



Senate Rushing to Confirm Trump Judges Who Back Voter Suppression

By Billy Corriher and Michele L. Jawando

November 8, 2017

President Donald Trump is rapidly filling a record number of empty seats on the federal courts. Many of his nominees have problematic records on voting rights. A Trump nominee from North Carolina, Thomas Farr, is one example. Farr has a decades-long record of defending voter suppression—from his time working on the racially charged 1990 campaign of Sen. Jesse Helms (R) to helping legislators draft and defend a 2013 voting law, one that a federal court said targeted African American voters “with almost surgical precision.”¹ Other nominees include a former state legislator who pushed a discriminatory voter ID law² and a White House lawyer who helped establish President Trump’s “Election Integrity Commission” that critics contend is aimed at suppressing the rights of voters.³

Justice Neil Gorsuch, the president’s controversial first Supreme Court appointment, sided with the state of Texas in voting to overturn a lower court’s decision that struck down the 2011 redistricting map for discriminating against Latino voters.⁴ Reporter Ari Berman noted that eight different court rulings since 2011 found Texas guilty of intentionally discriminating against certain voters, including three rulings in August 2017 alone.⁵ Yet Gorsuch and the other conservative Supreme Court justices declined to require the state to promptly fix its discriminatory election districts.

The Supreme Court’s ruling came after the Trump administration reversed the U.S. Department of Justice’s position in the case.⁶ Voting rights advocates have expressed concern that the Department of Justice will no longer protect voting rights, noting the department’s decision to reverse the government’s stance in crucial voting rights lawsuits, as well as the president’s Election Integrity Commission.⁷ The Department of Justice recently reversed its position in a lawsuit challenging Ohio’s practice of “purging” voters who are inactive from the voting rolls.⁸ The state has purged millions of voters in recent years, and a Reuters analysis found that “neighborhoods that have a high proportion of poor, African-American residents are hit hardest.”⁹ The Supreme Court will soon hear arguments on whether the purges violate federal law.¹⁰ Given the administration’s anti-voting rights positions, the courts may be the last hope for voting rights.

If civil rights advocates expect federal courts to continue to protect the rights of voters, they may be disappointed. President Trump’s judicial appointments are moving quickly through the Senate, in part due to the abolition of the filibuster and changes to long-established processes.¹¹ Senate Majority Leader Mitch McConnell (R-KY) has suggested the elimination of the long-standing “blue slip” tradition that allows senators to sign off on nominees from their states. However, Sen. Charles Grassley (R-IA), chairman of the Senate Judiciary Committee, says that he does not intend to change the bipartisan tradition.¹² A *Washington Post* columnist noted that assuming the fast pace of Trump’s nominations continues, “in just one more year, one-eighth of all cases filed in federal court will be heard by a judge he appointed.”¹³

The legal architect of North Carolina’s voter suppression

Thomas Farr has been nominated to a judicial seat that has been vacant for longer than any other seat in the country.¹⁴ He was actually nominated by President George W. Bush in 2008, but he was never brought up for a vote.¹⁵ Republican senators then refused to sign off on President Barack Obama’s nominees for the seat, Jennifer May-Parker and Patricia Timmons-Goodson.¹⁶ Both are public servants and black women who would have brought much needed experience and diversity to the court.

Rep. G. K. Butterfield (D-NC), a former judge who represents part of the judicial district in Congress, issued a statement in July that said, “The Court should include African American judges and this appointment simply maintains the status quo in a district with a large population of African American citizens.”¹⁷ More than one-quarter of the district’s population is black, but no black judge has ever sat on the court.¹⁸ Three-quarters of Trump’s judicial nominees—75 percent—have been white men.¹⁹

Rep. Butterfield and others have raised serious questions about Farr’s record.²⁰ He was a lawyer for the 1990 campaign of North Carolina Sen. Jesse Helms, a lifelong opponent of civil rights who left the Democratic Party to join the GOP in the 1960s. Sen. Helms was known for political campaigns that appealed to racial prejudice and white supremacy.²¹ *The Washington Post* reported that Helms’ 1984 campaign literature “sounded a drumbeat of warnings about black voter- registration drives.”²² A decade later, Helms began to sing “Dixie,” the Civil War-era song popular with the Confederacy, when he found himself in an elevator with Sen. Carol Moseley Braun (D-IL), the nation’s first female black senator.²³ Helms turned to fellow senator Orrin Hatch (R-UT) and said he would sing Dixie “until she cries.”²⁴

Farr defended the 1990 Helms campaign when it faced charges of voter intimidation.²⁵ The campaign had sent around 125,000 flyers to black voters falsely claiming that they may not be properly registered and could face jail time if they tried to vote without being registered.²⁶ The Department of Justice sued the campaign for violating the Voting

Rights Act.²⁷ Media reports stated that Farr participated in meetings to plan the flyers, as well as in earlier “‘ballot security’ efforts” by the campaign.²⁸ Farr disputed reports that he was the lawyer mentioned in the department’s complaint.²⁹ Farr and Sen. Helms had close ties to people with white supremacist views.³⁰

