.

¹ *Williams v. Wallace*, 240 F. Supp. 100 (M.D. Ala. 1965).

² See generally, *Shelby County v. Holder*, 570 U.S. 529 (2013); *Allen v. Evergreen*, No. 13-107, 2014 WL 12607819 (S.D. Ala. Jan. 13, 2014); *Alabama Legislative Black Caucus v. Alabama*, 231 F. Supp. 3d 1026 (MD Ala. 2017); *Stout v. Jefferson County Bd. of Educ.*, 882 F.3d 988 (11th Cir. 2018); *Greater Birmingham Ministries v. Secretary of State for the State of Alabama*, No. 18-10151 (11th Cir. 2020); *League of Women Voters of Fla. Inc. v. Lee*, 4:21cv186-MW/MAF (N.D. Fla. Mar. 31, 2022);

³ LDF has monitored elections for more than a decade through our Prepared to Vote initiative (“PTV”) and, more recently, through our Voting Rights Defender (“VRD”) project. Our PTV and VRD initiatives place LDF staff and volunteers on the ground for primary and general elections every year to conduct non-partisan election protection, poll monitoring and to support Black political participation in targeted jurisdictions, primarily in the South. See *Prepared to Vote*, NAACP Legal Defense and Educational Fund, Inc. Available at <https://voting.naacpldf.org/voting-rights/prepared-to-vote/>.

⁴ *Id.*

Professional Record

Early in her career, Ms. Abudu worked as an associate attorney at Skadden, Arps, Slate, Meagher & Flom LLP’s New York office.⁵ Working in the firm’s general litigation department, her practice focused on defending clients in mass tort actions in federal courts.⁶ Ms. Abudu also gained early experience in criminal issues when she served as a Skadden extern with the Legal Aid Society of New York where she represented victims of domestic violence in family court.⁷ Ms. Abudu then served as a staff attorney for the United States Court of Appeals for the Eleventh Circuit⁸—the same court to which she is now nominated. As a staff attorney, Ms. Abudu was responsible for assisting the court in resolving thousands of appeals spanning an array of topics including among others the Fifth Amendment right to due process and against self-incrimination; the Sixth Amendment right to effective assistance of counsel; and Title VII employment discrimination on the basis of gender, race, religion, and age; and prison conditions.⁹ In that capacity, Ms. Abudu conducted legal research and prepared memoranda advising the court on how to resolve more than 120 cases.¹⁰

Ms. Abudu has regularly argued cases before the Eleventh Circuit and is a nationally respected attorney with a proven record of protecting the constitutional rights of all. After briefly leaving the workforce to become a mother, Ms. Abudu worked as senior staff counsel with the American Civil Liberties Union’s (“ACLU”) Voting Rights Project in Atlanta, Georgia where she focused on expanding the organization’s work in the area of felony disenfranchisement. From 2013 to 2018, Ms. Abudu served as the Legal Director of the ACLU of Florida.¹¹ In that role, she managed a team of ACLU lawyers, administrative staff, and pro bono attorneys across the state working on issues related to criminal justice, free speech, immigrants’ rights, juvenile justice, LGBTQ rights, and police practices. In addition to her

⁵ Nancy Abudu, *Questionnaire from Judicial Nominee*, Senate Judiciary Committee (last visited Jan. 24, 2022), at 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 44.

¹¹ *Questionnaire for Judicial Nominees* at 2.

management responsibilities, Ms. Abudu also remained active in the litigation docket of the organization. Since 2019, Ms. Abudu has served as the Deputy Legal Director for the Southern Poverty Law Center (“SPLC”).¹² During her time at SPLC, Ms. Abudu established the organization’s first-ever Voting Rights Practice Group.

Voting Rights Expertise

The right to vote lies at the very foundation of our democracy. Indeed, the Supreme Court has stated that the right to vote is “preservative of all rights.”¹³ Ms. Abudu has extensive experience litigating voting rights cases, and her career exemplifies a deep commitment to ensuring access to the franchise for all. For example, in November 2018, Florida voters passed a ballot initiative to allow people with felony convictions to regain their voting rights upon completion of their sentences.¹⁴ The following year, the Florida legislature passed Senate Bill 7066 (“S.B. 7066”).¹⁵ This law made voting rights for hundreds of thousands of people with past felony convictions contingent on payment of all legal financial obligations associated with one's sentence, including fines, fees, restitution, and court costs.¹⁶ S.B. 7066 directly undermined the Florida voters’ overwhelming passage of the Voting Restoration Amendment 4 in 2018. In July 2019, SPLC with Ms. Abudu as lead counsel, filed suit challenging the payment requirement of S.B. 7066 as an unconstitutional poll tax that discriminated against people based on their wealth.¹⁷ The lawsuit also argued that the S.B. 7066 violated the constitutional prohibition of cruel and unusual punishment.

Similarly, in *Coronado v. Napolitano*¹⁸ and *Harvey v. Brewer*,¹⁹ Ms. Abudu represented Arizona residents who had felony convictions and were challenging the

¹² *Id.*

¹³ *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

¹⁴ Patricia Mazzei and Michael Wines, *How Republicans Undermined Ex-Felon Voting Rights in Florida*, New York Times (Published Sept. 17, 2020; Updated April 30, 2021), <https://www.nytimes.com/2020/09/17/us/florida-felons-voting.html>.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *McCoy v. DeSantis*, 15 F.4th 1062 (11th Cir. 2021).

¹⁸ No. 08-17567 (9th Cir.).

