



January 9, 2016

Chairman Chuck Grassley
Senate Judiciary Committee
United States Senate

Ranking Member Dianne Feinstein
Senate Judiciary Committee
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Dear Chairman Grassley and Ranking Member Feinstein,

The Bill of Rights Defense Committee/Defending Dissent Foundation is a national civil liberties organization dedicated to fulfilling the promise of the Bill of Rights for all people, with a special emphasis on protecting the right of political expression in order to create a participatory democracy. ***We are writing to urge you to reject Senator Jeff Sessions' nomination for Attorney General.***

The Attorney General is the nation's most powerful law enforcement official, responsible for overseeing the protection of federal civil and Constitutional rights of everyone in the United States. Unfortunately, Senator Sessions has a decades long track record of disregard for civil liberties and the rights of people of color, immigrants, and LGBTQ people as a US Senator, Alabama Attorney General, and Assistant United States Attorney.

Throughout his career, Mr Sessions has not demonstrated a commitment to ensuring that the promise of the Bill of Rights is fulfilled ***for everyone in America.*** He has consistently proved himself unwilling to support essential Constitutional protections, and has instead worked to deny fundamental rights to whole swaths of Americans based on their identities..

We strongly urge you to reject Mr. Sessions' nomination.

This Committee Rejected Mr Sessions Nomination to the Federal Judiciary, All of Those Reasons Similarly Disqualify Him From Serving as Attorney General

In 1986, this committee considered Mr. Sessions' nomination for federal District Court judge. His nomination was rejected in part due to a number of troubling and racially insensitive comments. These include a statement that Sessions had been ok with the Ku Klux Klan until he discovered that its members "smoked pot." Sessions freely conceded to making this statement, but stated that it was a joke. Sessions also was reported to have made statements about the American Civil Liberties Union and NAACP for being "un-American" and "communist inspired" for having tried to force "civil rights down the throats of the people."

While these statements were uttered over thirty years ago, Mr. Session's "has fought against civil rights at every turn" in the intervening years, [according](#) to former Justice Department Civil Rights Division lawyers. Barring clear evidence that Sessions has truly reversed these problematic views, any issues that precluded him from being confirmed to the federal judiciary precludes his confirmation as Attorney General.

As no such evidence exists, we urge you to reject Mr. Sessions

As an Assistant US Attorney Mr. Sessions Was Involved in Troubling Prosecution of Three Civil Rights Activists

Mr. Sessions' prosecution in 1985 of three civil rights workers helping African Americans in Alabama register to vote raises alarms. His role in this prosecution is one of many reasons he was rejected by the Judiciary Committee in 1986, but we believe this incident warrants special attention.

Before the Voting Rights Act, in many parts of the southern United States few, if any, African-Americans were registered voters due to racially motivated barriers erected to their registration. This dramatically changed after Congress enacted new federal legislation dedicated to protecting the right to vote. As a result, not only did many African-Americans become voters, but African-Americans were elected to office and for the first time majority African-Americans communities were able to elect their own representatives.

Vital to this was the role of civil rights activists, both those who organized for voting rights, and those who subsequently helped the Voting Rights Act have meaning by actively registering voters. One such activist was Albert Turner, who had worked closely with Dr. Martin Luther King, marched for voting rights in Selma, and then became well known for registering voters and helping elderly voters file absentee ballots.

In 1984, FBI agents hid behind bushes at a post office and waited for Turner to drop off absentee ballots, which they then seized. FBI agents also rounded up a number of elderly, African-American voters interrogating them and calling them to testify before a grand jury.

Mr. Sessions brought 29 charges against Turner, his wife, Evelyn Turner, and a third activist named Spencer Hogue. Of these charges, nearly half of them were dismissed by a judge for

lack of evidence. The jury took less than three hours to acquit the civil rights workers of the charges not dismissed by the presiding judge.

This baseless prosecution of civil rights activists is deeply troubling. Law enforcement should never be used to carry out political retaliation nor should public officials engage in racially based voter suppression. The prosecution of three civil rights workers in Marion County, Alabama has elements of both and thus we urge this committee to reject Mr. Sessions nomination.

As Alabama Attorney General, Mr. Sessions Violated the First Amendment Rights of Students, Both Because of the Viewpoints They Espoused and their Perceived Sexual Orientation

As Alabama Attorney General, Mr. Sessions authored an opinion barring student organizations focused on LGBTQ issues, such as the Gay Straight Alliance or Gay Lesbian Bisexual Alliance, from receiving state funding. Mr. Sessions opinion stated, "an organization that professes to be comprised of homosexuals and/or lesbians may not receive state funding or use state-supported facilities to foster or promote those illegal, sexually deviate activities defined in the sodomy and sexual misconduct laws."