Since his work for Sen. Helms, Farr has defended North Carolina in lawsuits against the state that alleged it violated the Voting Rights Act and other federal voting laws. The North Carolina legislature passed a wide-ranging voting law in 2013—just days after the Supreme Court’s *Shelby County v. Holder* decision ended the federal preclearance requirement for new voting laws in states with a history of voting discrimination.³¹ Among other things, the bill created a strict voter ID requirement, cut early voting, and created stricter rules for provisional ballots.³²

While drafting the bill, legislators asked state agencies for data on voting practices by race,³³ and *The New York Times* reported that Farr helped legislators in the North Carolina House of Representatives sort through data showing that black voters were twice as likely to lack a driver’s license as white voters.³⁴ Armed with this knowledge, the legislature changed voting in ways that would make it harder for black voters to cast a ballot.³⁵ The 4th Circuit Court of Appeals in Virginia found that the legislators intentionally targeted black voters.³⁶ Yet when the state appealed to the U.S. Supreme Court, Farr argued that it was “ludicrous” for the 4th Circuit to warn about a return to “the era of Jim Crow.”³⁷ Two other Trump judicial nominees, Stephen Schwartz and Kyle Duncan, also worked on the legal team defending the voter suppression law.³⁸

Civil rights leaders have decried Trump’s nomination of Farr to a lifetime seat in the same state where he has spent his career aiding attacks on black voters.³⁹ Rev. Dr. William J. Barber II, the former head of the state NAACP, wrote to the Senate Judiciary Committee about Farr’s “long record as an advocate for hyper-partisan, segregationist causes.”⁴⁰ Barber and others have asked whether Farr can be even-handed and impartial in voting rights cases after spending his legal career defending voter suppression.⁴¹

A state legislator who pushed a discriminatory voter ID law

President Trump has nominated the GOP’s top state senator in Tennessee, Mark Norris, to fill a seat in the Western District of Tennessee.⁴² As majority leader, Sen. Norris was a strong supporter of the state’s 2011 voter ID law and even tried to amend the law to allow poll workers to require proof of U.S. citizenship.⁴³ Kansas Secretary of State Kris Kobach, the head of Trump’s Election Integrity Commission, has championed similar proposals.⁴⁴ Opponents of Sen. Norris’ amendment argued it would lead to racial profiling at the polls.⁴⁵

Although the “proof of citizenship” provision did not pass, the state’s voter ID law is still one of the strictest in the country.⁴⁶ The U.S. Government Accountability Office reported that the law may have reduced voter turnout by 2 percent or 3 percent—around 88,000 Tennessee residents.⁴⁷ The reduction in turnout was even more striking for voters younger than age 23—4 percent.⁴⁸ Norris and allies repeatedly rejected amendments to allow student ID cards as an acceptable form of ID.⁴⁹ Although the bill allows college faculty and staff to use their ID cards, students cannot use their nearly identical ID cards.⁵⁰

In addition to his stance on voting rights, Sen. Norris also has a history of supporting policies and using rhetoric that harm Tennessee’s Muslim community, LGBTQ people, and black schoolchildren.⁵¹ A report on Sen. Norris from Alliance for Justice, a progressive judicial advocacy group, details Norris’ role in perpetuating racial segregation and underfunding in Memphis-area schools.⁵² Alliance for Justice referred to Norris’ record as “a virtual catalogue of biases and hostile acts aimed at numerous communities, including immigrants, LGBTQ persons, workers, women, people of color, and others who rely on the courts to uphold their rights.” Sen. Norris has co-sponsored bills to prohibit the removal of Confederate monuments, limit the right of women to have an abortion, and force state courts to defy the U.S. Supreme Court’s 2015 marriage equality ruling.⁵³

State judges with a record of siding with legislators over voters

Judge Allison Eid recently replaced Justice Gorsuch on the 10th Circuit Court of Appeals, which hears appeals from Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming.⁵⁴ A former Colorado Supreme Court justice, Eid was the lone dissenter in a 2012 redistricting case.⁵⁵ The Colorado Supreme Court upheld a lower court’s redrawing of the state’s congressional districts after the legislature failed to agree on new boundaries.⁵⁶ Justice Eid, however, sided with lawyers for the legislature, who argued that the trial court should have approved other maps that happened to favor Republican candidates.⁵⁷

President Trump nominated Minnesota Supreme Court Justice David Stras to a seat on the 8th U.S. Circuit Court of Appeals, which hears appeals from Minnesota, Arkansas, Iowa, Nebraska, Missouri, and the Dakotas.⁵⁸ Justice Stras joined two rulings that rejected legal challenges to a referendum on a state constitutional amendment to create a voter ID requirement.⁵⁹

One ruling, the Minnesota Supreme Court’s 2012 *League of Women Voters Minnesota v. Ritchie*, rejected arguments from voting rights advocates that the language used in the referendum was misleading.⁶⁰ Although Justice Stras and the majority acknowledged that the language did not “list all of the proposed effects” of the amendment, they

allowed the amendment to go before voters.⁶¹ In dissent, Justice Alan Page—the only black justice on the court at the time—said the language was a “bait and switch” that was “phrased to actively deceive and mislead.”⁶²

