

AFJ NOMINEE REPORT

**LAWRENCE**

**VANDYKE**

*U.S. Court of Appeals for the Ninth Circuit*

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# INTRODUCTION

On October 15, 2019, President Trump [nominated](#) Lawrence VanDyke to the United States Court of Appeals for the Ninth Circuit, for the seat held by Jay S. Bybee, who will be taking senior status. VanDyke has tenuous ties to Nevada and does not have the [support](#) of the state's senators. If VanDyke is confirmed, along with other pending nominees, he will be the tenth Trump judge on the Ninth Circuit. There will be 16 judges appointed by Democratic presidents and 13 judges appointed by Republican presidents.

When Lawrence VanDyke ran for Montana Supreme Court, six retired Montana Supreme Court Judges [wrote](#) in opposition to his candidacy, "Montanans deserve fair, impartial, independent and non-partisan judges and justices elected by Montana voters—not political hacks, bought and paid for by out of state dark money."

What they wrote in 2014 is even more applicable here.

President Trump – who has repeatedly attacked the Ninth Circuit (a "[big thorn](#)," a "[dangerous disgrace](#)," a "[complete & total disaster](#)," and "[out of control](#)") – knows VanDyke will be a reliable vote to erode critical legal protections. At no time in his career has VanDyke demonstrated he is

anything more than a fierce partisan, more interested in advancing ultraconservative policies than the law. He will not be a fair-minded, unbiased judge neutrally applying facts to law. In fact, he has repeatedly shown he is committed to undermining clean air and clean water, eroding women's access to reproductive health, attacking LGBTQ equality, and weakening civil rights and access to public education

VanDyke's record of aggressive advocacy for partisan and right-wing causes suggests he will be unable to act as an independent, fair-minded jurist. Alliance for Justice strongly opposes VanDyke's confirmation.

## BIOGRAPHY

Lawrence VanDyke received a Bachelor of Science in 1997 and a Masters Degree in 2000, both in engineering, from Montana State University. He then earned a theology degree from Bear Valley Bible Institute in 2002. Bear Valley's [doctrinal](#) statement says that women should "assum[e] a submissive position."

He went on to receive his J.D. from Harvard Law School in 2005, where he was a member of the Federalist Society (and has been a member since). After his first year of law school, he spent his summer working at the Alliance Defense Fund, now called

the [Alliance Defending Freedom](#) (ADF). ADF is virulently anti-LGBTQ and has been labeled a [hate group](#) by the Southern Poverty Law Center (SPLC). VanDyke [participated in](#) ADF's [controversial](#) Blackstone Legal Fellowship, which promotes the criminalization of abortion, advocates against the rights of LGBTQ people, and favors organized prayer in government and public school settings. ADF [promoted](#) VanDyke as an allied attorney as recently as 2011. VanDyke has used his platform as a conservative movement lawyer to mentor others through ADF's Blackstone Legal Fellowship program, including [enlisting](#) them to help with research while he was Solicitor General of Montana. VanDyke spoke to lawyers and law students at least twice at Alliance Defending Freedom events.

While at Harvard, VanDyke published an article, titled "Not Your Daddy's Fundamentalism, Intelligent Design in the Classroom," (discussed in greater detail below in the Education section) arguing that it was constitutional to teach creationism in public schools. The [book note](#) attracted widespread criticism and accusations of intellectual dishonesty.

After graduating law school, he clerked for Judge Janice Rogers Brown on the D.C. Circuit Court of Appeals. He then moved to private practice at Gibson, Dunn, & Crutcher.

In 2012, VanDyke became an Assistant Solicitor General of Texas before returning to Montana in 2013 when he was appointed Solicitor General. In that role, he "[placed](#) a special emphasis on writing amicus briefs supporting gun rights and anti-abortion laws." One such brief asked the Supreme Court to reconsider *Roe v. Wade*.

He resigned that post in 2014 and ran for the Montana Supreme Court. VanDyke received a substantial portion of his campaign funding from out-of-state [political allies](#), like Carrie Severino of the Judicial Crisis Network and Trump's Secretary of Labor Eugene Scalia. The Koch Brothers [funneled](#) \$170,000 to support him. He also enjoyed the support of the [Family Research Council](#), another SPLC-designated [hate group](#). Montana Gas & Oil PAC [maxed out](#) their contributions to him, and a third party distributed [mailers](#) with VanDyke's face beside an oil pumpjack and pipeline, asserting "Lawrence VanDyke will protect Montana jobs from environmental extremists." In response to a call for public financing of judicial races, VanDyke [argued](#) there was a benefit to "dark money" spending.

