

BRETT KAVANAUGH

President Trump's nominee to the Supreme Court, Brett Kavanaugh, has a troubling record on issues that affect persons of color. His rulings and philosophy represent a serious threat to racial equity and civil rights. From Brown v. Board to discrimination in housing, employment and public spaces to determining whether police can engage in racially discriminatory stop-and-frisk profiling, the Supreme Court has played a critical role in cases that directly impact the lives of communities of color. In a lifetime tenure on the Supreme Court, Kavanaugh would turn back the clock on the civil rights progress of the last several decades.

VOTING RIGHTS

Federal judges are essential in protecting the right to vote. Congress passed the Voting Rights Act of 1965 to address states' use of literacy tests, poll taxes, and grandfather clauses to keep people of color from exercising the right to vote, and it was the courts that ensured proper enforcement of this critical law. In recent years, however, ultraconservative judges have led an assault on voting rights. In 2013, five Supreme Court justices found a key provision of the Voting Rights Act unconstitutional. That gave a green light to draconian voter ID laws. Just this year, the Court allowed states to purge voters from registration rolls and upheld legislative districts created to dilute minority votes. These decisions all disproportionately impact communities of color.

As a judge, Kavanaugh upheld a South Carolina voter photo-ID law. The U.S. Department of Justice had previously blocked the law in 2011 for violating the Voting Rights Act, finding that more than 80,000 people of color who were registered to vote did not have the newly required ID, and registered voters of color were 20% more likely to lack the ID than white registered voters. When South Carolina sought approval in federal court after making adjustments to the law's implementation, Kavanaugh wrote that the law did "not have a discriminatory retrogressive effect" and "was not enacted for a discriminatory purpose[.]" and refused to join an opinion by his fellow judges which reaffirmed the importance of the Voting Rights Act.

EQUAL EMPLOYMENT OPPORTUNITIES

Federal judges are critical in ensuring that all persons have an equal opportunity to be hired, promoted, receive equal pay for equal work, and be free from harassment in the work place. Federal laws, including the Civil Rights Act of 1964, are meant to ensure that workers are judged by their talent, ability, and qualifications, not their race, sex, national origin, age, disability, sexual orientation or gender identity. Furthermore, they determine whether workers are able to pursue claims against employers that violate these rights or to unite in strong unions to advocate for fair treatment in the workplace.

As a judge, Kavanaugh has denied employees protections under anti-discrimination laws. In one case, Kavanaugh dismissed an African-American employee's claim of racial discrimination after he was denied a promotion that went to a white employee. Kavanaugh accepted the employer's claim that the employee wasn't promoted because he lacked a specific skill, even though the skill was never listed as a job requirement. A dissenting judge said there was evidence that the employer's claim was "fabricated to mask unlawful discrimination."

In another case, Kavanaugh disagreed with a majority ruling on an African-American employee's right to pursue a claim of discrimination. The employee sued for racial discrimination and retaliation when she was fired from her job as a senior advisor to the Chief Administrative Officer of the U.S. House of Representatives. The majority of his colleagues on the panel ruled that the employee had the right to sue. Kavanaugh disagreed.

CRIMINAL JUSTICE

Federal courts oversee thousands of criminal trials, and judges' decisions directly impact the safety, rights, and legal protections of all Americans. Supreme Court justices help apply federal criminal laws, interpreting and applying critical constitutional protections to ensure that the criminal justice system treats all people equally.

As a judge, Kavanaugh ruled for the police in a case of stop-and-frisk, when police officers stopped an African-American man who "vaguely matched" the description of an armed robber. The police patted the man down for weapons but found nothing. Later, the officers unzipped the man's coat without his consent and found a gun. Kavanaugh ruled in favor of convicting the man on weapons charges, causing another judge on the panel to warn that the Fourth Amendment would be "soon be a dead letter" in the D.C. Circuit if the ruling was allowed to stand. When the case was reheard later by the full D.C. Circuit, Kavanaugh's ruling was overturned.