

Dear Senator,

On behalf of Alliance for Justice (AFJ), a national association representing 130 groups committed to equal justice and civil rights, I write to oppose the confirmation of Lawrence VanDyke to the United States Court of Appeals for the Ninth Circuit.

Everything in VanDyke's background suggests he will not be able to serve as a fair-minded, unbiased jurist. It is clear that he has been nominated to this seat not because of his qualifications, but because his record clearly demonstrates that he will advance an ideological agenda as a judge—even when that agenda conflicts with settled law. This is evident in every position of public trust he has held.

As Solicitor General in Montana and Nevada, he repeatedly attacked the rights of women. He submitted an amicus brief in support of Arizona's twenty-week abortion ban, a position in direct conflict with Supreme Court precedent; in his brief, he asked the Supreme Court to reconsider *Roe v. Wade*. He challenged the Affordable Care Act's contraception coverage, going squarely against Montana law. He attacked 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, even though Montana (the state he was purportedly representing) had a similar buffer zone law to protect clinic entrances.

VanDyke's attacks on reasonable gun safety measures demonstrate a similar and disturbing pattern. While Nevada Solicitor General, his office announced that it would not implement a measure passed by Nevada voters that would require background checks before private gun transfers. He challenged age restrictions for firearm purchases, and he defended a law that took the legally dubious position that the federal government could not regulate guns that were manufactured and sold in Montana.

In Montana and Nevada, and in his current position in the Environmental and Natural Resources Division of the Justice Department, VanDyke has a record of hostility to protections for clean air and water. In one instance, he joined with three mining companies to challenge land use restrictions, a lawsuit Nevadans did not support, including the Republican governor of the state, who said the suit did "not represent the state of Nevada, the governor or any state agencies."

Moreover, the American Bar Association raised concerns about his ability to be "fair to persons who are gay, lesbian, or otherwise part of the LGBTQ community" as VanDyke spent his career causing harm to LGBTQ Americans. He has argued that "many studies raise concerns about gay parenting" and that there is "ample reason for concern that same-sex marriage will hurt families, and consequentially children and society." He wrote favorably about conversion therapy and has opposed antidiscrimination laws. He worked as an allied attorney and a Blackstone Fellow for Alliance Defending Freedom, 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." While in Montana, VanDyke regularly supported bans on same-sex marriage in other states, contrary to the wishes of Nevada's elected officials. He joined a brief in support of DOMA.

His efforts at his hearing to suggest that LGBTQ Americans could receive equal justice under law from him in the court room is belied by his decades of advocacy against equal rights. In fact, when VanDyke was asked by Senator Feinstein in written questions to disavow earlier hateful writings, he refused to, only noting that he “ha[s] not reviewed” additional research “and therefore do not have an informed opinion.”

Workers and consumers are unlikely to get a fair hearing from VanDyke. He took pride in leading an effort to attack a Department of Labor rule that would have secured overtime pay for four million Americans. He fought the ability of the federal government to protect consumers from unscrupulous banks by challenging the legality of the Dodd-Frank Act. Additionally, he demonstrated contempt for plaintiff side attorneys who represent employees and consumers.

Finally, VanDyke is being nominated to fill a Nevada seat on the Ninth Circuit despite having tenuous ties to the state and over the strong objections of both of Nevada’s senators. He did not grow up in Nevada, does not appear to own property in 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). His only connection to the state was the time he spent there as Solicitor General, a job that he received from Nevada’s Republican Attorney General after losing his campaign for a seat on the Montana Supreme Court. As soon as the job ended, VanDyke concluded his brief stint in Nevada and moved back to Washington, D.C.

There is little in VanDyke’s record to suggest he will be an independent, non-biased jurist instead of putting his partisan and ideological interests ahead of the law. Throughout his career, he has shown his dedication to serving partisan interests at the expense of clean air, clean water, reproductive rights, LGBTQ equality, workers, consumers, immigrants, and access to quality public education. Given these concerns, and as detailed in our [report](#) on his nomination issued prior to his hearing, we urge the Senate to reject Lawrence VanDyke’s nomination.

Sincerely,

A handwritten signature in black ink, appearing to read "Nan Aron". The signature is fluid and cursive, with the first name "Nan" and last name "Aron" clearly distinguishable.

Nan Aron