



October 20th, 2017

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Dear Senate Judiciary Committee Members,

I am writing on behalf of the National Center for Transgender Equality (NCTE) to oppose the nomination of Gregory Katsas for the United States Court of Appeals for the District of Columbia Circuit. NCTE was established in 2003 to advocate for fairness, opportunity, and well-being for the nearly two million Americans who are transgender. The D.C. Circuit regularly handles momentous cases involving civil and constitutional rights and its judges must serve as an independent check on decisions by the Executive branch. Mr. Katsas's work as a senior White House lawyer for President Trump, together with his troubling constitutional views and his refusal to commit to recuse himself from cases involving divisive policy decisions he himself played a role in making, disqualify him from appointment to the nation's second most important court.

Mr. Katsas currently works for President Trump as Deputy White House Counsel. At his October 17 hearing, Katsas admitted he was involved in numerous divisive and legally questionable White House decisions including:

- An Executive Order and Justice Department memo asserting a sweeping license to discriminate in the name of religion;
- Cancelling the DACA program and putting young immigrant Americans at risk of deportation;
- President Trump's notorious Muslim travel ban and refugee ban;
- The sham voter suppression commission headed by Vice President Pence; and,
- The October 6 rule limiting access to contraception.

Despite helping shape these Trump administration actions, Katsas refused to commit to recusing himself from cases challenging these policies.

As a senior Trump White House lawyer, Katsas would necessarily have been involved in designing other decisions undermining the freedom, dignity, and legal rights of transgender people, likely including the following:

- The October 4 Justice Department memo arguing that federal employment law does not protect transgender people from being fired for who they are;
- The September Justice Department brief to the Supreme Court arguing for a constitutional right to discriminate against LGBT people;

- The August Presidential Memorandum—reported to have been drafted in large part by the office for which Mr. Katsas serves as deputy—directing the Pentagon to implement President Trump’s ban on transgender people serving “in any capacity” in the Armed Forces;
- The July Justice Department court brief arguing that federal employment law does not protect lesbian, gay, and bisexual people from being fired for who they are;
- The decision to abandon defense of the Affordable Care Act’s lifesaving nondiscrimination provision in federal court and to instead begin to unravel its implementing regulations; and
- The withdrawal in February of lifesaving guidance on equal opportunity for transgender students under the Title IX education law;
- The withdrawal in February of Title IX guidance on preventing and responding to sexual harassment and violence in schools and universities; and,
- The vetting and nomination of transphobic bigot Jeff Mateer and other anti-LGBT nominees.

Senators need answers about Mr. Katsas’s involvement about these legally and morally controversial decisions, and Mr. Katsas would be required to recuse himself from any challenges to the Trump Administration’s anti-LGBT and anti-civil rights actions that he played a role in developing. Fundamentally, however, his service in the Trump White House disqualifies him from a lifetime judgeship on the nation’s second most important court. We urge you to oppose Mr. Katsas’s nomination.

Sincerely,

A handwritten signature in black ink, appearing to read "H. J. Tobin". The signature is fluid and cursive, with a prominent initial "H" and a long, sweeping underline.

Harper Jean Tobin
Director of Policy