Nomination of Cory Wilson

U.S. Court of Appeals for the Fifth Circuit
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Alliance for Justice Report:

Cory Wilson

Introduction

On October 15, 2019, President Trump nominated Cory Wilson to the United States District Court for the Southern District of Mississippi. On March 30, 2020, before he had been considered by the Senate, Trump withdrew his nomination to the district court and nominated him to the Fifth Circuit, where he would have even greater power to determine the rights of the American people.

Like many of Trump's nominees to the federal bench, Wilson is an ideologue committed to using the power of the judiciary to implement ultraconservative policies, not to be a neutral, unbiased jurist. Those who enter his courtroom will have significant reason to doubt Wilson's impartiality or dispassionate application of facts to law. Alliance for Justice strongly opposes his confirmation.

For just over a year, Wilson has served as a state court judge in Mississippi. Before that, he served in the Mississippi House of Representatives and various government, legal, and academic jobs. Wilson's record as a legislator, his prolific presence on social media, and his op-ed writings, paint a picture of a deeply partisan political actor. In fact, much of his record consists of dutifully parroting the right-wing media's talking points of the day. He lamented the imagined "War on Christmas," hammered the Obama Administration for investing in the solar panel company Solyndra, and repeated the "Crooked Hillary" nickname.

Wilson's nomination to the Fifth Circuit comes after Trump's first choice for the spot, Judge Sul Ozerden, was vigorously opposed by Senate Republicans, including Ted Cruz, and right-wing organizations because Ozerden dismissed a case, without prejudice, challenging rules under the Affordable Care Act (ACA). Since regulations were not yet final, Ozerden found the case wasn’t ripe (in other words, he applied rules learned by every first-year law student). At his hearing, Ted Cruz directly asked Ozerden if he’s ever “been affiliated with the conservative movement.” Apparently not satisfied with his answers, Ozerden was withdrawn and Wilson nominated in his stead.

In Wilson, Trump and Senate Republicans have found certainly found someone who meets their ideological litmus tests, including in his commitment to take away health care from millions.
Judicial Temperament

Wilson has not hesitated to make broad, insulting generalizations about those who disagree with him politically, showing a lack of respect for his opponents and a narrow mind about the issues he is likely to confront as a federal judge. For example, in an op-ed, he claimed that his wife’s parameters for their Thanksgiving location were “no state that voted Democrat.” He said that an “intellectually honest Democrat” was a “rare sighting” and “exotic creature.”

He repeatedly demeaned President Obama, who he referred to as “King Barack,” “petty and small,” a “fit-throwing teenager,” and the “Anointed One.” He attacked Obama for playing golf (there is no similar criticism of President Trump’s far-more prolific golf outings), labeled Obama a “radical leftist,” “shrill, dishonest, and intellectually bankrupt,” and accused Obama of running the “most paranoid and politicized White House since Nixon’s.” He said those who support Obama were drinking “Kool-Aid” – which would include over 528,000 Mississippians in 2012. He described taking “an old-fashioned great American road trip,” before sniping, “[b]efore the Obama EPA makes those illegal.” He bemoaned that “Success is the root of all evil. Every kid gets a trophy. And the favored kids get a green-energy grant/Obamacare waiver/union payoff.”

Wilson peddled right-wing talking points about Hillary Clinton email server and the Clinton Foundation. He called her “criminal and clueless,” pondered whether she is “felony dumb or willfully ignorant,” and accused her of destroying documents under subpoena, a charge which the FBI found no evidence to support. Clinton hasn’t been his only target. He also publicly called Congresswoman Alexandria Ocasio-Cortez a “claptrap.”

These kinds of comments led Senator Mitt Romney to vote against another Trump nominee Michael Truncale for the Eastern District of Texas. After Truncale’s similar statements about President Obama, calling him “un-American,” came to light, Senator Romney stated, “He made particularly disparaging comments about President Obama… I just couldn’t subscribe to that in a federal judge.” Senator Romney was absolutely correct – statements like these are unbecoming of a federal judge and should be disqualifying.

Wilson has also ruthlessly attacked the press with comments that undermine his ability to properly protect the First Amendment. He asserted, “The ‘media’ are now so slanted as to be dangerously unreliable.” “The legacy media have largely abdicated their vital function of speaking truth to power. Democrats get a free pass; Republicans get ‘accountability’; Tea Partiers get mocked.” He wrote, “The mainstream media seem to be actively rigging the 2012 election.” “Sort of like President Obama’s miserable record in office, the media’s heavy left slant has now been so frequently pointed out, with clear evidence, that it becomes background noise.”

It is not just his temperament, however, that raises serious concerns. As is clear from his record, he intends to use the courts to advance a dangerous agenda.
Health Care

President Trump explicitly said he would nominate judges who are hostile to the Affordable Care Act (ACA), and who “will do the right thing unlike Bush’s appointee John Roberts on Obamacare.” Wilson meets that test. If he could, evidence suggests that he would eliminate protections for 130 million people with preexisting conditions and take away health insurance from millions of Americans.

- He called the ACA “illegitimate” and “perverse” because it passed without Republican votes. By this logic, the Republican giveaway to the wealthiest Americans (the Tax Cut and Jobs Act of 2017) was also illegitimate, as it passed on a party-line vote without any support from Democrats.
- Wilson also said the Supreme Court should invalidate the ACA: “For the sake of the Constitution, I hope the Court strikes down the law and reinvigorates some semblance of the limited government the Founders intended.”
- He called the ACA “big intrusive government,” and said, “Obamacare is less about healthcare than it is about redistribution of wealth and power.” In fact, the ACA insured over 20 million Americans, cutting America’s uninsured population in half.
- Wilson opposed the expansion of Medicaid in Mississippi, calling it the “ever-expanding welfare state.” This refusal to expand Medicaid has been disastrous, perhaps even deadly in its failure to cover the roughly 100,000 Mississipians who would have qualified for coverage under the proposed expansion.
- Wilson supports banning embryonic stem cell research, critical research used to discover new treatments for a range of life-threatening diseases.

