

February 1, 2022

Via email

The Honorable Richard Durbin
Chair, Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Nina Morrison to be United States District Judge

Dear Chair Durbin:

If appointed, I believe Nina Morrison will become an extraordinary and consequential federal judge, whether serving on the Second Circuit or the federal district court in the Southern or Eastern Districts.

After working directly with Nina at the Innocence Project for nearly twenty-years, I am well situated to attest to the enormous affection and respect she enjoys among her co-workers, clients, and their families, both in our office and across the country. The Innocence Project started as a clinical program at the Benjamin N. Cardozo School of Law in 1992. It is now an independent non-profit affiliated with Cardozo that employs more than 80 people and serves as the headquarters of the Innocence Network, 56 innocence organizations in the United States (almost all of them affiliated with law schools or public defender offices) and thirteen international organizations. It can be said without equivocation that Nina is treasured as a brilliant advocate, a thoughtful and empathetic human, a counselor with sound judgment and a wonderful sense of humor. We will miss her enormously. But her appointment to the federal bench will be celebrated throughout the country as a strong affirmation that the Biden administration recognizes exonerating the innocent and reforming the criminal and civil legal systems through caselaw, legislation, and good science constitutes the kind of special experience and qualification one needs to be a good judge in these challenging but very exciting times.

Nina has personally exonerated thirty clients and assisted colleagues in so many others I've lost count. She has first-hand experience persuading prosecutors, police, judges, and defense lawyers that they made serious errors. Those are difficult conversations. She understands how cognitive biases can systematically mislead all the stakeholders in the system and how a rigorous marshalling of the facts, the law, and the science, combined with wonderful writing, civility, and charm can change minds. She has worked with rare insight and creativity on legislation, ethical rules, bar complaints and groundbreaking civil rights lawsuits to remedy the causes of wrongful convictions. Her decade of work on the Michael Morton case resulted in an exoneration that shook the foundations of the Texas legal community and the first successful prosecution of a prosecutor in the United States for deliberately suppressing Brady material. This victory led to the passage of the

Michael Morton Act that has become a model for computer assisted open file discovery, “Brady orders,” and reform of bar complaint procedures. Michael Morton himself became a critical spokesman for discovery reform in New York. Texas law enforcement officials readily acknowledge the Morton case was a landmark event that fundamentally changed the criminal legal system in Texas for the better. And Michael Morton is only one of many extraordinary exonerations Nina has pulled off in Texas. I believe her work on the Robert Jones exoneration in New Orleans, and the Monell case she has litigated with Alan Vinegrad and his fantastic colleagues at Covington, will have similar impact in Louisiana and across the country in showing that civil rights claims can succeed when there is pattern of Brady violations in a prosecutor’s office, notwithstanding the Supreme Court’s decision in *Connick v. Thompson*.

Nina’s collaboration with a new generation of “progressive prosecutors” and “conviction integrity units” represents an important breakthrough in the way we do business in the criminal legal system. Her letter of support from Miriam Krinsky, Executive Director of Fair and Just Prosecution, makes this point beautifully. It also mentions another quality that will serve Nina well on the bench and in chambers – she’s a very good teacher. Clear, to the point, insightful about underlying trends in the development of caselaw, and a very good editor.

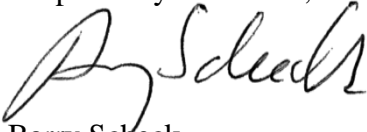
The exoneration cases have infused Nina with a passion for justice but also humility and a holistic view of the criminal and civil legal systems. As one of the original “innocence lawyers,” Nina has hewed closely to the mission and the method -- as much as possible, a non-adversarial search for truth and justice, a truly valuable and unusual background for a jurist. You can see the impact of this approach from the support for her candidacy generated from conservative judges, lawyers, and prosecutors. Nina would be the first federal judge from the ranks of the innocence community, and we couldn’t find a better candidate. But I’d like to call your attention to the wonderful work of Chief Justice Bridget McCormack of the Michigan Supreme Court, who spent formative years starting and running Michigan Innocence Project. She has been an amazingly effective and progressive jurist, who manages to form majorities and win the respect from all in a closely divided court. I’ve known Bridget since she was a law student at NYU (a few years before Nina) and she tells me that her experience as an innocence lawyer was wonderful preparation for the bench. Nina not only has that background, but she shares a rare personal quality with Bridget that would serve her well on the appellate bench – she’s a very shrewd and persuasive negotiator who knows how to get to yes on matters of importance.

Because she has spent two decades doing “innocence work,” Nina has learned a great deal about molecular genetics, neuroscience, experimental psychology (especially in the areas of eyewitness identification and false confessions) as well as advocacy in state and federal courts, trials, post-conviction, and appeals, and the informal problem-solving skills that make human institutions seeking justice work. She is known as both a “straight shooter” and a superb tactician who is always thinking five steps ahead of everyone else.

She is brilliant, amazingly energetic, a great writer, and our “happy warrior.” She’s always upbeat regardless of personal or professional pressures (it’s not easy to be a single mom, primary caregiver, and a litigator) and always hilarious in a way that is witty and in no way mean. She will treat lawyers, litigants, and staff with respect, civility, and patience. She talks fast but she really listens. She doesn’t make snap judgments. Personally, I’ve always believed those are critical character traits for a judge, regardless of their background or political orientation.

Finally, I would like to emphasize part of Nina's background that I believe helped her become a great lawyer and a very good person – she began her legal career doing capital mitigation investigation under the supervision of Scharlette Holdman, a genius who really invented mitigation, and Scharlette's lawyer protégé, Bryan Stevenson. To do mitigation one must learn to talk, understand, and empathize with the families of persons who were murdered. At the same time, one must learn to talk, empathize, and understand clients on death row. It requires grace, and what Seamus Heaney described in *The Cure at Troy* as “the utter, self-revealing Double-take of feeling” one can find on “the far side of revenge.” It's a quality I've seen Nina display many times over twenty years in the way she relates to our clients and their families who have suffered so much. Because she started as a mitigator, Nina will never lose sight of the humanity of the people who come before her court, on either side, and what the case means to them.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry Scheck". The signature is fluid and cursive, with a large initial "B" and "S".

Barry Scheck

Co-Founder, Innocence Project
Professor of Law, Benjamin N. Cardozo School of Law
Partner, Neufeld Scheck & Brustin