Throughout the campaign, VanDyke strongly criticized plaintiff-side attorneys in Montana. In a stump speech to the Chamber of Commerce, he [complained](#) the Ninth Circuit had a pro-plaintiff and anti-business bias. He [accused](#) the "trial

lawyer money machine” of “dumping hundreds of thousands of dollars” into the race in an effort to “make sure their favorite guy gets elected.” Going even further, he suggested that trial lawyers contributed to his opponent in exchange for more favorable treatment when their cases would later come before him as a judge, “spending huge sums of money to get justices on the court who will make sure they get big attorney fee awards, whether they deserve it or not.” VanDyke ultimately [lost](#) the Montana Supreme Court race 59.1%-40.9%.

In 2015, the Republican Attorney General of Nevada hired VanDyke and he worked there until 2019. He then joined the Trump Justice Department’s Environment and Natural Resources Division, where he currently serves as Deputy Assistant Attorney General under Jeffrey Clark. [Clark](#) is an outspoken denier of climate change, in addition to having a well-documented history of opposing public health and environmental protections.

## LACK OF TIES TO NEVADA

It bears noting that VanDyke was nominated to fill a Nevada seat on the Ninth Circuit despite having very tenuous ties to the state. VanDyke did not grow up

in Nevada, does not appear to own property in the state, does not seem to have family ties to the state, and was only an active member of the Nevada State Bar for two years (after waiting two years to take the state bar exam). VanDyke is currently a resident of Manassas, Virginia, a suburb of Washington, D.C. He was born in Texas and attended high school and college in Montana and Oklahoma. After graduating from Harvard Law School in 2005, VanDyke spent the next decade of his career in Washington, D.C., Texas, and Montana. In 2015, after an unsuccessful run for a seat on the Montana Supreme Court, the Republican Attorney General in Nevada threw him a lifeline and gave him a job as state Solicitor General, despite having never lived or practiced law in Nevada. As soon as his political appointment ended, VanDyke ended his brief stint in Nevada to move back to Washington, D.C.

At a Judiciary Committee [hearing](#) on March 7, 2019, Senator Dianne Feinstein said, in response to the nomination of Daniel Bress, “I don’t understand why the White House would choose someone with such a limited connection to [California].” Chairman Lindsay Graham appeared to agree: “[h]aving a nominee with very little connection to California bothers me.” Ultimately, Graham was satisfied with Bress’s connections to the state after supporters argued he was born and raised there, had family ties, had been a member

of the California bar his entire career, and ostensibly even had a law office in San Francisco at the time of his nomination. Nothing similar can be said about VanDyke.<sup>1</sup>

# HYPERPARTISAN MOVEMENT LAWYER

Illustrative of his approach to the law – advancing his own personal ideology over neutral application of law – is his work as Solicitor General in Montana and Nevada where VanDyke was far more interested in joining amicus briefs regarding controversial partisan issues than doing the day-to-day work of defending state laws. Public [emails](#) from his time in Montana indicate that VanDyke spent much of his time poring through briefs from other states, including those concerning gun safety measures (like those attacking bans on semiautomatic weapons), defending abortion bans, bans on same-sex marriage, and attacking access to contraceptives under the Affordable Care Act.

His record, moreover, clearly shows that his decisions were based on political considerations, not legal arguments. In an email regarding an Establishment Clause case, he wrote that he did not even read a

brief that another state drafted before [signing](#) his name in support. On challenging age limits for firearms, he [wrote](#), “I’m not sure I agree with the strategy of bringing this case to the SCOTUS, but I think we want to be on the record as on the side of gun rights (and the NRA).” On challenging the federal prohibition on straw-man purchases where a person with a clean background check purchases a firearm for a person who would otherwise be prohibited from purchasing a gun, he [wrote](#) “I haven’t really given the case much thought. Since it involves guns, I would think there is a good chance we might join it if someone writes a brief.” He also [advocated](#) for defending a law that took the position that the federal government could not regulate guns that were manufactured and sold in Montana despite admitting that he had “trouble coming up with any plausible (much less good) arguments of how to get around [existing Supreme Court precedent].” In an email soliciting potential arguments, he expressed concern that his legal reasoning would not “pass[] the straight-face test.”

