

June 6, 2018

Dear Senator,

On behalf of Alliance for Justice, a nationwide alliance representing 130 groups committed to justice and civil rights, I write to oppose the confirmation of J. Campbell Barker to the United States District Court for the Eastern District of Texas.

Since 2015, Barker has served as the Deputy Solicitor General for Texas. In that role, Barker has fought immigrant rights and efforts to protect the environment; defended Texas's discriminatory voter ID laws and unconstitutional restrictions on women's access to an abortion; and defended businesses that discriminate against LGBTQ Americans. In addition, both as a private attorney and in government, Barker challenged the Affordable Care Act.

Barker also worked on a highly controversial case in which Texas sought to retry a man with an intellectual disability who, after his murder conviction was overturned on appeal, spent 32 years in prison. In addition, Barker defended the state's efforts to execute an African-American man based, in part, on a psychologist's testimony that the defendant's race made him statistically more likely to commit a violent crime.

Given that much of Barker's work has been done in an official capacity in state government, some context is relevant here. In the past, Senate Republicans have made it clear that they believe individual judicial nominees are responsible for the entirety of their records, regardless of whether their activities were carried out as government officials, as attorneys representing clients, in business, or in their personal capacity as private citizens. For example, in 2013, now-Senate Judiciary Chair Chuck Grassley opposed Caitlin Halligan's nomination to the D.C. Circuit based on a brief she signed at the New York Solicitor's Office, as follows: "Some of my colleagues have argued that we should not consider this aspect of [Caitlin] Halligan's record, because at the time she was working as the Solicitor General of New York. But, no one forced Ms. Halligan to approve and sign this brief."

More recent statements by Senator Cruz reinforce the standard that Republicans have espoused: that it is within bounds to oppose a judicial nominee based on acts carried out as part of an official government job. Sen. Cruz noted when explaining his vote against another nominee in the Senate Judiciary Committee in May 2018, "his record as Attorney General of Hawaii, I believe, represents an advocacy position that is extreme and inconsistent with fidelity to law, in particular, he was an aggressive advocate as attorney general for gay marriage, he was an aggressive advocate demonstrating hostility to the First Amendment and political speech, and most significantly, he was-he is an aggressive advocate for undermining the Second Amendment."

Throughout his career, J. Campbell Barker's advocacy record has shown his troubling dedication to dismantling environmental protections. His aggressive advocacy has shown hostility to the rights of women, people of color, immigrants, LGBTQ Americans, and subverted notions of justice in Texas. For these reasons, Alliance for Justice strongly opposes his confirmation to a lifetime seat on the federal bench.

Given all these concerns, and as detailed in our report on his nomination issued prior to his hearing, which can be found at the following link, <https://www.afj.org/wp-content/uploads/2018/05/Barker-FINAL-Full-Report.pdf>, we ask the Judiciary Committee to reject J. Campbell Barker for the United States District Court for the Eastern District of Texas.

We stand ready to answer any questions you may have about our conclusions regarding this nominee.

Sincerely,

A handwritten signature in black ink, appearing to read "Nan Aron". The signature is fluid and cursive, with the first name "Nan" and the last name "Aron" clearly distinguishable.

Nan Aron