

AMUL THAPAR

Amul Thapar, currently a judge on the U.S. Court of Appeals for the Sixth Circuit, is on President Trump's shortlist for the Supreme Court

PROTECTIONS FOR THE WEALTHY AND POWERFUL OVER RIGHTS OF ALL

Thapar consistently sides with the wealthy and the powerful at the expense of everyday people. He has [repeatedly affirmed](#) his desire to tie the hands of the agencies that Congress has recognized as having the knowledge and experience to enforce critical laws, safeguard public protections, and ensure the health and safety of the public.

Thapar has also taken the position that it should be more difficult for workers, consumers, middle class Americans, and small business owners to hold corporations and bad actors accountable. For example, unlike a majority of the Sixth Circuit, Thapar would have [prevented](#) Flint, Michigan residents Shari Guerten and her daughter, who drank and bathed in lead-tainted water, from suing state and city officials for exposing them to contaminated water.

Thapar cast the deciding vote in a decision to [uphold](#) a Michigan law that automatically suspends the drivers' licenses of low-income people who are unable to pay traffic fines. The law was challenged by two single mothers who were unable to pay the fines they received for traffic infractions. As a result of losing her license, one of the mothers was forced to turn down a better job that would have required her to drive to work.

Thapar has repeatedly sided with corporations at the expense of workers, including allowing a [cable company](#) to unlawfully deny benefits to a sick employee and allowing the Tennessee Valley Authority to [slash pension benefits](#). In 2018, Thapar [ruled](#) against 1,600 workers who were victims of wage theft by extending the Supreme Court's decision in *Epic Systems*, which dealt with arbitration under the National Labor Relations Act, to claims under the Fair Labor Standards Act.

Thapar also would have [prevented](#) a woman from bringing a pregnancy discrimination lawsuit under Title VII against her employer who fired her after she became pregnant and then "pressured" her into signing a severance agreement that included waiving civil rights claims. Thapar's position was that she should be denied legal recourse even though she had returned the severance to her employer.

As a district court judge, Thapar [ruled](#) for a nurse who knew of a pretrial detainee's need for diabetic medication but did not provide him with insulin or emergency room care, instead going on a five-day vacation while leaving the detainee without medical care. The detainee died after two days in jail without insulin. Thapar's ruling was [overturned](#) on appeal.

Thapar would have [denied](#) reimbursement of attorney fees to a person who successfully argued that he was improperly denied disability benefits he was entitled to under law. Thapar's decision was [reversed](#) on appeal, but if it had stood, his decision would have made it more difficult for attorneys to collect fees, thereby making it more challenging for individuals with limited means to get legal representation and pursue meritorious claims in court.

In 2018, Thapar sat on a Federalist Society Convention panel with Third Circuit judge Thomas Hardiman. Hardiman [announced](#): "If I were able to do something unilaterally, I would probably institute a new federal rule that said that all cases worth less than \$500,000 will be tried without any discovery." In response, Thapar replied, "Can I say amen?" Such a rule would enable corporations and those who commit wrongdoing to

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hide critical evidence and deprive those with modest-dollar cases of their ability to argue their case in court, including individuals whose cases involve important rights.

REPRODUCTIVE RIGHTS

President Trump has again and again reminded us that he will only put justices on the Supreme Court who will pass his litmus test of overturning *Roe v. Wade*. Trump said [overturning Roe](#) “will happen automatically... because I am putting pro-life justices on the court.”

In 2019, Thapar [joined](#) a majority with three other Trump nominees on the Sixth Circuit to allow Ohio to eliminate state funding for Planned Parenthood. The decision rested on the false premise that “plaintiffs do not have a Fourteenth Amendment right to perform abortions” and that “[t]he Supreme Court has never identified a freestanding right to perform abortions.” This holding jeopardizes Ohioans’ access to vital, affordable health care, including STI testing, HIV/AIDS treatment, breast and ovarian cancer screenings, and access to contraception.

Thapar has also been highly [critical](#) of substantive due process, an essential constitutional doctrine for women’s rights.

SEXUAL ASSAULT

On the Sixth Circuit, Thapar [ruled, contrary](#) to other courts that have addressed the issue, that due process requires parties to be cross-examined in university proceedings established to address incidents of sexual assault. A concurring judge, dissenting from Thapar’s proposition that parties must be afforded the opportunity to cross-examine each other, called it “a bridge too far.”

