

February 11, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

RE: Judicial Diversity in Maryland

Dear President Obama:

The undersigned civil rights organizations urge you, in the strongest possible terms, to nominate one of the many eminently qualified African American candidates from Maryland to the current vacancy on the U.S. Court of Appeals for the Fourth Circuit. This person would replace Judge Andre Davis when he assumes senior status at the end of February.

In our view, it is critical that the Maryland nominee to replace Judge Davis continue his path-breaking role in diversifying the Fourth Circuit with African American representation. Judge Davis is the first and only African American ever to hold a Maryland seat on the Fourth Circuit. His confirmation to the Fourth Circuit in 2009 was “a long time coming,” as the New York Times noted. He was originally nominated to the seat in 2000 by President Clinton as part of an effort to integrate the Fourth Circuit, which had never had an African American judge up to that point. Unfortunately, Judge Davis’s nomination was blocked by the Senate, and the seat remained open during President George W. Bush’s administration. Shortly after taking office, you appointed Judge Davis to the seat.

We sincerely hope that Judge Davis’s replacement will continue the unique role that he has played as a legal exemplar in the increasingly racially diverse state of Maryland. Thirty percent of Maryland’s residents are African American, giving it the highest percentage of African Americans of any state within the Fourth Circuit. With this significant population, the Maryland bar has a wide array of talented lawyers and judges who could serve with excellence and distinction as federal circuit court judges.

It is essential that Maryland should not lose the hard-fought diversity it has finally achieved on the Fourth Circuit. African Americans have played a seminal role in legal developments in the state, with broader ramifications throughout the nation. For decades, Maryland has served as home to the NAACP’s national headquarters. Maryland is the birthplace of Thurgood Marshall and it is where Marshall began his crusade to integrate American society. Maryland continues to be a jurisdiction of powerful civil rights advocacy and lawyering.

Justice Marshall's career indicates the important role that a diverse bench can play in enhancing judicial process and judicial decision-making. As Associate Justice Byron White once noted: "[Justice Marshall] could tell us the way it was, and he did so convincingly, often embellishing with humorous, sometimes hair-raising, stories straight from his own past. He characteristically would tell us things that we knew but would rather forget; and he told us that we did not know due to the limitations of our own experiences."¹ We need to continue that tradition of diversity on the Maryland bench, as well as throughout the nation.

Appointing an African American candidate to the Maryland vacancy would contribute substantially to your impressive efforts to diversify the appellate courts nationally and ensure that the gains you have achieved are not lost before the end of your second term. We applaud your commitment to changing the face of the federal judiciary so that it more accurately reflects our nation's rich diversity. But with no African American circuit nominees pending before the Senate, the opportunity to nominate an African American from Maryland comes at a critical time. We also urge you to consider the many African American female lawyers and judges in Maryland who could sit on the Fourth Circuit. Only eight African American women have ever served on our nation's appellate courts. Of the seven such judges who are active, three will be eligible to take senior status during your second term. It is vitally important that we continue to make progress in diversifying the bench and not lose ground due to retirements.

In conclusion, we strongly urge you to ensure that Maryland's racial diversity continues to be reflected in its judiciary, a process which you began by appointing Judge Davis five years ago. Thank you for your attention to this important issue.

Respectfully yours,

A. Phillip Randolph Institute
Black Women's Roundtable
Coalition of Black Trade Unionists
Lawyers' Committee for Civil Rights Under Law
NAACP
NAACP Legal Defense & Educational Fund, Inc.
National Coalition on Black Civic Participation
National Council of Negro Women, Inc.
National Urban League and the Greater Baltimore Urban League
Rainbow PUSH Coalition

cc: Valerie Jarrett, Senior Advisor to the President
Kathryn Ruemmler, Counsel to the President

¹ Justice Byron R. White, *A Tribute to Justice Thurgood Marshall*, 44 STAN. L. REV. 1215, 1216 (1992).