



# MALDEF

The Latino Legal Voice for Civil Rights in America.

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May 4, 2020

Senator Lindsey Graham  
Chairman Ranking Member  
Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, D.C., 20510

Senator Dianne Feinstein  
Ranking Member  
Senate Committee on the Judiciary  
152 Dirksen Senate Office Building  
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## **RE: Oppose Nomination of Cory Wilson to the United States Court of Appeals for the Fifth Circuit**

Dear Chairman Graham and Ranking Member Feinstein:

I write on behalf of MALDEF (Mexican American Legal Defense and Educational Fund) to urge you to oppose the confirmation of Cory Wilson to the United States Court of Appeals for the Fifth Circuit. Founded in 1968, MALDEF is the nation's leading Latino legal civil rights organization. Often described as the "law firm of the Latino community," MALDEF promotes social change in the areas of voting rights, education, employment, and immigrants' rights.

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The Fifth Circuit Court of Appeals — including the states of Texas, Mississippi, and Louisiana — is the circuit with the highest population of Latinos at 32 percent and the highest population of people of color at 55 percent. As recently as 2012, there were three active Latino judges on the Fifth Circuit, but today there are zero and only three of sixteen active judges on the Fifth Circuit are non-White. The President and the Senate — through its role in advice and consent — should nominate and confirm judges to reflect the diverse racial, ethnic, and cultural background of the people of the Fifth Circuit, or at the very least nominate and confirm judges who have a record of advancing equality and opportunity for the diverse people of the Fifth Circuit. Instead, the Trump Administration nominated Cory Wilson, a man who has spent over a decade advocating for policies that limit the right to vote for underrepresented communities, as well as reproductive rights and LGBTQ rights. Judges must be neutral arbiters of the law, but Mr. Wilson's record shows he is not qualified to sit on the United States Court of Appeals for the Fifth Circuit.

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### **I. Voting Rights**

MALDEF has long opposed photographic voter-identification ("voter ID") requirements because they disproportionately suppress Latino voter turnout.<sup>1</sup> During

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<sup>1</sup> Erin Hustings, Terry Ao Minnis, & Andrea Senteno, *Practice-Based Preclearance: Protecting Against Tactics Persistently Used to Silence Minority Communities' Votes*, MALDEF, 39 (Nov. 2019) <https://www.maldef.org/wp-content/uploads/2019/11/KPC-VRA-Report-Final-191104.pdf>; *Latinos and the VRA: A Modern Fix for Modern-Day Discrimination*, MALDEF, 10 [https://www.maldef.org/assets/pdf/Latinos\\_and\\_the\\_VRA.pdf](https://www.maldef.org/assets/pdf/Latinos_and_the_VRA.pdf). MALDEF has even brought a recent case on voter ID within the Fifth Circuit challenging the illegal enforcement of Texas's voter ID law. *MALDEF Files Lawsuit In Texas Challenging Bexar Count's Implementation of Illegal Voter ID Law*, MALDEF (Oct. 28, 2016) <https://www.maldef.org/2016/10/maldef-files-lawsuit-in-texas-challenging-bexar-countys-implementation-of-illegal-voter-id-law/>.

Cory Wilson's time as the Mississippi Deputy Secretary of State, the office sponsored a successful ballot initiative to institute voter ID within the state.<sup>2</sup> According to Mr. Wilson, he worked on and supported the voter ID initiative at the time.<sup>3</sup> After his time with the Mississippi Secretary of State, Mr. Wilson wrote op-eds supporting the voter ID initiative. He repeatedly dismissed the well documented concept that voter ID could discriminate against minority voters,<sup>4</sup> and repeatedly used quotes around the term voter suppression.<sup>5</sup> He called concerns that voter ID could have a suppressive effect "faux concern[s]" and a "hysterical liberal narrative."<sup>6</sup> He called the description of voter ID as voter suppression a "smear" and "tyranny."<sup>7</sup> He argued that the "only votes suppressed by voter ID are illegal votes."<sup>8</sup> There are 21 million American citizens, otherwise eligible to vote, who do not have current or valid government-issued photo identification.<sup>9</sup> Studies show that Latinos and African Americans are less likely to have access to valid photo ID when compared to the general population.<sup>10</sup> The use of voter ID is a well-documented tactic used to discriminate against minority voters.<sup>11</sup>

Mr. Wilson also opposes other important issues in voting rights. He condemned the Justice Department for sending poll monitors to ensure underrepresented communities are able to exercise their constitutional right to vote in a jurisdiction with a history of discrimination.<sup>12</sup> He argued against Mississippi absentee voting laws saying, without citation, that they "may be the biggest source of abuse and fraud."<sup>13</sup> He has also mocked those who criticize the restriction of early voting as voter suppression, writing: "Florida's voter law reduces the number of days for early voting from 14 to eight [sic]. . . . Oh, the outrage. With

