



May 24, 2022

United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Durbin, Ranking Member Grassley, and Committee Members:

On behalf of our 1.5 million supporters nationwide, People For the American Way enthusiastically supports the nomination of Lara Montecalvo to the First Circuit Court of Appeals. As a career public defender in Rhode Island, she has dedicated her career to ensuring that individuals are not deprived of their constitutional and legal rights simply because they lack the wealth to pay for counsel. Her commitment to justice and fairness will serve the First Circuit well.

Montecalvo graduated from Swarthmore in 1996, then graduated with honors from Boston College Law School in 2000. She began her legal career in Washington, DC, as a trial attorney with the Department of Justice's Tax Division. Her work there was exemplary, and she earned an award as an Outstanding Attorney.

In 2004, she transitioned to a different kind of public service, beginning her long career at the Rhode Island Public Defender's Office. She has dedicated the past 18 years to representing indigent individuals charged with or convicted of crimes in state court. She began as a trial attorney in 2004, then moved to appellate cases in 2010. In 2014, she was promoted to chief of the Appellate Division.

In 2020, Gov. Gina Raimondo nominated Montecalvo to lead the entire Rhode Island Public Defender's Office. After analyzing her record of accomplishment, the state senate confirmed her in a unanimous roll-call vote.ⁱ She is now in charge of a statewide team of attorneys, social workers, investigators, interpreters, and support staff, all dedicated to serving the various needs of indigent individuals who find themselves caught up in the criminal justice system. Her office handles an average of 9,000 misdemeanor cases and over 4,000 felony cases each year.ⁱⁱ

Public defenders play a vital and underappreciated role in protecting freedom, not only of poor people accused of crime but also of all people in the United States. We have given our government the power to take people away from their homes, imprison them, and even execute them. That power is a weighty one and potentially subject to abuse. So, if our government is

going to use that power against someone, it must do so in a way that complies with the safeguards set forth in the Bill of Rights. Those safeguards include the right to counsel in criminal cases even when the accused cannot afford a lawyer. That basic tenet of the United States Constitution is vital to protecting all of us.

Throughout her nearly two decades as a public defender, Montecalvo has developed expertise in the many elements that constitute a lawful prosecution and a fair trial under the Constitution. For instance, she has argued cases involving alleged violations of *Brady v. Maryland*, the 1963 Supreme Court case requiring prosecutors to disclose any evidence that might exonerate the defendant.ⁱⁱⁱ She has challenged the constitutionality of warrantless searches.^{iv} She has argued for her client's right to cross-examine key witnesses against them.^v She has argued cases involving the legality of a trial judge's instructions to the jury.^{vi} In these and other areas, she is well versed in the legal matters she will be called on to address as a judge on the First Circuit.

Montecalvo's work has given her insight into how the system works in real life and can fail to serve justice. That insight is of critical importance to a federal circuit court considering appeals of criminal convictions. Indeed, Montecalvo has called for a "serious reckoning with the indisputable fact that racial inequities permeate" the criminal justice system:

This must change. It will require every stakeholder in the system – including our own [public defender's] office – to take a hard look at our practices and work together to eradicate this particularly insidious legacy.^{vii}

Montecalvo has stressed the need for judges to remember the humanity of those who appear before them as they interpret the law. She spoke about this at the investiture ceremony of District Judge Mary McElroy, who was also Montecalvo's predecessor as Rhode Island Public Defender.

In so many ways, the law is the easy part. We all went to law school, we learned all the cases. I talk about them up in the Supreme Court. It's the human part that is so difficult, and that's what Mary excels at. ... And that's a really special quality to bring to the bench. Because we ask the judges to apply the law, that's what we expect our judges to do, but we also ask them not to abandon their humanity and not to abandon the people who come before them. So wherever we sit in the courtroom, and I see people here from every side, whether you're a victim, you're a civil litigant, you're in court arguing about taxes, or you're a defense attorney like I am, or you're a police officer or a prosecutor, we all benefit from having judges who care about people the way Mary does.^{viii}

Our nation's bedrock constitutional freedoms and civil rights laws are premised on the basic humanity of all people. A judge who remembers that is better able to correctly interpret and meaningfully apply those legal protections.

Lara Montecalvo has a demonstrated commitment to civil rights that will make her an excellent judge on the First Circuit. The Senate should confirm her quickly.

Sincerely,



Marge Baker
Executive Vice President

ⁱ State of Rhode Island, Journal of the Senate, 2020 Session, Vol. 147 No. 24, <http://webserver.rilin.state.ri.us/journals20/senatejournals20/sjournal6-18.pdf>.

ⁱⁱ Letter to the Center for Health and Justice Transformation from Rhode Island Public Defender Lara E. Montecalvo, March 31, 2022; copy provided in Senate Judiciary Committee Questionnaire Attachments at p. 138.

ⁱⁱⁱ e.g., *State v. Blandino*, 171 A.3d 21 (R.I. 2017).

^{iv} e.g., *State v. Gonzalez*, 136A.3d 1131 (R.I. 2016).

^v e.g., *State v. Arciliares*, 108 A.3d 1040 (R.I. 2015).

^{vi} e.g., *State v. Narcovich*, 244 A.3d 549 (R.I. 2021).

^{vii} “A conversation with Women's Bar Association 'Newsmaker of the Year' Lara Montecalvo,” Rhode Island Lawyers Weekly, Dec. 21, 2020, p. 5; copy provided in Questionnaire Attachments at p. 296.

^{viii} Investiture Ceremony of U.S. District Judge Mary S. McElroy, U.S. District Court for the District of Rhode Island, Nov. 22, 2019, at pp. 21-22; copy provided in Questionnaire Attachments at pp. 192-193.