In the other case, *Limmer v. Ritchie*, Stras and the court’s majority sided with the legislature over the secretary of state in a battle over the title for the proposed voter ID amendment referendum.⁶³ The court allowed the legislature to name the amendment, despite state law clearly assigning that role to the secretary of state.⁶⁴ The legislature dubbed the amendment “Photo Identification Required for Voting,” failing to mention the changes to voter registration and provisional ballots that the secretary of state sought to include.⁶⁵ Alliance for Justice noted that Stras, “a self-described textualist ... easily put aside his commitment to textualism when it conflicted with the ideological goals of the Republican Legislature.”⁶⁶

Minnesota’s Democratic senators, Amy Klobuchar and Al Franken, have criticized the administration for failing to consult with them on the Stras nomination, as past presidents have done with home-state senators.⁶⁷ Sen. Franken expressed concern that Stras “would place a high bar before plaintiffs seeking justice at work, at school, and at the ballot box,” and he refused to support his nomination by returning a “blue slip.”⁶⁸

The blue slip rule is a long-standing tradition that requires senators to sign off on nominees from their states.⁶⁹ Recent Judiciary Committee chairs from both parties have honored the rule, which helps ensure bipartisanship in lifetime judicial appointments, but Senate Majority Leader McConnell has publicly called for ending it.⁷⁰

Alabama officials who followed in Jeff Sessions’ footsteps

President Trump has nominated Brett Talley, who works on judicial nominations at the Office of Legal Policy at the Department of Justice, to a district court in Alabama.⁷¹ Alliance for Justice said that the 36-year-old Talley “has less than three years of experience actually practicing law.”⁷² Talley has come under fire for his inflammatory statements about guns in the aftermath of mass shootings and his work on the Trump administration’s response to the investigation of independent counsel Robert Mueller.⁷³

When questions about Attorney General Jeff Sessions’ racism resurfaced during his 2017 confirmation hearing, Talley rushed to his defense.⁷⁴ When Sessions was nominated to be a federal judge in 1986, a Republican-controlled Senate voted not to confirm him after testimony about racist statements and due to a case Sessions prosecuted against voting rights advocates in Alabama.⁷⁵ In a piece for CNN, Talley claimed that Democrats were “slandering” Sessions.⁷⁶ In another CNN article, he wrote that critics had not offered “a shred of evidence from the past three decades that Sessions is a racist,”⁷⁷ ignoring Sessions’ hateful rhetoric about immigrants and votes against civil rights legislation.⁷⁸

During the 2016 election, Talley wrote several pro-Trump pieces for CNN.⁷⁹ He wrote a column after the election arguing that Trump should fill the empty U.S. Supreme Court seat with Judge William H. Pryor Jr., a former Alabama attorney general who ruled to uphold Georgia’s strict voter ID law in 2009.⁸⁰

Talley previously worked in the office of the Alabama attorney general, an office that Jeff Sessions once held.⁸¹ Talley signed an amicus brief defending Virginia’s redistricting plan, which was struck down as an unconstitutional racial gerrymander.⁸² The federal court’s ruling said that “the legislative record here is replete with statements indicating that race was the legislature’s paramount concern in enacting the 2012” redistricting map.⁸³ The court rejected arguments from Virginia, Alabama, and Texas that the “packing” of black voters was justified by the state’s attempt to comply with the Voting Rights Act, which requires states to ensure that voters of color can elect their “candidate of choice.”⁸⁴

Another alumnus of the Alabama attorney general’s office, Judge Kevin Newsom, was recently confirmed to the 11th U.S. Circuit Court of Appeals, which hears appeals from Alabama, Georgia, and Florida.⁸⁵ After he worked for the Alabama attorney general, Newsom successfully defended the state in a Voting Rights Act lawsuit.⁸⁶

Another Trump nominee, Judge Liles Burke of the Alabama Court of Criminal Appeals, has a record of affirming death sentences “even in cases tainted by racial discrimination and cases involving defendants with intellectual disabilities,” according to the Alliance for Justice.⁸⁷ Burke also has a portrait of Confederate President Jefferson Davis hanging in his chambers.⁸⁸

Conclusion

Despite concerns about their ability to be impartial, and their histories of racial hostilities and hateful rhetoric, Trump’s judicial nominees are moving through the Senate at a rapid pace. The Senate has confirmed more than twice as many judges as it had at this point in President Obama’s first term.⁸⁹ The Senate Judiciary Committee is also moving faster on holding hearings for nominees: more than two dozen so far for Trump’s nominees, again nearly twice as many as President Obama at this point.⁹⁰

President Trump and Senate Majority Leader McConnell have held up judicial confirmations as their most important achievement of the Trump era.⁹¹ Ronald Klain, a columnist for *The Washington Post*, noted that “while President Trump is incompetent at countless aspects of his job, he is proving wildly successful in one respect: naming youthful conservative nominees to the federal bench in record-setting numbers.”⁹² Many of Trump’s nominees, including Texas district court nominee Jeff Mateer, have a record of opposing civil rights for LGBTQ people and others. Mateer is a nominee out of Texas who said that transgender students are “evidence of ‘Satan’s plan.’”⁹³

Taken together, the nominees put forth by the Trump administration show a troubling hostility toward equal access to the ballot, particularly for communities of color, and a dangerously callous disregard for certain communities over which they would preside.