Shortly after Mr. Sessions issued his opinion, the Alabama state legislature passed a statute with the same intent. After the statute passed, Session issued a "letter opinion" to the University of South Alabama informing them that the relevant statute prohibited them from providing funding to the student group Gay Lesbian Bisexual Alliance. The Gay Lesbian Bisexual Alliance filed a lawsuit and a federal judge found both the Alabama statute and its application by Sessions to the Gay Lesbian Bisexual Alliance violated the First Amendment.

While Mr. Sessions was not responsible for the Alabama state legislature passing an unconstitutional statute, but he did apply it in an unconstitutional way to the Gay Lesbian Bisexual Alliance and he did issue an opinion reaching the same general conclusions prior to the enactment of the statute.

These actions show a deep lack of reverence for the First Amendment. It is a well established part of First Amendment jurisprudence that the government cannot seek to penalize individuals or groups because of the viewpoint of their speech. Mr. Sessions, using his authority as Alabama Attorney General not only deprived LGBTQ student organizations of their First Amendment rights because of their political viewpoint, he also did so due to the perceived sexual orientation of the student club members.

Mr. Sessions has throughout his career been an opponet of LGBTQ rights, which in and of itself is enough to disqualify him as Attorney General. But, the fact that he used his authority as Alabama Attorney General to deny LGBTQ individuals their First Amendment rights shows an even deeper antipathy to civil liberties. For this reason, we urge this committee to reject Mr. Sessions' nomination.

As a Senator, Mr. Sessions Has Supported some of the Worst Deprivations of Civil Liberties Associated with the War on Terror and the War on Drugs

Mr. Sessions' time in the Senate continues the pattern he established as a US Assistant Attorney and Alabama Attorney General, in that he has continued to show a deep hostility to civil liberties. While Mr. Sessions' legislative record includes a number of troubling votes, we are deeply concerned by his failure to oppose torture. He was one of only nine members of the US Senate to vote against a 2005 amendment barring cruel, inhuman, and degrading treatment of detainees in US custody. In, 2015 Sen. Sessions again voted against torture prohibitions, when he voted against holding agents at the Federal Bureau of Investigation and the Central Intelligence Agency to the same standards of interrogation laid out in the US Army Field Manual.

Torture is one of the most severe deprivations of civil liberties imaginable. It violates the Constitution, as well as, the laws of armed conflict, which have been incorporated into US domestic law. Federal statutory law explicitly criminalizes and provides punishment for torture in violation of the laws of international armed conflict. It is unacceptable for the country's chief law enforcement officer, who not only oversees the FBI which conducts interrogations, but also would be responsible for prosecuting violations of federal law, such as torture, to not have a strong stance in opposition to torture. Furthermore, it is unfathomable for anyone to suggest that a law enforcement agency, like the FBI, should have lower standards for the safeguarding of civil liberties in interrogations than the United States Armed Forces.

In addition to staking out an extreme position in failing to rigorously oppose torture, Senator Sessions has always taken extreme positions on surveillance. He has expressed the point of view that library records do not require special privacy protections from the government and has rigorously opposed safeguarding other types of private information held by third parties, such as banking records, from unjustified law enforcement surveillance.

Mr. Sessions also continues to embrace a number of antiquated views about the War on Drugs. Republican and Democrat, right and left, lawmaker and citizen alike are starting to question both the futility and the pernicious effects of the War on Drugs. Mr. Sessions, however, has largely remained out of step with the times and continues to cling to policies recognized as relics of a bygone era.

In 32 states, citizens have exercised the sovereignty that is granted them under a democracy by casting their ballots in favor of decriminalization or legalization of medical or recreational marijuana. Mr. Sessions has made it clear that he opposes such moves and has in the past, and he has called for the vigorous enforcement of federal marijuana laws. He has voted against reducing the sentences of nonviolent drug offenders and has continued to support civil asset forfeiture. It is the Attorney General's duty to enforce the nation's law and determine the priorities for federal law enforcement. As a result it is not appropriate to confirm an Attorney

General who rejects the bipartisan consensus about reforming our drug laws to make them more just and to prevent the abuse of civil liberties.

Mr. Sessions has staked out a number of extreme positions on both the War on Terror and War on Drugs, positions that not only run afoul of the Constitution's protections of civil liberties, but put him at odds with members of both parties. As a result, we urge to you to reject Mr. Sessions' nomination.

Mr. Sessions' Nomination Must Be Rejected

Our Constitutional system of government recognizes that robust protection of civil liberties is essential to defending democracy at home. The Attorney General of the United States is both the chief law enforcement officer of the country, a position of authority that has a tremendous capability to impact civil liberties, and is responsible for enforcing laws protecting the rights of all Americans. Mr. Sessions' position on civil liberties is not a mystery, he has a decades long record of both opposing measures to safeguard civil liberties and actively violating them himself. Equally disturbing, Mr. Sessions has demonstrated an unwillingness to support the Constitutional rights of all Americans.

For all the reasons outlined above, we strongly urge you to reject Mr. Sessions as Attorney General.

Sincerely,

Sue Udry
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Bill of Rights Defense Committee
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cc: Members of the Senate Judiciary Committee