VanDyke, too, consistently put his ideology above the law and the people he represented. In Montana, VanDyke [advocated](#) for signing on to an Alabama comment letter that challenged the Affordable Care Act’s contraception mandate, even though taking that position went squarely against Montana

law; the state supreme court had previously ruled that insurance plans must cover contraception. In another instance, although Montana had a buffer zone law to protect women entering abortion clinics (and VanDyke's job was to defend the laws of Montana), VanDyke supported a challenge to a similar Massachusetts law. Moreover, while in Montana, he [signed](#) onto a brief to support a Nevada law banning same-sex marriage even though then Nevada Attorney General Cortez Masto and the state's Republican Governor Brian Sandoval [decided](#) not to defend the law in court.

In Nevada, he joined with three mining companies to [oppose](#) land use restrictions issued by the Department of the Interior that were intended to protect the habitat of the Greater Sage-grouse, a bird that is nearing extinction. Many Nevadans did not support the lawsuit, including the Republican governor of the state, who said it did "not represent the state of Nevada, the governor or any state agencies." In another instance, while Nevada Solicitor General, after Nevada voters passed an initiative that would require background checks before private gun transfers, his office [announced](#) that it would not implement the measure.

In contrast, in other cases VanDyke was often disinterested or claimed to be too busy. For example, he [refused](#) to work on one case (dealing with same sex marriage,

a position he agreed with) and revealed that he had little to no experience dealing with discovery and expert testimony: "the immediate tasks in that case are something I have little experience with...(discovery wrangling, experts, stipulations, and a meet and confer with opposing counsel)." As his colleague wrote in [response](#), "You're the First Amendment expert and Solicitor. Are you saying you won't work on this in any capacity even if [the case] were reassigned? If so, there is nothing for us to talk about." VanDyke [complained](#) about having to defend another Montana statute, calling it a "misallocation of resources" for him to work on the case, which he characterized as a "slam dunk loser."

Perhaps this is why his former [colleague](#) referred to VanDyke as a "charlatan," who "quit his job, in a tantrum, because he didn't want to work." One review provides a stark perspective on his abilities: "Ever since he has arrived, Mr. VanDyke has been arrogant and disrespectful to others, both in and outside of this office. He avoids work. He does not have the skills to perform, nor desire to learn how to perform, the work of a lawyer. Now that he has resigned and refuses to work on cases assigned to him, while remaining on the payroll for the next several months..." The office's chief of staff seemed to [agree](#) with the colleague's scathing review, writing "your frustration does not exceed ours,"

making clear that VanDyke's reputation was widely acknowledged in the office.

If VanDyke's short time as Solicitor General in Montana and Nevada is at all indicative of his approach to the law, it is likely that he will be disinterested in the work of neutral judging, and more focused on finding ways to bend the law to his ideological will.

## ENVIRONMENT

While serving as Solicitor General of Montana and, subsequently, Nevada, VanDyke regularly attacked clean air and water initiatives; and since joining the Trump Justice Department, has defended the Trump Administration's roll-back of environmental protections. VanDyke himself ran his failed Montana Supreme Court race on an anti-environment stance, and with the [funding](#) of fossil fuel companies seeking access to public lands for drilling and mining. He criticized the incumbent justice for having a pro-environment perspective, [attacking](#) Justice Wheat for stating on his website that he is a "defender of Montana's constitutional right to a clean and healthful environment."

### I. CLEAN AIR

In *State of West Virginia v. EPA*, VanDyke [filed](#) an amicus brief challenging the Clean Power Plan (CPP). As environmental advocates [explained](#), the CPP was projected to "cut the electric sector's carbon pollution by 32 percent nationally" and in addition "[e]conomists believe[d] that in 2030, the Clean Power Plan could save the country \$20 billion in climate-related costs and deliver \$14 billion to \$34 billion in health benefits." This included preventing over 90,000 asthma attacks in children. VanDyke accused the EPA of construing its authority in a "breathtakingly expansive fashion." The conservative majority on the Supreme Court stayed the rule and the issue was made largely moot, when, in 2019, Trump's EPA [killed](#) the CPP and replaced it with a much [weaker](#) plan.

### II. CLEAN WATER

As Solicitor General of Nevada, VanDyke worked with several states to roll back environmental protections aimed at curtailing pollution from mining into streams and waterways.

