



March 15, 2017

To the Honorable Members of the United States Senate  
Washington, DC 20510

Dear Senators,

**RE: Nominee Neil Gorsuch for U.S. Supreme Court**

In the weeks since his nomination to the U.S. Supreme Court, a narrative has been advanced that Mr. Gorsuch's conservative views largely align with those of mainstream America.

But Mr. Gorsuch's originalism-based philosophy does not reflect mainstream thinking. On the contrary, it is radically to the right of most Americans who support reproductive rights, the separation of church and state, the fundamental right to privacy, marriage equality for same-sex couples, and equal protection under the law.

Indeed, the very process by which Mr. Gorsuch was selected is disquieting. President Trump outsourced the search for Supreme Court judicial candidates to the Heritage Foundation, an extreme far-right organization.

On behalf of our 800,000 members, Equality California is deeply concerned about Mr. Gorsuch's judicial rulings and philosophy and his zeal to expand religious liberties, as demonstrated by his signature argument in the *Hobby Lobby* case. In his opinion, Mr. Gorsuch supported the denial of birth control coverage for employees in their company-provided health plans if an employer claims that denying such coverage is based on "religious beliefs." Merely signing an ACA opt-out form, Gorsuch wrote, posed a moral dilemma for such employers because it made them 'complicit' in something they found 'sinful.'

Expansive exemptions on religious grounds are being advanced by opponents of LGBT equality across the country in a false premise that Christians are persecuted for their religious beliefs and their conservative social values in an era of rapid change. Christians in this country are not endangered. Our Constitution protects religious expression. It is, in fact, civil rights protections that are endangered when blatant discrimination is allowed if someone merely contends they are acting on their "sincerely held beliefs." Employers, including religiously affiliated contractors, are not allowed to discriminate based on race, color, national origin, sex, or disability, no matter what the employer's beliefs. The civil rights of LGBT people should not be different. Religious exemptions to civil rights laws would effectively gut LGBT legal protections because any person who has a desire to discriminate can merely raise religious beliefs as an excuse and a justification. Judge Gorsuch's views in this area are a direct and significant threat to LGBT equality and LGBT civil rights protections.

Mr. Gorsuch's passion to expand religious exemptions would likely extend far beyond the matter of birth control in *Hobby Lobby*. Millions of LGBT Americans would face discrimination if all it took were for someone to state that providing in health care, public accommodations, insurance, and employment to LGBT people conflicted with their religious beliefs.

Key Supreme Court rulings in recent years have confirmed the equality of LGBT Americans in the eyes of the law. Based on his rulings, it seems clear that if Mr.

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Gorsuch had been on the bench when the landmark *Romer*, *Lawrence*, *Windsor* and *Obergefell* cases were considered, he likely would not have been in the majority. This is worrisome because states are already beginning to chip away at recently-won marriage equality. The Arkansas Supreme Court recently held that *Obergefell* does not require equal treatment of married same-sex couples with respect to their children's birth certificates. Similarly, state officials argued before the Texas Supreme Court that *Obergefell* does not require equal employment benefits for same-sex spouses.

Given the country's sharp political polarization and highly charged climate, it is important that of the Supreme Court be universally perceived as impartial and committed to equal protection. The danger is clear, and so is Equality California's position: we urge you to oppose the nomination of Neil Gorsuch to the U.S. Supreme Court.

Sincerely,



Rick Zbur  
Executive Director



Valerie Ploumpis  
National Policy Director