



May 3, 2019

United States Senate  
Washington, DC 20510

Dear Senator:

On behalf of our 1.5 million supporters nationwide, People For the American Way opposes the nomination of Joseph Bianco of New York to be a judge on the Second Circuit Court of Appeals. Because he does not have the support of his home state senators, confirming him would worsen the Senate dysfunction that is harming both the upper chamber and the nation's judicial system.

The nominations of Bianco and fellow New Yorker Michael Park to the Second Circuit exemplify the breakdown in norms that—before the Trump/McConnell era—once allowed the parties to work together while identifying highly qualified consensus nominees for the federal bench. President Trump made a choice to bypass Sens. Schumer and Gillibrand. Judiciary Committee chairman Lindsey Graham then made a choice to advance the nominations over Schumer and Gillibrand's objections.

Now all 100 senators have to make a choice: Will they respect the courts, the Senate, their fellow senators, and their own authority by opposing a nominee who is not supported by his home state senators? Or will they continue down the road of staffing the federal judiciary under the banner of “might makes right?”

It is also deeply disturbing that Bianco has joined the many other judicial nominees of this White House in refusing to acknowledge that *Brown v. Board of Education* was rightly decided.<sup>i</sup> This represents a breathtaking and ominous step back from the long-established pre-Trumpian norm. Indeed, every current Supreme Court justice supported *Brown* at their confirmation hearings.<sup>ii</sup> A vote to confirm a nominee under these circumstances would put the Senate's stamp of approval on a dangerous shift in our legal, political, and cultural norms.

We urge you to vote against confirming Joseph Bianco to the Second Circuit.

Sincerely,

Marge Baker  
Executive Vice President for Policy and Program

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<sup>i</sup> Nomination of Joseph Bianco to the U.S. Court of Appeals for the Second Circuit, Questions For the Record, p. 39, <https://www.judiciary.senate.gov/download/bianco-responses-to-questions-for-the-record>.

<sup>ii</sup> “All Current SCOTUS Justices Supported *Brown v. Board* at Their Nominations Hearings — Why Won't Some of Trump's Nominees?” People For the American Way, Apr. 30, 2018, <http://www.pfaw.org/blog-posts/all-current-scotus-justices-supported-brown-v-board-at-their-nominations-hearings-why-wont-some-of-trumps-nominees/>. At the subsequent confirmation hearing for Justice Kennedy's replacement, Brett Kavanaugh called *Brown* “the single greatest moment in Supreme Court history.”