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<sup>2</sup> *Mississippi Voter Identification Amendment - Initiative 27 (2011)*, BALLOTPEdia, [https://ballotpedia.org/Mississippi\\_Voter\\_Identification\\_Amendment\\_Initiative\\_27\\_\(2011\)](https://ballotpedia.org/Mississippi_Voter_Identification_Amendment_Initiative_27_(2011)); Wilson reported himself as the "Deputy Secretary of State/Chief of Staff" in his questionnaire to the Senate Judiciary committee from "2008 to 2011" but reported himself as the former "Chief of Staff for Secretary of State Delbert Hosemann" on January 26, 2011. Cory Wilson, *Questionnaire for Judicial Nominees*, SENATE JUDICIARY COMMITTEE <https://www.judiciary.senate.gov/imo/media/doc/Cory%20Wilson%20SJQ%20-%20PUBLIC.pdf>; Cory Wilson, *Let the races begin*, MADISON COUNTY JOURNAL (Jan. 26, 2011) <http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-Let-the-races-begin/3/3/23295?s=1>.

<sup>3</sup> Cory Wilson, *Suppressing Common Sense*, MADISON COUNTY JOURNAL (Nov. 1, 2012) ("I can say from personal experience that a lot of thought went into making voter ID fair, workable, and affordable for every Mississippi voter.") <http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-Suppressing-common-sense/3/3/25743?s=1>.

<sup>4</sup> *Id.* ("The Democratic line is that voter ID is a solution in search of a problem, that there are no cases of voter fraud that ID would prevent. The Rachel Maddows of the media world have joined the chorus of 'voter suppression' right on cue from Team Obama. This is as phony as the 'war on women.'"); Cory Wilson, *Ensuring the integrity of the vote*, MADISON COUNTY JOURNAL (Sept. 19, 2013) <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p98-99.pdf>.

<sup>5</sup> Cory Wilson, *Suppressing Common Sense*, MADISON COUNTY JOURNAL (Nov. 1, 2012) ("Attorney General Eric Holder has made clear that he views voter ID as 'voter suppression' on the part of dastardly Republicans. . . . The only votes we were interested in 'suppressing' were the illegal ones. . . . This week, as President Obama showed his ID to vote in Chicago (that paragon of clean elections), new evidence emerged about just what kind of 'suppression' might occur with ID requirements. . . .") <http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-Suppressing-common-sense/3/3/25743?s=1>.

<sup>6</sup> *Id.*

<sup>7</sup> Cory Wilson, *Voter ID and the IRS*, MADISON COUNTY JOURNAL (June 5, 2013) ("They [Attorney General Holder and the Obama Administration] smear anyone who simply wants fair and clean elections as seeking to use neutral voter identification at the polls to suppress votes. Isn't that ironic? Or is "tyranny" the better word?") [www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-Voter-ID-and-the-IRS/3/3/26729?s=1](http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-Voter-ID-and-the-IRS/3/3/26729?s=1).

<sup>8</sup> Cory Wilson, *Only Votes Suppressed by Voter ID are Illegal Votes*, MISSISSIPPI PEP (Nov. 3, 2012) <https://mississippipep.wordpress.com/2012/11/03/wilson-only-votes-suppressed-by-voter-id-are-illegal-votes/>.

<sup>9</sup> *Citizens without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification*, BRENNAN CENTER (2006) [http://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_39242.pdf](http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf).

<sup>10</sup> Erin Hastings, Terry Ao Minnis, & Andrea Senteno, *Practice-Based Preclearance: Protecting Against Tactics Persistently Used to Silence Minority Communities' Votes*, MALDEF, 34 (Nov. 2019) <https://www.maldef.org/wp-content/uploads/2019/11/KPC-VRA-Report-Final-191104.pdf>.

<sup>11</sup> *Id.*

<sup>12</sup> Cory Wilson, *Hattiesburg puts finishing touches on divisive mayoral election sequel*, MOBILE PRESS REGISTER (Oct. 2, 2013) <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p95-97.pdf>.

<sup>13</sup> Cory Wilson, *Reforming Mississippi Elections*, MADISON COUNTY JOURNAL (Jan. 15, 2014) <http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-Suppressing-the-truth/3/3/24665?s=1>. He also admitted on Twitter that in college in Mississippi he "spent many an hour getting students to vote absentee." Cory Wilson (@CoryWilsonMS), Twitter (Oct. 24, 2014, 10:44 AM) <https://twitter.com/CoryWilsonMS/status/525659126165409792>. See also Cory Wilson, *Questionnaire for Judicial Nominees*, SENATE JUDICIARY COMMITTEE (listing his only undergraduate university as the University of Mississippi) <https://www.judiciary.senate.gov/imo/media/doc/Cory%20Wilson%20SJQ%20-%20PUBLIC.pdf>.

evil like this afoot, the ACLU and other rent-a-mobs naturally will join the hunt. . . .”<sup>14</sup> Mr. Wilson mocked very real concerns about efforts to restrict access to voter registration and voting, and disparaged civil rights organizations as “rent-a-mobs” for wanting to protect access to the ballot for our clients, communities, and the American public. These are not the words or actions of a judge that MALDEF and our clients can trust to be impartial in one of our most important organizational priorities. Mr. Wilson cannot be entrusted with a lifetime appointment to the Fifth Circuit Court of Appeals.