Moreover, Thapar allowed the named perpetrator to bring a Title IX claim against the school on the grounds that the proceedings were “anti-male” and demonstrated “gender-bias.” The dissent argued “there was no categorical preference shown ... for or against statements by men versus women,” and there was “no basis to reasonably infer that the [university] declined to rely on the statements made by Doe and his witnesses simply *because they were men.*”

Thapar also [ruled](#) against a teenage girl who was sexually assaulted by an older classmate. The girl’s parents brought a Title IX claim after the assailant was allowed to transfer back to the same high school as the girl he assaulted. His return to school resulted in renewed trauma for the survivor, impacting her performance in school and on her sports team. Thapar minimized the trauma she endured, claiming “while we wish we lived in a world where schools could prevent the kind of *discomfort* [she] suffered, we do not” [emphasis added].

LGBTQ EQUALITY

Thapar [rejected](#) a claim of workplace harassment by an employee who had been repeatedly groped and verbally harassed, because Thapar believed there was no “credible evidence that the harasser was homosexual.” The victim in the case was an oil rig worker who was sexually harassed until he was forced to leave his job. Thapar argued that because the employee had failed to prove that his harasser was homosexual, he could not prove that the physical and verbal harassment he experienced was based on his gender. Thapar’s narrow view of same-sex sexual harassment allows workplace predators to go unpunished and was [rejected](#) by [multiple federal courts](#) in similar cases.

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CRIMINAL JUSTICE

Thapar has a troubling record on holding police officers accountable for violence against suspects. In 2018, Thapar joined a [decision](#) affirming that an Akron police officer had qualified immunity and would not face liability for shooting and killing a suspect in the back as he ran away from officers, following a questionable stop and subsequent altercation with police. Thapar also joined an [opinion](#) reversing a district court opinion that denied qualified immunity for police officers who released a police dog on a suspect after he had already raised his hands up and surrendered.

In a [speech](#) before the Federalist Society, Thapar said that he believes certain sentencing policies do not do enough to punish offenders. Thapar has a [record](#) of troubling opinions, including a case in which he tried to send Sister Megan Rice, an [84-year old nun](#), to jail for almost three years for breaking into a government facility during a pacifist protest.

In 2019, Thapar [joined](#) an opinion that reinstated the fifteen-year sentence of James Walker, a 65-year-old man who was convicted of possessing thirteen bullets that he had found in a rooming house he managed and removed for safekeeping. The sentence was based on an erroneous interpretation of the Armed Career Criminal Act and a 2016 Supreme Court ruling and resulted in sending Walker to prison for seven more years. When Walker requested a rehearing, Thapar and the other five Trump-appointed judges on the 6th Circuit refused to reconsider the decision, despite a strongly worded dissent by George W. Bush-appointed judge Kethledge, who called on the court to “correct our own mistakes.”

Thapar also [dissented](#) from an opinion which held in part that the failure of a defendant's lawyer to advise him on the risk of deportation stemming from his criminal plea agreement constituted ineffective assistance of counsel. Thapar's dissent minimized the impact of effective assistance of counsel in plea agreements, when he argued that “[t]he impact of today's decision could be wide-reaching ... After today, any time an attorney fails to inform a defendant about any direct consequence of a plea agreement, a defendant may have a right to negotiate again. And so we should expect to see all manner of [] motions by defendants claiming they got bad advice ... All will be admittedly guilty, but all will want their chance at a better deal. And every one of them will have been 'prejudiced.'”

MONEY IN POLITICS

As a district court judge, Thapar [struck down](#) Kentucky ethics rules for judicial candidates, including a ban on judges making political contributions to political parties. If upheld, his legal reasoning would have granted the wealthy and powerful even more influence in our elections. Thapar argued that “direct speech and monetary speech are functional equivalents,” and that strict scrutiny applies to limits on campaign contributions, even though the Supreme Court has always made clear that contribution limits are permissible. His ruling on three key provisions, including the one concerning political contributions, was [overturned](#). The Sixth Circuit, in an opinion by a George W. Bush appointee, emphasized that there is a difference between speech and using money to “assume a role as political powerbroker[.]” and that “judicial candidates... do not have an unlimited right to contribute money to someone else's campaign.”