Trump’s nominees, like all judges, would be charged with interpreting and enforcing the Constitution. Voters may look to them to protect their right to participate in our democracy, to access the ballot without obstruction, and to ensure that their votes are counted. These nominees will decide when states violate the Voting Rights Act, the 14th Amendment’s Equal Protection Clause, and other fundamental rights of our democracy. Given the associations, policy positions, and past statements by many of these nominees, Americans are legitimately asking if these nominees can be expected to dispense justice in a fair and equitable manner. If past is prologue, the answer is likely no. The Senate should not confirm judges who cannot consider cases involving civil rights or voting rights in a fair and impartial manner. Citizens should demand judges who will protect the rights of all people, with no exceptions.

*Billy Corriher is the deputy director of Legal Progress at the Center for American Progress.
Michele L. Jawando is the vice president for Legal Progress at the Center.*

Endnotes

- 1 *N.C. State Conference of the NAACP*, 831 F.3d 204 (2016), p. 214; Letter from Congressional Black Caucus to Sens. Charles Grassley and Dianne Feinstein, September 19, 2017, available at https://butterfield.house.gov/sites/butterfield.house.gov/files/wysiwyg_uploaded/CBC%20Farr%20Nomination%20Letter.pdf; Jennifer Bendery, "Senate Advances Judicial Nominee With History of Restricting Voting Rights," *HuffPost*, October 20, 2017, available at https://www.huffingtonpost.com/entry/trump-judicial-nominee-thomas-farr-voting-rights_us_59ea4ddf4b00f08619ebc79.
- 2 Cari Wade Gervin, "Overbey Nomination Advances in Senate," *Nashville Post*, October 19, 2017, available at [http://www.nashvillepost.com/politics/courts/article/20979922/overbey-nomination-advances-in-senate; Alliance for Justice, "AFJ Nominee Report: Mark Norris" \(2017\), available at https://afj.org/wp-content/uploads/2017/10/AFJ-Norris-Report.pdf](http://www.nashvillepost.com/politics/courts/article/20979922/overbey-nomination-advances-in-senate; Alliance for Justice,).
- 3 Ann E. Marimow and Sean Sullivan, "Senate Republicans Look for Political Victory in D.C. Judicial Appointment," *The Washington Post*, October 17, 2017, available at https://www.washingtonpost.com/politics/senate-republicans-look-for-political-victory-in-dc-judicial-appointment/2017/10/17/edd9ae0-b2a7-11e7-a908-a3470754b-bb9_story.html.
- 4 Mark Joseph Stern, "The Racist Map Wins," *Slate*, September 13, 2017, available at [http://www.slate.com/articles/news_and_politics/jurisprudence/2017/09/the_supreme_court_s_conservatives_just_ensured_that_latino_votes_still_won.html; Order in Pending Case, *Abbott v. Perez*, 582 U.S., No. 17A245 \(September 12, 2017\), available at https://www.supremecourt.gov/orders/courtorders/091217zr3_4g15.pdf](http://www.slate.com/articles/news_and_politics/jurisprudence/2017/09/the_supreme_court_s_conservatives_just_ensured_that_latino_votes_still_won.html; Order in Pending Case, <i>Abbott v. Perez</i>, 582 U.S., No. 17A245 (September 12, 2017), available at https://www.supremecourt.gov/orders/courtorders/091217zr3_4g15.pdf).
- 5 Ari Berman, "Courts Have Blocked Three Discriminatory Texas Voting Laws in Eight Days," *Mother Jones*, August 24, 2017, available at <http://www.motherjones.com/politics/2017/08/courts-have-blocked-three-discriminatory-texas-voting-laws-in-eight-days/>.
- 6 Del Quentin Wilber, "Justice Department Shifts Course in Closely Watched Texas Voter ID Case," *Los Angeles Times*, February 27, 2017, available at <http://www.latimes.com/politics/washington/la-na-essential-washington-updates-justice-department-to-withdraw-from-key-1488224196-ht-mlstory.html>.
- 7 Jessica Huseman and Annie Waldman, "Trump Administration Quietly Rolls Back Civil Rights Efforts Across Federal Government," *ProPublica*, June 15, 2017, available at <https://www.propublica.org/article/trump-administration-rolls-back-civil-rights-efforts-federal-government>.
- 8 Jane C. Timm, "Justice Department Reverses Position in Ohio Voting Rights Case," *NBC News*, August 8, 2017, available at <https://www.nbcnews.com/politics/supreme-court/justice-department-reverses-position-ohio-voting-rights-case-n790846>.
- 9 Andy Sullivan and Grant Smith, "Use It or Lose It: Occasional Ohio Voters May Be Shut Out in November," *Reuters*, June 2, 2016, available at <http://www.reuters.com/article/us-usa-votingrights-ohio-insight/use-it-or-lose-it-occasional-ohio-voters-may-be-shut-out-in-november-idUSKCN0YO19D>.