Reproductive Rights

President Trump made clear that he will only nominate judges who 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.” Wilson, who called the “war on women” “certainly phony,” meets that test as well.

- Wilson bemoaned that “[f]orty years on, we still live under Roe v. Wade, the result of a liberal activist court.” He “support[s] the complete and immediate reversal of the Roe v. Wade and Doe v. Bolton decisions.”
- As a legislator, Wilson voted for HB 732, to prohibit abortions after a heartbeat can be detected in a fetus. This can be as early as six
weeks, before most individuals even realize they are pregnant. He also **supported** a 15-week abortion ban.

- As a legislator, he **voted** to defund Planned Parenthood.
- Wilson signed an **amicus brief** in *Whole Woman's Health v. Hellerstedt* in support of Texas’s restrictive abortion law that required doctors at abortion clinics to get admitting privileges at local hospitals; the Supreme Court later held that this practice violated the Constitution.
- Wilson **supports** requiring that any “mother” considering an abortion must first be provided with information about a fetus’ capacity to feel pain.

**LGBTQ Rights**

- Wilson opposes marriage equality. He **said** that “gay marriage is a pander to liberal interest groups and an attempt to cast Republicans as intolerant, uncaring and even bigoted.” He **criticized** the media for “fawning media praise” on “Obama’s enlightened 'evolution' toward gay marriage,” while “merely pay[ing] lip service to the conviction held by many that homosexual marriage is wrong, or at least a marked departure from a few thousand years of social order.”
- He **wrote** that “[p]rivate citizens who dare oppose marriage ‘equality’ (read: full sanction of homosexual marriage) will now be bashed, banned, and bankrupted, simply for expressing their views.”
- As a legislator, Wilson **voted** to allow businesses to refuse service to LGBTQ persons and individuals who have sex outside of marriage. The U.S. District Court for the Southern District of Mississippi later enjoined the law, before the Fifth Circuit ultimately **reversed** on standing grounds. Judge Carlton Reeves **wrote** that, “[HB 1523] creates a vehicle for state-sanctioned discrimination on the basis of sexual orientation and gender identity.” It is disturbing that Wilson supported such a law to undermine the rights of so many Mississippians.

**Voting Rights**

- Wilson is a **strong supporter** of voter ID laws and purges from voter rolls, both practices which have resulted in thousands of voters losing their rights. From 2008 to 2011, he served as Deputy Secretary of State and Chief of Staff to Mississippi’s Secretary of State. While in this position, his office sponsored a voter ID petition that was later implemented in Mississippi. Speaking about this time, Wilson **wrote**: “Bloated voter rolls are a problem in Mississippi. Removing long-gone voters from the rolls was a focus during Secretary of State Delbert Hosemann’s
first term. I participated in the hard push for real progress while I was Delbert’s Deputy, but the problem persists. It also shows why voter ID is important. Without ID, anyone can show up for a person on the rolls.”

- Mississippi has a long-documented history of voter suppression and intimidation. Yet, Wilson criticized the Justice Department for sending election observers to the state. He suggested that these election observers instead focus on “voter fraud,” an incredibly rare phenomenon more often used as an excuse to implement restrictive laws that prevent young people, tribal communities, and people of color from voting. He also derided the Obama administration’s concern about voter suppression. In an op-ed he wrote, “The Rachel Maddows of the media world have joined the chorus of ‘voter suppression’ right on cue from Team Obama. This is as phony as the ‘war on women.’”

- Following his time in the Secretary of States’ office, Wilson published a series of op-eds spreading misinformation about election fraud. In one he wrote, “Voter fraud happens, and we proved that voter ID can work to help.” After the NAACP voiced its concerns over a proposed Mississippi voter ID law, Wilson said the fears were “poppycock. Unless you count the dead vote.”

- Wilson also went after other civil rights organizations. In one op-ed he wrote, “With evil like this afoot, the ACLU and other rent-a-mobs naturally will join the hunt for the GOP bogeyman, by whatever means.”

- After attending a meeting in 2012 to hear then-Attorney General Eric Holder discuss his rationale for opposing voter ID laws, Wilson wrote that “Holder whined, like many liberals, that voter ID laws are part of an illegitimate, orchestrated effort by Republicans to suppress poor and minority voting.” In the same article, Wilson also accused the Obama administration of “smear[ing] anyone who simply wants fair and clean elections as seeking to use neutral voter identification at the polls to suppress votes.” He then added, “Isn’t that ironic? Or is tyranny the better word?”

**Gun Safety**

- In an NRA questionnaire, Wilson indicated that he would be against “any additional restrictive state legislation regulating firearms,” and that he believes gun laws should be less restrictive in Mississippi, even though it already has the most permissive gun laws in the country.

- As a legislator, he supported authorizing concealed carry on any public property. He also voted to authorize individuals to carry firearms in churches and places of worship.
Conclusion

Throughout his career, Cory Wilson has advocated for ideologically extreme positions. He has repeatedly demonstrated that he is a partisan zealot whose main concern is dismantling critical protections. It is particularly egregious that, as we face a pandemic that has already claimed the lives of over 80,000 people in this country, Trump has selected a nominee who believes the courts should invalidate the ACA and take away health care from millions. For these reasons, Alliance for Justice strongly opposes his confirmation to a lifetime seat on the Fifth Circuit.