

June 19, 2018

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 David Porter to the United States Court of Appeals for the Third Circuit.

Importantly, one of Pennsylvania's U.S. senators, Sen. Bob Casey, has chosen to withhold his blue slip on Porter's nomination. Sen. Casey had made clear prior to this nomination that he was willing to work with the White House to find consensus on nominees other than Porter; in fact, Sen. Casey returned his blue slip on Stephanos Bibas even though he opposed Bibas's confirmation, and he has supported Trump's nominees to the district courts in Pennsylvania.

Yet despite Sen. Casey's good-faith efforts to work with the White House, Porter's nomination was fast-tracked from the start without consultation with Sen. Casey. The White House decided to nominate Porter to the Third Circuit just four months after he first expressed interest in the position. Since then, by Porter's own admission, he has had no interactions with Sen. Casey, and remarkably the White House notified Porter he was being nominated several weeks before they even told Pennsylvania's senior senator.

Given these facts, it is particularly troubling that in allowing the Porter nomination to go forward, Chairman Grassley is enabling the White House to run roughshod over Sen. Casey's rights. It is also clear that Chairman Grassley is treating Sen. Casey differently than he treated Sen. Pat Toomey under identical circumstances. Chairman Grassley, just two years ago, respected Sen. Toomey's decision not to return the blue slip on President Obama's nomination of Rebecca Haywood to the Third Circuit. The Chairman did not schedule a hearing, nor did Haywood receive a committee vote. If she had been confirmed, Haywood, chief of the Appeals Division in the U.S. Attorney's Office in the Western District of Pennsylvania and rated well qualified by the ABA, would have been the first African-American woman on the Third Circuit.

The disrespect shown to Sen. Casey throughout the nomination process is outrageous and on its own warrants opposition to Porter's confirmation. However, our opposition is also based on a full assessment of Porter's record. Porter's career has been marked by fidelity to highly ideological and partisan missions, and, as thousands of Pennsylvanians who know him and have made clear, Porter is hostile to the civil and human rights progress of recent decades.

Porter vocally opposed the legality of the Affordable Care Act, critical legislation that has ensured health care for millions of Americans. Further, in a 2012 article for the Center for Vision & Values, Porter suggested that landmark Supreme Court decisions that upheld the National Labor Relations Act, the Fair Labor Standards Act and federal civil rights laws "stretch[ed]" the

Constitution. In the same article, Porter praised the Supreme Court's ruling in *United States v. Morrison*, which struck down part of the Violence Against Women Act.

He is also affiliated with several ultraconservative groups. Porter is a contributor to the Center for Vision & Values, a think tank at Grove City College, where he also serves as a trustee. Grove City College does not allow its students to accept federal financial aid to avoid complying with Title IX. The Princeton Review ranked Grove City College as one of the least LGBTQ friendly colleges in the country.

Finally, there are serious questions regarding Porter's veracity before the Judiciary Committee. For example, at his hearing Porter tried to deny any meaningful connection to the Pennsylvania offshoot of the Judicial Crisis Network and its vocal opposition to Justice Sonia Sotomayor. However, Porter appeared on the group's materials (and a website that has since been scrubbed) as a founding member. And JCN Chief Counsel Carrie Severino, in just April of this year, said that "Porter was part of a network of conservatives" that "organized in opposition to the confirmation of Judge Sonia Sotomayor to the Supreme Court."

As detailed more fully in our report on his nomination issued prior to his hearing, which can be found at the following link, <https://www.afj.org/our-work/nominees/david-porter>, it is deeply disturbing that Porter's nomination is being rammed through over the objections of Sen. Casey and tens of thousands of Pennsylvanians who have also come out in opposition to his candidacy. We ask the Judiciary Committee to oppose David Porter for the Third Circuit Court of Appeals.

Sincerely,



Nan Aron