In *North Dakota v. EPA*, VanDyke joined a lawsuit that sought to invalidate the Obama Administration's expansion of the Clean Water Act (CWA). The EPA announced in 2015 that it was broadening the definition of "Waters of the United



States” so that more bodies of water were protected by the CWA. The expansion only effected around [3%](#) of the nation’s waterways, however, the lawsuit [claimed](#) that the new regulation was a gross overreach of government power that would cause states “unrecoverable monetary harm.” The [purpose](#) of the rule was to protect vital streams and wetlands that provide drinking water for over 117 million Americans, filter pollution, and reduce the impacts of flooding and erosion.

VanDyke also authored an article arguing that the expansion of the scope of the CWA was an egregious agency power-grab that imposed “financial and regulatory burdens on states.” He concluded: “Subscribing to the delusions of King Midas, the agencies would chill federalism in the belief that they can perfect any water they touch.” In addition, during a panel hosted by the Claremont Institute, an organization whose president [believes](#) that “multiculturalism and its politics of identity pose an existential threat to the American political order,” VanDyke [complained](#) that “the EPA and the Army Corps have been trying to expand the meaning of the ‘Waters of the US’...in order to expand their authority.”

### III. THREATS TO ANIMALS AND PUBLIC LANDS

As Solicitor General of Nevada, VanDyke joined with three mining companies to [oppose](#) land use restrictions issued by the Department of the Interior that were intended to protect the habitat of the Greater Sage-grouse, a bird that is facing serious [decline](#). VanDyke complained that it was a “top-down policy” and argued that there was “a lack of scientific data to support new restrictions,” despite widespread [evidence](#) that land use and human development is threatening their habitat. Many Nevadans did not support the lawsuit, including Republican Governor Brian Sandoval who [said](#) the lawsuit “does not represent the state of Nevada, the governor or any state agencies.”

VanDyke’s position in the lawsuit would have opened ten million acres of public land for potential drilling and mining, threatening countless species and the long-term enjoyment of the land by all Nevadans.

In *Washington v. Murr*, VanDyke [led](#) eight other states in filing an amicus brief that challenged an obscure Wisconsin zoning law. The case was brought by property owners who argued that the government had reduced the value of their land by imposing a regulation that required

housing lots to be bigger, and therefore, that the government should compensate them for their loss. The court sided with the government.

## IV. DEFENDING TRUMP'S ATTACK ON THE ENVIRONMENT

His opposition to environmental regulations earned him his most recent job as Deputy Assistant Attorney General for the Environmental and Natural Resources Division (ENRD) of the Department of Justice. Among other responsibilities, ENRD is in charge of representing federal agencies in litigation over environmental policy, natural resources, public lands, and Native American tribes. VanDyke joined ENRD shortly after Trump-appointee and outspoken climate change denier, Jeffrey Clark, was confirmed to head the division. VanDyke and Clark had worked together before, including on the lawsuit challenging Obama Clean Air Act regulations.

As Bloomberg has [noted](#), "VanDyke joined the Justice Department in April and has helped defend against several high-profile lawsuits involving the Trump administration's efforts to bolster energy development on public lands, including litigation over oil and gas development near New Mexico's Chaco Canyon; federal royalty rates for production of federal fossil

fuels; and the Bureau of Safety and Environmental Enforcement's rollback of some safety rules for offshore drilling."

He is currently [defending](#) a lawsuit brought by the Sierra Club and the state of California against the Bureau of Land Management for its decision to revoke hydraulic fracturing ("fracking") regulations on federal and tribal lands that the Obama Administration put in place. In addition, he is [defending](#) the Trump Administration against multiple lawsuits brought by environmental groups who are suing the government for its decision to reopen the Keystone Pipeline project. More specifically, the groups claim that the U.S. Army Corps of Engineers failed to review the potential for oil spills and other environmental damage before signing off on plans submitted by the pipeline developer.

In response to these claims, VanDyke told the judge that Trump enjoys "broad authority to revisit, reverse and undo prior decisions."

Based on his work so far, VanDyke will certainly bring his agenda to weaken public protections for clean air and clean water with him to the federal bench.