- 10 Greg Stohr, "High Court Delays Voter-Purge Case Due to Lawyer's Medical Leave," *Bloomberg*, October 27, 2017, available at <https://www.bloomberg.com/news/articles/2017-10-27/high-court-delays-voter-purge-case-due-to-lawyer-s-medical-leave>.
- 11 Seung Min Kim and Josh Gerstein, "McConnell Preps Judicial Confirmation Frenzy," *Politico*, October 26, 2017, available at <http://www.politico.com/story/2017/10/26/judicial-nominees-mitch-mcconnell-244210>.
- 12 Ted Barrett, "Grassley not planning to change 'blue slip' procedure for judicial nominees," *CNN*, October 11, 2017, available at <http://www.cnn.com/2017/10/11/politics/blue-slip-judicial-nominees-grassley/index.html>.
- 13 Ronald A. Klain, "The one area where Trump has been wildly successful," *The Washington Post*, July 19, 2017, available at https://www.washingtonpost.com/opinions/the-one-area-where-trump-has-been-wildly-successful/2017/07/19/56c5c7ee-6be7-11e7-b9e2-2056e768a7e5_story.html?utm_term=.87c2fc7b7d02.
- 14 *Ibid.*
- 15 Ari Berman, "He Defended North Carolina's Voter Suppression Law. Now He's Set to Become a Federal Judge There," *Mother Jones*, October 18, 2017, available at [http://www.motherjones.com/politics/2017/10/he-defended-north-carolinas-voter-suppression-law-now-hes-set-to-become-a-federal-judge-there; Anne Blythe, "Should lawyer who defended NC GOP on voter ID and redistricting be a federal judge? Trump and NC senators say yes," Under the Dome blog, July 14, 2017, available at http://www.newsobserver.com/news/politics-government/politics-columns-blogs/under-the-dome/article161382553.html](http://www.motherjones.com/politics/2017/10/he-defended-north-carolinas-voter-suppression-law-now-hes-set-to-become-a-federal-judge-there; Anne Blythe,).
- 16 Letter from N.C. State Conference of the NAACP to Sen. Charles Grassley and Sen. Dianne Feinstein, "Re: Opposition to the Nomination of Thomas Farr to the Federal Judiciary," September 20, 2017, pp. 1–2, available at http://pulse.ncpolicywatch.org/wp-content/uploads/2017/09/Letter_in_Opposition_to_Farr_-_Federal_Judge_Nomination_1_.pdf.
- 17 Office of Rep. G. K. Butterfield, "Butterfield Statement on Nomination of Thomas Farr to Serve as District Judge for the Eastern District of North Carolina," Press release, July 13, 2017, available at <https://butterfield.house.gov/media-center/press-releases/butterfield-statement-on-nomination-of-thomas-farr-to-serve-as-district>.
- 18 Anne Blythe, "Trump Pick for NC Judge Accused of 'Hostile Record on African-American Voting Rights and Workers' Rights,'" *The Charlotte Observer*, September 21, 2017, available at <http://www.charlotteobserver.com/article174539786.html>.
- 19 Fatima Goss Graves, "Diversity in the Federal Judiciary on the Decline," *National Women's Law Center* The Latest blog, September 5, 2017, available at <https://nwl.org/blog/diversity-in-the-federal-judiciary-on-the-decline/>.
- 20 Office of Rep. G. K. Butterfield, "Butterfield Statement on Nomination of Thomas Farr to Serve as District Judge for the Eastern District of North Carolina."
- 21 David Broder, "Jesse Helms, White Racist," *The Washington Post*, August 29, 2001, available at [CNN, July 2, 2008, available at http://www.cnn.com/2008/POLITICS/07/09/roland.martin/index.html">http://www.washingtonpost.com/wp-dyn/content/article/2008/07/06/AR2008070602321.html; Roland Martin, "Commentary: Don't Sanitize Helms' Racist Past," *CNN*, July 2, 2008, available at http://www.cnn.com/2008/POLITICS/07/09/roland.martin/index.html](http://www.washingtonpost.com/wp-dyn/content/article/2008/07/06/AR2008070602321.html; Roland Martin,).
- 22 Bill Peterson, "Jesse Helms' Lesson for Washington," *The Washington Post*, November 18, 1984, available at https://www.washingtonpost.com/archive/opinions/1984/11/18/jesse-helms-lesson-for-washington/89952868-aefd-4230-8f39-019e3cdf0b9/?utm_term=.20859770d23c.
- 23 Associated Press, "Helms Sings a Song of 'Dixie' Moseley-Braun Looks Away," *Los Angeles Times*, August 6, 1993, available at http://articles.latimes.com/1993-08-06/news/mn-20952_1_carol-moseley-braun.
- 24 *Ibid.*; The Jesse Helms Center, "Fictional vs. Factual: The Truth Behind the Rumors about Jesse Helms," available at <https://www.jessehelmscenter.org/senator-jesse-helms/key-issues/> (last accessed October 2017).
- 25 Berman, "He Defended North Carolina's Voter Suppression Law. Now He's Set to Become a Federal Judge There."
- 26 *Ibid.*