## II. LGBTQ Rights

Mr. Wilson’s record also shows that LGBTQ Americans cannot trust him to be impartial when addressing LGBTQ issues. He publicly opposes gay marriage calling it “such a fringe idea that [he thought] it would never merit serious consideration.”<sup>15</sup> He has called gay marriage “radical” and “a pander to liberal interest groups.”<sup>16</sup> He also supported Mississippi House Bill 1523, one of the nation’s most extreme anti-LGBTQ laws, which permits Mississippians to refuse service to LGBTQ people and people who have sex outside of marriage in a range of government services including the issuance of marriage licenses.<sup>17</sup>

## III. Reproductive Justice

Mr. Wilson’s record also shows that he opposes Supreme Court precedent on reproductive rights. He supports “the complete and immediate reversal of . . . *Roe v. Wade*.”<sup>18</sup> He signed an amicus brief in *Whole Woman’s Health v. Hellerstedt* in support of Texas’s restrictive abortion law that required doctors at abortion providers to get admitting privileges at local hospitals unlike other out-patient providers and would require abortion providers to close; the Supreme Court later held that this practice violated the Constitution.<sup>19</sup> He argued that the Affordable Care Act’s contraception coverage was an “assault on religious faith . . . signaling freedom is at stake.”<sup>20</sup> He supported Mississippi House Bill 732, which would have prohibited abortion after six weeks, before many women know that they are pregnant.<sup>21</sup>

## IV. Judicial Temperament

Mr. Wilson has a long history of disrespectful behavior toward many groups and advocates who will inevitably litigate before the Fifth Circuit Court of Appeals. His rhetoric demonstrates that he is biased against civil rights organizations and their clients.<sup>22</sup> He condemned the Southern Poverty Law Center for labeling the anti-LGBTQ Family Research Council a hate group.<sup>23</sup> He described what he called the “gay

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<sup>14</sup> Cory Wilson, *Suppressing the Truth*, MADISON COUNTY JOURNAL (Feb. 1, 2012) <http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-Suppressing-the-truth/3/3/24665?s=1>.

<sup>15</sup> Cory Wilson, *A Brave New World*, MADISON COUNTY JOURNAL (May 8, 2013) <http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-A-brave-new-world/3/3/26601?s=1>.

<sup>16</sup> Cory Wilson, *When Tolerance Is Really ‘Zero Tolerance’*, MOBILE PRESS REGISTER (June 1, 2012) (“Like the imagined ‘war on women’ and Bain Capital, gay marriage is a pander to liberal interest groups and an attempt to cast Republicans as intolerant, uncaring and even bigoted.”) <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p200-201.pdf>.

<sup>17</sup> Protecting Freedom of Conscience from Government Discrimination Act, Miss. H.B. 1523 (2016) <http://billstatus.ls.state.ms.us/2016/pdf/votes/house/0460003.pdf>.

<sup>18</sup> Cory Wilson, *State Candidate Questionnaire*, MISSISSIPPI RIGHT TO LIFE (2007) <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p489-493.pdf>.

<sup>19</sup> Amicus Brief in support of the Respondents and Affirmance of the Fifth Circuit, *Whole Woman’s Health v. Hellerstedt*, No. 15-274, <https://www.scotusblog.com/wp-content/uploads/2016/02/15-274-bsac-BipartisanBicameral-StateLegislators.pdf>.

<sup>20</sup> Cory Wilson, *It’s About Freedom*, MADISON COUNTY JOURNAL (Feb. 22, 2012) <http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-It-s-about-freedom/3/3/24755?s=1>.

<sup>21</sup> *HB 732 - Prohibits Abortion After a Fetal Heartbeat is Detected*, VOTE SMART (Feb. 13, 2019) <https://votesmart.org/bill/votes/66364>.

<sup>22</sup> See e.g. Cory Wilson, *Suppressing the Truth*, MADISON COUNTY JOURNAL (Feb. 1, 2012) (mocking the concept of voter discrimination and stating “[w]ith evil like this afoot, the ACLU and other rent-a-mobs naturally will join the hunt . . . .”) <http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-Suppressing-the-truth/3/3/24665?s=1>.