# REPRODUCTIVE RIGHTS

As Solicitor General of Montana, VanDyke [prioritized](#) litigation that advanced his extreme anti-woman agenda. He [submitted](#) an amicus brief to the Supreme Court in support of Arizona's twenty-week abortion ban, arguing that "an unborn child can feel pain by twenty weeks' gestation." In this brief, VanDyke even asked the justices to reconsider *Roe v. Wade*. He [cited](#) "laws criminalizing the cruel infliction of pain on animals" as support for his argument that states should be able to restrict abortion beyond the parameters of *Roe*.

He also supported [challenging](#) the legality of "buffer zones," which create a small zone outside of clinics through which patients and providers can enter without facing harassment from protesters. Although Montana had a similar buffer zone law to protect clinic entrances, VanDyke supported a challenge to Massachusetts' buffer zone law, demonstrating his tendency to prioritize his conservative ideology over his actual job, which was to defend the laws of Montana.

# LGBTQ EQUALITY

VanDyke worked as an allied attorney and a Blackstone Fellow for Alliance Defending Freedom (ADF) [which](#), "has supported the recriminalization of homosexuality in the U.S. and criminalization abroad; has defended state-sanctioned sterilization of trans people abroad; has linked homosexuality to pedophilia and claims that a 'homosexual agenda' will destroy Christianity and society." In addition, Southern Poverty Law Center [noted](#) that "[s]ince the election of President Donald Trump, the ADF has become one of the most influential groups informing the administration's attack on LGBT[Q] rights working with an ally in [then] Attorney General Jeff Sessions."

In an [article](#) for the Harvard Law Record, VanDyke promoted the myth that same-sex marriage and families will harm children and society and that LGBTQ people are deviant and dangerous. He argued that "antidiscrimination laws are currently being used as effective weapons" against those who were free to discriminate before the protections were in place. In the same article, he writes favorably about conversion therapy, claiming that, "police investigated a bishop for his advocacy of the view that

homosexuals can leave the homosexual lifestyle (substantiated, incidentally, in a recent study by Robert Spitzner, the man who led the charge in the 1970's to delist homosexuality as a mental disorder).” Notably, Spitzner himself has [apologized](#) for his previous research on conversion therapy, and recanted his study.

While in Montana, VanDyke [regularly supported](#) bans on same-sex marriage in other states (including contrary to the wishes of Nevada's elected officials). He joined a brief in [support](#) of DOMA. He also [joined](#) an amicus brief in a case over whether a photography company violated a New Mexico antidiscrimination law by refusing to photograph a same-sex wedding. The brief [argued](#) that the photographer should be able to refuse to provide her services to a same-sex couple based on her personal opposition to same-sex marriage.

He also [filed](#) an amicus brief in a case challenging the constitutionality of a Hastings College of Law policy that prohibited student groups from discriminating against LGBTQ people in membership.

## EDUCATION

As Solicitor General of Nevada, VanDyke [defended](#) the state's school voucher program, which allowed parents to use

taxpayer money to pay for their children's private school tuition. While in private practice, he also [joined](#) an amicus brief in support of an Arizona state law, which provided a tax credit for individuals who made donations to religious schools.

While at Harvard, VanDyke published an article arguing that it was constitutional to teach intelligent design in public schools. Intelligent design is a variation of [creationism](#), which the Supreme Court ruled in 1987 could not be taught in public schools. Holding that the teaching of creationism violated the Establishment Clause of the Constitution, a 7-2 Supreme Court majority [rejected](#) the practice as “impermissibly endor[s] religion.” Despite this clear ruling, VanDyke argued that intelligent design is supported by enough evidence to be taught in schools, a strained conclusion that scholars have labeled [“incompetent nonsense,” “insipid and error-filled,”](#) and [“scientifically baseless.”](#)

In addition to his promotion of a pseudoscientific school curriculum and a rejected theory of constitutional law, VanDyke's article misquoted Harvard biology professor Richard Lewontin. VanDyke portrayed Lewontin as supporting his advancement of intelligent design – when in fact, Lewontin had explicitly [denounced](#) it – by adding an erroneous word to his quote which changed the meaning entirely.

As one person [wrote](#) about VanDyke:

Mr. VanDyke may yet have a fine career as a lawyer, but I trust he has no intention of entering law teaching: scholarly fraud is, I fear, an inauspicious beginning for an aspiring law teacher. And let none of the many law professors who are readers of this site be mistaken: Mr. VanDyke has perpetrated (intentionally or otherwise) a scholarly fraud, one that may have political and pedagogical consequences.