- 27 *The New York Times*, "The 1992 Campaign; Helms Campaign Signs Decree on Racial Postcards," February 28, 1992, available at <http://www.nytimes.com/1992/02/28/us/the-1992-campaign-helms-campaign-signs-decree-on-racial-postcards.html?mcubz=1>.
- 28 Berman, "He Defended North Carolina's Voter Suppression Law. Now He's Set to Become a Federal Judge There.;" Thomas Goldsmith, "Attorney Involved in Helms-Era Postcards," *News & Observer*, December 21, 2009, p. A; Sen. Dick Durbin, "Written Questions for Allison Eid, Thomas Farr and William Ray," Senate Commission on the Judiciary, September 27, 2017, p. 12, available at <https://www.judiciary.senate.gov/imo/media/doc/Farr%20Responses%20to%20QFRs.pdf>.
- 29 *Ibid.*
- 30 Leslie Proll, "White Supremacy Has No Place on the Federal Bench," NAACP Legal Defense Fund on Medium, October 11, 2017, available at https://medium.com/@NAACP_LDF/white-supremacy-has-no-place-on-the-federal-bench-d6bdca14159d7; David Vise and Thomas Edsall, "Battle for CBS Takes on Air of Mudslinging Contest," *The Washington Post*, March 31, 1985, available at https://www.washingtonpost.com/archive/politics/1985/03/31/battle-for-cbs-takes-on-air-of-mudslinging-contest/06e984d5-bca3-48db-828c-da196309fb9/?utm_term=.6002b13e60aa; Rob Christensen, "He was the man behind the curtain in NC politics," *The News & Observer*, September 8, 2017, available at <http://www.newsobserver.com/news/politics-government/politics-columns-blogs/rob-christensen/article172104272.html>; Jim Morrill, "How Nancy Reagan Helped Save Her Husband's Career in NC," *The Charlotte Observer* Campaign Tracker blog, March 8, 2016, available at <http://www.charlotteobserver.com/news/politics-government/campaign-tracker-blog/article4842197.html>.
- 31 Jim Rutenberg, "A Dream Undone," *The New York Times*, July 29, 2015, available at <https://www.nytimes.com/2015/07/29/magazine/voting-rights-act-dream-undone.html>.
- 32 House Bill 589, Session Law 2013-381, N.C.G.A. (2013), available at <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H589v9.pdf>.
- 33 *N.C. State Conference of the NAACP v. McCrory*, 831 F.3d 204, 214 (4th Cir. 2016).
- 34 Rutenberg, "A Dream Undone."
- 35 *Ibid.*; *N.C. State Conference of the NAACP*, 831 F.3d 204, p. 214.
- 36 *Ibid.*
- 37 Petition for a Writ of Certiorari, *N.C. State Conference of the NAACP v. McCrory* (2017), p. 20, available at <http://www.judicialwatch.org/wp-content/uploads/2017/03/North-Carolina-Voter-ID-Cert-Petition-FINAL-833.pdf>.
- 38 *Ibid.*; The White House Office of the Press Secretary, "President Donald J. Trump Announces Eighth Wave of Judicial Candidates," Press release, September 29, 2017, available at <https://www.whitehouse.gov/the-press-office/2017/09/28/president-donald-j-trump-announces-eighth-wave-judicial-candidates>; Alliance for Justice, "AFJ Nominee Report: Stephen Schwartz" (2017), available at <https://afj.org/wp-content/uploads/2017/07/AFJ-Schwartz-Report.pdf>.
- 39 Letter from NAACP Legal Defense and Educational Fund to Sens. Charles Grassley and Dianne Feinstein, "Re: The Nomination of Thomas Farr to be United States District Judge for the Eastern District of North Carolina," September 19, 2017, available at http://www.naacpldf.org/files/case_issue/LDF%20Letter%20in%20opposition%20to%20the%20Confirmation%20of%20Thomas%20Farr%209.19.2017.pdf.
- 40 Letter from North Carolina State Conference of the NAACP to Sens. Charles Grassley and Dianne Feinstein, "Re: Opposition to the Nomination of Thomas Farr to the Federal Judiciary"
- 41 *Ibid.*; Cash Michaels, "Barber, Butterfield Blast Trump Nomination of GOP Attorney," *Winston-Salem Chronicle*, July 20, 2017, available at <http://www.wschronicle.com/2017/07/barber-butterfield-blast-trump-nomination-gop-attorney/>; Marge Baker, "Letter: The Judiciary Committee Should Reject Thomas Farr's Nomination," *People for the American Way*, September 19, 2017, available at <http://www.pfaw.org/blog-posts/letter-the-judiciary-committee-should-reject-thomas-farrs-nomination/>.
- 42 Jonathan Mattise, "Trump Taps Tennessee Senate Leader, 3 More to Judgeships," *U.S. News & World Report*, July 13, 2017, available at <https://www.usnews.com/news/best-states/tennessee/articles/2017-07-13/trump-taps-tennessee-senate-leader-3-more-to-judgeships>.
- 43 Alliance for Justice, "AFJ Nominee Report: Mark Norris," p. 12.
- 44 Sam Levine, "Kris Kobach Denies Telling Trump To Amend Key Voter Protection," *HuffPost*, October 26, 2017, available at https://www.huffingtonpost.com/entry/kris-kobach-trump-meeting_us_59f24a5de4b077d8dfc8806d; Tomas Lopez and Jennifer Clark, "Uncovering Kris Kobach's Anti-Voting History," *Brennan Center for Justice*, May 11, 2017.
- 45 Tom Humphrey, "Senate Votes to Require Proof of Citizenship for Voters," *Humphrey on the Hill* Google cache, May 10, 2010, available at <http://webcache.googleusercontent.com/search?q=cache:H4ioboWyAbCj:knoblogs.com/humphrey-hill/author/tomhumphrey/page/1476/+&cd=1&hl=en&ct=cInk&gl=us> (last accessed November 2017).
- 46 National Conference of State Legislatures, "Voter Identification Requirements | Voter ID Laws," June 5, 2017, available at <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.
- 47 Phillip Bump, "Voter ID laws in Kansas and Tennessee dropped 2012 turnout by over 100,000 votes," *The Washington Post*, October 9, 2014, available at https://www.washingtonpost.com/news/the-fix/wp/2014/10/09/gao-voter-id-laws-in-kansas-and-tennessee-dropped-2012-turnout-by-over-100000-votes/?utm_term=.d3ad6adb883d; U.S. Government Accountability Office, "Issues Related to State Voter Identification Laws," Report to Congressional Requesters, GAO-14-634, September 2014, available at <http://www.gao.gov/assets/670/665966.pdf>.
- 48 *Ibid.*
- 49 Alliance for Justice, "AFJ Nominee Report: Mark Norris," p. 13.
- 50 *Ibid.*
- 51 *Ibid.*, pp. 3–12.
- 52 *Ibid.*, pp. 10–12.
- 53 *Ibid.*, pp. 3–15.
- 54 Associated Press, "Colorado Judge Confirmed for Denver-Based US Appeals Court," *U.S. News & World Report*, November 3, 2017, available at <https://www.usnews.com/news/best-states/colorado/articles/2017-11-03/colorado-judge-confirmed-for-denver-based-us-appeals-court>.
- 55 *Hall v. Moreno*, 270 P.3d 961 (Colorado 2012).
- 56 *Ibid.*
- 57 *Ibid.*, p. 983.
- 58 Steve Karnowski, "Trump tabs Minnesota Justice Stras for federal appeals court," *Associated Press*, May 8, 2017, available at <https://www.apnews.com/fba875416c59476da47a5d5667aa3a1d>.
- 59 *Limmer v. Ritchie*, 819 N.W.2d 622 (Minn. 2012); *League of Women Voters v. Ritchie*, 819 N.W.2d 636 (Minn. 2012).
- 60 *League of Women Voters*, 819 N.W.2d 636, pp. 646–651.

