



June 6, 2018

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Grassley, Ranking Member Feinstein, and Committee Members:

On behalf of the hundreds of thousands of members of People For the American Way throughout the nation, we write to oppose the nomination of J. Campbell Barker to be a federal judge in the Eastern District of Texas.

As deputy solicitor for the state of Texas, Barker has urged judges to make a number of disturbing legal decisions. In his confirmation hearing, he failed to demonstrate that his positions as an advocate would have no bearing on his interpretations of the law as a judge. In fact, the record suggests that the contrary is true, and those positions are extremely disturbing.

The role of a judge is wholly different from that of an advocate, and nominees do not necessarily agree with the legal arguments they make as part of their zealous representation of their clients. This is especially so for the typical solo lawyer hanging his or her name on a shingle and taking on a variety of clients.

But that model is harder to apply to a lawyer who leaves his practice (where he was a partner) in order to work for a client known for its extreme legal and political positions. Rather than choosing his legal arguments to fit the client, Barker seems to have chosen a client to pursue his legal philosophy.

As deputy solicitor general, the nominee helped to:

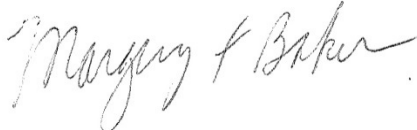
- Defend the state's 2011 voter ID law, which a district court twice concluded was passed with the intent to discriminate against racial minorities;
- Defend the state's 2013 Targeted Regulation of Abortion Providers (TRAP law) imposing needless burdens on women's access to abortion (and which the Supreme Court struck down as unconstitutional in *Whole Women's Health v. Hellerstedt*);
- Challenge the legality of the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) program, preventing it from going into effect; forum-shop for a specific judge known for injecting his personal right-wing anti-immigration political ideology into his decisions;
- Challenge the legality of the EPA's 2015 Clean Power Plan; and
- Urge the retrial of a man with an IQ of 51 who had been illegally imprisoned for 32 years after a court had overturned his conviction.

In these cases and others, Barker took legal positions that would disserve the country were he a federal judge.

- Voter ID: Judges should protect the right to vote as the foundation of all of our other rights, not peddle lies about voter fraud as an excuse to make it harder for certain targeted people to vote.
- TRAP laws: Judges should respect women’s constitutional right to abortion and not enable transparent efforts to create needless obstacles to prevent women from exercising that right.
- DAPA: Judges should respect the integrity of the nation’s judicial system, rather than use it cynically in an effort to hurt vulnerable populations. Judges should recognize that inflammatory and political statements from the bench cause significant damage to the judiciary and the nation.
- Clean Power Plan: Judges should recognize that the EPA was created and empowered to protect the environment, not to protect the profits of companies that harm the environment.
- Retrial of impaired victim of three decades of illegal imprisonment: Judges must recognize grave injustices and correct violations of due process—not try to repeat them.

Barker’s record has given rise to serious concerns about his ability to put his political ideology aside as a judge. He had an opportunity at his hearing to put those concerns to rest, but he did not do so. He has not demonstrated his suitability for a lifetime position on the bench, and we oppose his confirmation.

Sincerely,

A handwritten signature in cursive script that reads "Marge Baker".

Marge Baker
Executive Vice President for Policy and Program