## CIVIL RIGHTS

As Solicitor General for the State of Nevada, VanDyke [joined](#) prison payphone providers in challenging a Federal Communications Commission (FCC) rule capping rates on phone calls from prisons, which can reach as high as \$10 per minute. This rule was overturned during the Trump Administration and Trump's new FCC Chair refused to defend the rule.

He has [written](#) in opposition to fair hiring policies that prohibit employers from asking applicants to disclose their criminal history on applications. According to the National Employment Law Project, about one-third of Americans have arrest or conviction records. This has “devastating effects” on the employment prospects of

people of color in light of “decades of excessive policing and over-criminalization.” NELP asserts, “Ban-the-box is working, both by increasing employment opportunities for people with records and by changing employer attitudes toward hiring people with records.”

VanDyke apparently disagrees, [writing that](#), “The so-called ‘ban the box’ movement is another example of burdensome, if well-meaning, regulations. To help individuals with a criminal background reenter the workforce, these rules prohibit employers from inquiring about criminal history until after extending an offer. While employers are allowed to rescind an offer upon learning about a past conviction that may call into question an applicant’s capacity to do the job in question, these jurisdictions often make it procedurally difficult to withdraw an offer—even where there is good reason.”

## CONSUMERS’ RIGHTS

During VanDyke’s time as Solicitor General of Montana, he [sued](#) to invalidate the Dodd-Frank Act. His brief asserted that the Consumer Financial Protection Bureau unconstitutionally vested power in a single director rather than a board, that its

mandate violated the nondelegation doctrine by lacking an intelligible principle, and that the circumstances of the director's recess appointment violated the Appointments Clause.

The Dodd-Frank Act has served a vital role in protecting consumers since the 2008 financial crisis. VanDyke's hostility towards this important legislation demonstrates his disdain for regulations designed to protect the lives of everyday people.

## WORKERS' RIGHTS

During his time as Solicitor General of Nevada, VanDyke [led](#) a 22-state coalition in a lawsuit to stop the Obama Administration's overtime rule. He listed his work on this case in his Senate Judiciary Committee questionnaire among his "most significant legal activities." The rule, issued by the Department of Labor, raised the salary cut-off for overtime eligibility, which would have meant that about [4 million](#) workers would be entitled to overtime pay. In his brief, VanDyke wrote that the Obama administration was attempting "to wield its rule as a battering-ram to force a species of minimum wage through the backdoor, without congressional approval."

## NATIVE AMERICAN RIGHTS

VanDyke [filed](#) an amicus brief in *Coachella Water Valley Dist. v. Agua Caliente Band of Cahuilla Indians*, a case that asked whether a tribe had a federally-reserved right to the groundwater under their reservation. The Agua Caliente Reservation was formally established by the federal government in the later 19th century. Due to the arid desert climate, water is scarce in the region, and the tribe sued a state water distributor to enforce their right to groundwater beneath the reservation. In finding for the Agua Caliente Tribe, the Ninth Circuit held that the government intended to reserve water rights when it established the reservation and that this included a right to groundwater. In support of an appeal to the Supreme Court, VanDyke filed an amicus brief arguing that it was a "nebulous claim that the federal reservation's purpose included the need for water."

# IMMIGRATION

VanDyke opposed expansion of Deferred Action for Childhood Arrivals (DACA); as Nevada Solicitor General the state joined a lawsuit blocking the program.<sup>2</sup> He also [supported](#) President Trump's efforts to withhold federal funding from jurisdictions that limit cooperation with federal immigration detainer requests (so called "sanctuary cities").

# CONCLUSION

Throughout his career, Lawrence VanDyke has shown his dedication to serving partisan interests at the expense of clean air, clean water, reproductive rights, LGBTQ equality, criminal justice, and education. His record suggests that he will be far more interested in advancing his agenda than in doing the day-to-day work of a judge. He has advocated for ideologically extreme positions. For these reasons, Alliance for Justice strongly opposes his confirmation to a lifetime seat on the federal bench.

## ENDNOTES

- 1 Also relevant, in 2011, Senator Ron Johnson of Wisconsin blocked the nomination of Victoria Nourse, President Obama's nominee to the Seventh Circuit, because she "really has very little connection to the state of Wisconsin, and nobody in the legal community knows anything about her." In fact, Nourse had been a professor of law at the University of Wisconsin-Madison since 1994 – 16 years at the time of her nomination.
- 2 *Texas v. United States*, 809 F.3d 134 (Nov 9, 2015)