- 61 Ibid., p. 651.
- 62 Ibid., pp. 651–657.
- 63 *Limmer*, 819 N.W.2d 622.
- 64 Ibid.
- 65 Ibid., p. 626.
- 66 Alliance for Justice, “AFJ Nominee Report: David Stras” (2017), p. 8, available at <https://www.afj.org/wp-content/uploads/2017/08/AFJ-Report-David-Stras.pdf>.
- 67 Brian Bakst, “Politics snarls Stras’ federal court bid, but he knows the drill,” MPR News, September 27, 2017, available at <https://www.mprnews.org/story/2017/09/27/politics-snarls-david-stras-federal-court-bid>; Seung Min Kim, “Trump’s judge picks snub Democrats,” *Politico*, August 11, 2017, available at <https://www.politico.com/story/2017/08/11/senate-judges-democrats-trump-241448>.
- 68 Office of Sen. Al Franken, “Sen. Franken to Oppose Nomination of Justice David Stras for Eighth Circuit Court of Appeals,” Press release, September 5, 2017, available at https://www.franken.senate.gov/?p=press_release&id=3753; Seung Min Kim, “Franken opposes Trump judicial nominee, setting up procedural clash,” *Politico*, September 5, 2017, available at <https://www.politico.com/story/2017/09/05/al-franken-opposes-david-stras-242340>.
- 69 Anisha Singh, Aki Suzuki, and Andrew Satter, “Senate Republicans Might Kill This Centurylong Tradition to Stack the Courts with Trump’s Nominees,” Center for American Progress, September 7, 2017, available at <https://www.americanprogress.org/issues/courts/news/2017/09/07/438540/senate-republicans-might-kill-centurylong-tradition-stack-courts-trumps-nominees/>.
- 70 Niels Lesniewski, “McConnell: Democratic ‘Blue Slips’ Won’t Block Trump Judges,” Roll Call, October 11, 2017, available at <https://www.rollcall.com/news/politics/judicial-nominees-mcconnell-blue-slips>.
- 71 David Lat, “D-Day at DOJ: The Trump Administration’s ‘Beachhead’ Team For The Justice Department,” Above the Law, January 20, 2017, available at <https://abovethelaw.com/2017/01/d-day-at-doj-the-trump-administrations-beachhead-team-for-the-justice-department/2/?rf=1>.
- 72 Alliance for Justice Justice Watch blog, “Youthful Political Commentator Nominated to the Federal Bench,” October 13, 2017, available at <https://www.afj.org/blog/youthful-political-commentator-nominated-to-the-federal-bench>.
- 73 Josh Gerstein, “D.C. Circuit nominee says he worked on White House response to Mueller probe,” *Politico*, October 17, 2017, available at <https://www.politico.com/story/2017/10/17/greg-katsas-worked-on-white-house-mueller-response-243862>; Seung Min Kim, “Trump’s judge picks: ‘Not qualified,’ prolific bloggers,” *Politico*, October 17, 2017, available at <https://www.politico.com/story/2017/10/17/trump-judges-nominees-court-picks-243834>.
- 74 Alliance for Justice Justice Watch blog, “Youthful Political Commentator Nominated to the Federal Bench.”
- 75 Glen Elsasser, “Judicial Nomination ‘In Deep Trouble’” *Chicago Tribune*, March 29, 1986, available at [https://www.washingtonpost.com/news/the-fix/wp/2016/11/18/that-time-the-senate-denied-jeff-sessions-a-federal-judgeship-over-accusations-of-racism/?utm_term=.e76eb5f6ba1b](http://articles.chicagotribune.com/1986-03-29/news/8601230282_1_jeff-sessions-white-house-sessions-remark; Amber Phillips, “That Time the Senate Denied Jeff Sessions a Federal Judgeship Over Accusations of Racism,” <i>The Washington Post</i> The Fix blog, January 10, 2017, available at <a href=).
- 76 Brett J. Talley, “Never Trump Republicans, come on home,” CNN, January 11, 2017, available at <http://www.cnn.com/2017/01/11/opinions/never-trump-republicans-need-to-support-trump-now-talley/index.html>.
