

March 4, 2022

The Honorable Dick Durbin  
Chair  
Committee on the Judiciary  
U.S. Senate  
711 Hart Senate Building  
Washington, D.C. 20510

The Honorable Chuck Grassley  
Ranking Member  
Committee on the Judiciary  
U.S. Senate  
135 Hart Senate Office Building  
Washington, D.C. 20510

Re: Judge Ketanji Brown Jackson's Nomination to the Supreme Court of the  
United States

Dear Senators Durbin and Grassley:

As LGBTQ+ law professors and allies, we offer our unequivocal support for Judge Ketanji Brown Jackson's nomination as an Associate Justice of the Supreme Court of the United States. Judge Jackson is a highly experienced, well-credentialed, and ethical judge, and as you know, with bipartisan support, the Senate has already confirmed Judge Jackson three times, including her June 2021 confirmation to the United States Court of Appeals for the D.C. Circuit.

During Justice Sandra Day O'Connor's nomination hearing in 1981, then-Senator Biden set out criteria by which to judge a Supreme Court nominee. He focused on the following:

First, does the nominee have the intellectual capacity, competence, and temperament to be a Supreme Court Justice? Second, is the nominee of good moral character and free of conflict of interest that would compromise her ability to faithfully and objectively perform her role as a member of the U.S. Supreme Court? Third, will the nominee faithfully uphold the laws and Constitution of the United States of America?<sup>[1]</sup>

Judge Jackson's public and professional reputation, work, and *curriculum vitae* make it obvious that she surpasses these standards. She is widely admired for her intelligence, good moral character, integrity, and fair and unbiased decision-making. During her

judicial career, Judge Jackson has faithfully and objectively upheld the law and Constitution of the United States of America.

In addition to the foregoing considerations, as LGBTQ+ persons and allies serving as lawyers and law professors, we have a unique investment in the furtherance of diversity, equity, and inclusion, especially within the United States judicial branch. Our movement shares a legacy with other struggles for equality, including the racial justice and women's rights movements. To form a sense of community, mid-twentieth century LGBTQ+ advocates relied on cases like *NAACP v. Alabama*,<sup>[2]</sup> which recognized important associational rights; *Lawrence v. Texas*, which drew on the women's rights movement's privacy jurisprudence;<sup>[3]</sup> and *Obergefell v. Hodges*, which stood on the shoulders of *Loving v. Virginia*.<sup>[4]</sup> And of course, *Bostock v. Clayton County* interpreted a statute enacted after decades-long civil rights advocacy.<sup>[5]</sup> In important ways, we share in the intersecting legacies of the struggles that now culminate in Judge Jackson's nomination.

The importance of recognizing diversity in the judiciary is especially significant in a community as diverse as ours. Racial minorities and women are among the most vulnerable members of our community: Transgender people experience murders at rates significantly higher than cisgender individuals, and a majority of those murdered are Black and Latino transgender women. Black men in the LGBTQ+ community experience the highest rates of HIV transmission in the nation. Similarly, while LGBTQ+ youth are more than twice as likely to experience homelessness, nearly a third of all homeless LGBTQ+ youth are Black.

Just as important as our intersecting struggles are our intersecting triumphs and successes: Marsha P. Johnson, a Black transgender woman is credited with leading the Stonewall riots, which, for many, heralded the birth of the LGBTQ+ movement in this country. Similarly, major LGBTQ+ rights organizations are led or have been led by women and by people of color, including the Human Rights Campaign, the LGBT Victory Fund the National LGBT Taskforce, Outright International, the National Center for Lesbian Rights, the Williams Institute, the National Center for Transgender Equality, the Transgender Legal Defense and Education Fund, to name a few.

Finally, the confirmation of Judge Jackson will send an important message to the country's LGBTQ+ children, a message that likely will be particularly salient to LGBTQ+ children of color. LGBTQ+ children currently are experiencing an unprecedented assault on their rights. Judge Jackson's confirmation will reassure those LGBTQ+ children who aspire to become lawyers and, even Supreme Court Justices, that they too may sit on the highest court in our country.

Echoing many of our colleagues who have also offered letters of support, we agree that institutions benefit from diverse perspectives. Judge Jackson's appointment would help the Court come significantly closer to reflecting the diverse population that it serves, strengthen its decision-making, and enhance the public's confidence in those decisions.

The importance of diversity in our own history and identities undergirds our support of the addition of another woman Justice, and we applaud President Biden's nomination of a Black woman. In this historic moment, we support your efforts to ensure a swift and fair confirmation process.

Most Respectfully,

cc: Phillip Brest, Esq.  
Ms. Emily Hampsten  
Ms. Jenna Valle-Riestra  
Michael Fragoso, Esq.  
Mr. Aaron Cummings

*Please note that we have signed this letter in our individual capacities. We have noted our institutional affiliations only for identification purposes.*

To sign the letter, click or scan the QR code:



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[1] *Hearings on the Nomination of Sandra Day O'Connor of Arizona to Serve as an Associate Justice of the Supreme Court of the United States, September 9, 10, and 11, 1981*, 97<sup>th</sup> Cong. 3 (1981) available at <https://www.govinfo.gov/content/pkg/GPO-CHRG-OCANNOR/pdf/GPO-CHRG-OCANNOR.pdf>.

[2] 357 U.S. 449 (1958).

[3] 539 U.S. 558 (2003).

[4] 388 U.S. 1 (1967).

[5] 590 U.S. \_\_\_, 140 S. Ct. 1731 (2020).

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