

April 30, 2019

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 Andrew Brasher to the United States District Court for the Middle District of Alabama.

In Alabama, and across the country, Brasher has fought against rights for communities of color, women and LGBTQ communities, as well as consumer, worker and environmental protections. Brasher has a long record of affiliations with far-right groups, including the Koch-backed and Scott Pruitt-led “Rule of Law Defense Fund.”

Brasher’s record on eroding rights for persons of color should alone be disqualifying. He filed an amicus brief in *Shelby County v. Holder* that supported eroding the Voting Rights Act. He defended Alabama’s harsh felon anti-voter law that, according to one study, disenfranchises over 286,000 Alabamians. Brasher was involved in a lawsuit arguing it is unconstitutional for the Census Bureau to count non-citizens. He has a history of defending unconstitutional racial gerrymanders in Alabama and Virginia, and in his personal capacity has criticized the Supreme Court’s efforts to remedy racial gerrymanders. Brasher also supported an unconstitutional Florida law mandating universal drug testing for Florida Temporary Assistance for Needy Families (TANF) applicants that the Eleventh Circuit found stripped away “legitimate expectations of privacy” for thousands simply “by virtue of [their] poverty.”

Further, in his personal capacity, Brasher has questioned the validity of *Planned Parenthood v. Casey*. In 2014, Brasher, on behalf of the Attorney General of Alabama, told an anti-choice crowd, “The ACLU and Planned Parenthood want a fight and we will give them one.” Given these views, it is no surprise that as Solicitor General of Alabama, Brasher has consistently fought against rights of women. He challenged critical contraceptive coverage under the Affordable Care Act and defended unconstitutional laws. For example, Brasher defended a law, found unconstitutional by a court, that would allow a judge to appoint an attorney for a fetus and the district attorney to call witnesses to testify regarding a mother’s maturity.

Brasher has also attacked LGBTQ rights. He filed a brief opposing marriage equality in *Obergefell*, defended Alabama’s ban on marriage equality, and donated to the political campaign of a judge who supported conversion therapy.

Brasher has also fought against workers, consumers, and the environment. He defended a law that retaliated against the Alabama Education Association by restricting its members’ ability to pay dues to the Association unless it stopped engaging in any political activity. He has repeatedly opposed the right of individuals to band together to hold corporations accountable. He challenged the constitutionality of the Dodd-Frank Act and has attacked safeguards that protect America’s clean air, streams, wetlands and safe drinking water.

Finally, Brasher repeatedly defended unconstitutional practices that raise questions regarding his commitment to a constitutional criminal justice system. He defended the practice that allowed judges to overrule juries and impose the death penalty. He sought the death penalty for a defendant with mental illness despite the state's failure to provide sufficient access to a competent psychiatrist as required under federal law, and he advocated for the position that children can be imprisoned for life with no possibility of parole.

While many of his statements and positions were in his personal capacity, as the Senate reviews the troubling positions Brasher took as a solicitor general of Alabama it's important to note that Senate Republicans have previously articulated their belief that legal work done in an official government capacity is entirely subject to scrutiny as part of the judicial nomination process. As former-Judiciary Committee Chairman Chuck Grassley said in opposing Caitlin Halligan, then Solicitor General of New York, to be a judge on the D.C. Circuit, "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."

Likewise, as Sen. Ted Cruz stated in May 2018, opposing Mark Bennett's nomination to the Ninth Circuit based on Bennett's work as Hawaii Attorney General, "[Bennett's] record as Attorney General of Hawaii, I believe, represents an advocacy position that is extreme and inconsistent with fidelity to law."

As detailed more fully in our fact sheet on his nomination issued prior to his hearing, which can be found at the following link <https://www.afj.org/our-work/nominees/andrew-brasher>, Brasher's record in the Alabama attorney's general's office represents an "advocacy position that is extreme." Alliance for Justice strongly opposes his confirmation, and the Senate should reject Andrew Brasher's nomination for the District Court for the Middle District of Alabama.

Sincerely,



Nan Aron