- 77 Brett J. Talley, “Democrats, the party who cried racist,” CNN, December 1, 2016, available at <http://www.cnn.com/2016/12/01/opinions/democrats-the-party-who-cried-racist-talley/index.html>.
- 78 The Leadership Conference on Civil and Human Rights, “An Open Letter to the United States Senate: Civil and Human Rights Organizations Oppose Confirmation of Jeff Sessions,” December 1, 2016, available at <https://www.judiciary.senate.gov/imo/media/doc/Sessions%20Nomination%2012%201%2016.pdf>.
- 79 Talley, “Never Trump Republicans, come on home”; Brett J. Talley, “Don’t let ‘Never Trump’ become ‘Ready for Hillary,’” CNN, May 7, 2017, available at <http://www.cnn.com/2016/05/07/opinions/never-trump-risks-electing-hillary-clinton-opinion-talley/index.html>.
- 80 Brett J. Talley, “Who Donald Trump should appoint to the Supreme Court,” CNN, November 15, 2016, available at <http://www.cnn.com/2016/11/14/opinions/who-trump-should-appoint-supreme-court-talley/index.html>; Michele Gorman, “A Profile of William Pryor, Trump’s Possible SCOTUS Nominee,” *Newsweek*, December 9, 2016, available at <http://www.newsweek.com/profile-william-pryor-trumps-possible-scotus-nominee-530480>.
- 81 Alliance for Justice Justice Watch blog, “Youthful Political Commentator Nominated to the Federal Bench.”
- 82 Brief of Alabama and Texas as Amici Curiae in Support of Appellants, *Wittman v. Personhaballah*, No. 14-1504, January 4, 2016, available at <http://www.scotusblog.com/wp-content/uploads/2016/01/14-1504-tsac-Alabama.pdf>. In 2016, the Supreme Court dismissed Virginia’s appeal for a lack of jurisdiction. The governor and attorney general had refused to defend the law, and legislators lacked standing, the kind of injury required to file or appeal a federal case. See *Wittman v. Personhaballah*, 136 S.Ct. 1732 (2016).
- 83 *Page et. al. v. Virginia State Board of Elections et. al.*, 58 F.Supp.3d 533, 542 (E.D.Va. 2014).
- 84 Ibid., pp. 552–553.
- 85 Katheryn Hayes Tucker, “Senate Confirms New Judge for Eleventh Circuit,” *Daily Report*, August 2, 2017, available at <http://www.law.com/dailybusinessreview/almid/1202794581069/?srlreturn=20170930095706>.
- 86 *Riley v. Kennedy*, 553 U.S. 406 (2008).
- 87 Alliance for Justice, “AFJ Nominee Snapshot: Liles Burke” (2017), available at <https://www.afj.org/wp-content/uploads/2017/09/AFJ-Snapshot-Liles-Burke.pdf>.
- 88 Ibid.; Charles Whisenant, “Supreme day for Burke,” *The Arab Tribune*, April 11, 2011, available at http://www.theArabtribune.com/news/supreme-day-for-burke/article_1abaf6f-0779-505e-8387-ace3f84efd.html.
- 89 Kim, “Trump’s judge picks: ‘Not qualified,’ prolific bloggers.”
- 90 Ibid.
- 91 Jeet Heer, “Mitch McConnell: We’ll Always Have Neil Gorsuch,” *New Republic* Minutes blog, available at <https://newrepublic.com/minutes/143930/mitch-mcconnell-well-always-neil-gorsuch> (last accessed November 2017); Josh Gerstein, “Gorsuch speech at Trump hotel attracts protests,” *Politico*, September 28, 2017, available at <https://www.politico.com/story/2017/09/28/neil-gorsuch-trump-hotel-speech-243251>.
- 92 Klain, “The one area where Trump has been wildly successful.”
- 93 Chris Massie and Andrew Kaczynski, “Trump judicial nominee said transgender children are part of ‘Satan’s plan,’ defended ‘conversion therapy,’” CNN, September 20, 2017, available at <http://www.cnn.com/2017/09/20/politics/kfile-jeff-mateer-lgbt-remarks/index.html>.