<sup>23</sup> Cory Wilson, *The Shootings You Never Hear About*, MADISON COUNTY JOURNAL (Aug. 22, 2012) (he further called the Family Research Council “a perfectly legitimate Christian organization.”) <http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-The-shootings-you-never-hear-about/3/3/25439?s=1>. Cf. *Family Research Council*, SPLC (quoting FRC: “Family Research Council believes that homosexual conduct is harmful to the persons who engage in it and to society at large, and can never be affirmed. It is by definition unnatural, and as such is associated with negative physical and psychological health effects.” “One of the primary goals of the homosexual rights movement is to abolish all age of consent laws and to eventually recognize pedophiles as the ‘prophets’ of a new sexual order.” “We believe the evidence shows . . . that relative to the size of their population, homosexual men are more likely to engage in child sexual abuse than are heterosexual men.”) <https://www.splcenter.org/fighting-hate/extremist-files/group/family-research-council>.

rights lobby” as “trolling” when they opposed a Mississippi state lawmaker for calling gay marriage morally wrong.<sup>24</sup> He called gay rights activists “culture warriors” who demand “unconditional surrender.”<sup>25</sup> He called the mayor of a major American city a “twit” for supporting the rights of LGBTQ persons.<sup>26</sup> He called a woman member of Congress a “claptrap” for supporting a change in the tax code.<sup>27</sup> He called the Affordable Care Act, which protects access to healthcare for millions of Americans with preexisting conditions, “perverse” and “illegitimate,” in part because it passed without votes from the opposing party.<sup>28</sup> By this logic, many laws and sitting judges would be perverse and illegitimate as well.<sup>29</sup> He even falsely argued that the ACLU is waging a war on Christmas.<sup>30</sup> These are not the words or actions of an unbiased federal judge.

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Our judicial system depends on judges being neutral arbiters of the law. When a person goes before a judge, they should be able to trust that the judge will impartially weigh the law and the facts, and come to an unbiased conclusion. Cory Wilson’s record shows that he is incapable of being a federal judge. **We strongly urge you to vote “no” on all votes regarding the nomination of Cory Wilson to the United States Court of Appeals for the Fifth Circuit.** If you have any questions regarding this letter, please contact me at [afernandez@maldef.org](mailto:afernandez@maldef.org). Thank you for your time and consideration.

Sincerely,

Adam Fernandez  
MALDEF Legislative Staff Attorney

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<sup>24</sup> See e.g. Cory Wilson, *When Tolerance Is Really ‘Zero Tolerance’*, MOBILE PRESS REGISTER (June 1, 2012) (“Like the imagined ‘war on women’ and Bain Capital, gay marriage is a pander to liberal interest groups and an attempt to cast Republicans as intolerant, uncaring and even bigoted. . . . ‘the idea of homosexual marriage was so beyond seriousness that I thought it could never happen. I soon came to see that ‘tolerance,’ as that term is used by liberals, really means zero tolerance for traditional, religious or conservative views.”) <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p200-201.pdf>.

<sup>25</sup> *Id.*

<sup>26</sup> Cory Wilson, *When Tolerance Is Really ‘Zero Tolerance’*, MOBILE PRESS REGISTER (June 1, 2012) (“The Mayor of Washington, a city with far bigger problems than chicken sandwiches, nonetheless has taken to Twitter to refer to Chick-fil-A as ‘hate chicken.’ ‘Twit’ may be more apropos.”) <https://www.afj.org/wp-content/uploads/2020/01/Wilson-Attachments-p200-201.pdf>.

<sup>27</sup> Cory Wilson (@CoryWilsonMS), Twitter (Jul. 28, 2018, 12:56 PM) <https://twitter.com/CoryWilsonMS/status/1023250752104476673>.

<sup>28</sup> Cory Wilson, *ACA: Big, Intrusive Government*, MADISON COUNTY JOURNAL (Feb. 19, 2014).

<sup>29</sup> See e.g. *Nomination of Andrew S. Oldham to the Fifth Circuit Court of Appeals*, P.N. 1625, 115th Cong. (Jul. 18, 2018) (noting that sitting Judge Oldham, who would be Mr. Wilson’s colleague on the Fifth Circuit if he were confirmed, was confirmed by a party line 50-49 vote) [https://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=115&session=2&vote=00160](https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=115&session=2&vote=00160).

<sup>30</sup> Cory Wilson, *Blessings*, MADISON COUNTY JOURNAL (Nov. 28, 2012).

<http://www.onlinemadison.com/Content/EDITORIALS/Editorials/Article/WILSON-Blessings/3/3/25862?s=1>. Cf. Fran Quigley, *How the ACLU Didn’t Steal Christmas*, ACLU <https://www.aclu.org/other/how-aclu-didnt-steal-christmas>.