¹⁹ 605 F.3d 1067 (9th Cir. 2010).

state's requirement that they satisfy their legal financial obligations in order to vote. Ms. Abudu and the ACLU argued that the law amounted to a poll tax in violation of the Twenty-Fourth Amendment and the Fourteenth Amendment's equal protection clause. Additionally, Ms. Abudu represented South Carolina voters and third-party voter registration organizations who challenged a state voter photo identification law as a violation of Section 5 of the Voting Rights Act.²⁰

Ms. Abudu's work protecting and defending the voting rights of individuals demonstrates her deep and overarching commitment to the preservation of our constitutional democracy. She has devoted her career to upholding the rights granted to all by the Constitution and has done so with excellence and integrity.

Civil and Religious Liberties

In addition to her extensive experience in voting rights, Ms. Abudu has litigated a wide variety of discrimination and civil rights cases, varying from housing to employment, disability, and police accountability.²¹ She has represented both criminal defendants and clients whose rights have been violated by public and private entities.

In *CAIR Florida v. Miami-Dade County*,²² Ms. Abudu represented incarcerated individuals who were denied Halal meals in accordance with their Muslim religious beliefs. Ms. Abudu argued that this denial constituted a violation of the Fourteenth Amendment's Equal Protection Clause as the jail made dietary accommodations for people of Christian and Jewish faith. Over 35 Muslim inmates had registered complaints about being served non-Halal meals despite the county jail's faith-based meals policy. Ms. Abudu and co-counsel ultimately settled the case in a manner which resulted in their clients receiving Halal meals and accommodations for Ramadan.

Ms. Abudu also represented Benjamin Newmark, a Hasidic Jew and police officer who alleged he was subjected to religious discrimination during his

²⁰ *South Carolina v. United States*, 898 F. Supp. 2d 30 (D.D.C. 2012).

²¹ Questionnaire for Judicial Nominees at 45.

²² *CAIR Florida v. Miami-Dade County*, Case No. CAIR Florida v. Miami-Dade County (S.D. Fl. Sep. 3, 2015).

employment with a sheriff's office in Collier County, Florida.²³ Specifically, Mr. Newmark alleged that his supervisors retaliated against him for requesting accommodations to keep his beard, for wearing a yarmulke underneath his police hat and for requesting time off on the Sabbath.²⁴ Mr. Newmark also alleged he had been called anti-Semitic slurs by co-workers, and pressured to eat pork and other prohibited foods in violation of his beliefs. Ms. Abudu brought a religious discrimination suit on behalf on Mr. Newark stating, "The way Mr. Newmark was treated by the staff and leadership of the Collier County Sheriff's Office is absolutely unacceptable...All of us have a right to our own religious beliefs."²⁵

Ms. Abudu's extensive record defending the civil rights and civil liberties of all demonstrates her profound commitment to equal justice under the law. Her record of litigation demonstrates a rigorous work ethic, a commitment to public service and an unwavering commitment to justice that make her well suited for judicial service. Moreover, Ms. Abudu's extensive courtroom experience in all facets of litigation renders her eminently qualified to serve on the Court of Appeals for the Eleventh Circuit.

Conclusion

Ms. Abudu is an extremely experienced litigator who has devoted her career to protecting and strengthening our democracy. The American Bar Association conducted an assessment of Ms. Abudu's competence, integrity, and temperament and rated her *Well Qualified*.²⁶ Public trust in the judiciary is crucial to its function and is bolstered when the bench better reflects the communities it serves.²⁷ Additionally, this diversity of professional and lived experiences also improves

²³ *Newmark v. Rambosk*, Case No: 2:15-cv-263-FtM-29CM (M.D. Fla. Aug. 2, 2016).

²⁴ *Suit: Jewish employee harassed by Collier sheriff's office*, Naples News (Apr. 27, 2015), <https://archive.naplesnews.com/news/local/suit-jewish-employee-harassed-by-collier-sheriffs-office-ep-1058187009-338014931.html/>

²⁵ *Id.*

²⁶ American Bar Association, Standing Committee on the Federal Judiciary, *Ratings of Article III Judicial Nominees*, 117th Congress (last updated Apr. 20, 2022). Available at https://www.americanbar.org/content/dam/aba/administrative/government_affairs_office/webratingchart-117.pdf.

²⁷ See Sen, Maya, *Diversity, Qualifications, and Ideology: How Female and Minority Judges Have Changed, or Not Changed, Over Time*, 2017 Wis. L. Rev. 367 (2017).



judicial decision-making.²⁸ Ms. Abudu’s nomination will bring much needed professional and demographic diversity to the Court of Appeals for the Eleventh Circuit. If confirmed, she will be the first Black woman to ever serve on the Eleventh Circuit.²⁹ The breadth and depth of Ms. Abudu’s professional and lived experiences make her well suited to not only succeed as an appellate judge but to also have a positive impact in diversifying perspectives on the appellate bench and making the Eleventh Circuit more representative of the litigants it serves.

We urge her swift confirmation without reservation.

Sincerely,

Janai Nelson
President-Director Counsel
NAACP Legal Defense & Educational
Fund
40 Rector Street
5th Floor
New York, NY 10006
jnelson@naacpldf.org

²⁸ Kate Berry, *Building a Diverse Bench: Selecting Federal Magistrate and Bankruptcy Judges*, Brennan Center for Justice and American Bar Association Judicial Division (2017).

²⁹ Associated Press, *Biden nominee Nancy Gbana Abudu could be 1st Black woman judge on 11th Circuit Court of Appeals*, Alabama.com (Dec. 23, 2022), <https://www.al.com/news/2021/12/biden-nominee-nancy-gbana-abudu-could-be-1st-black-woman-judge-on-11th-circuit-court-of-appeals.html>.