



October 16, 2018

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

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

On behalf of our hundreds of thousands of members across the United States, People For the American Way strongly opposes the nomination of Allison Jones Rushing to the Fourth Circuit Court of Appeals. Her vision of the Constitution represents her own personal conservative ideological preferences.

A key reason the modern conservative movement has for so long focused on capturing the federal judiciary is that much of their agenda—mixing church and state, banning abortion, public financing of religion, and mandated discrimination against LGBTQ people—violates the Constitution. Since the movement’s earliest days, our nation’s federal courts have stood as a bulwark against the far right’s overreach. As a result, they have sought to place ideological allies on the bench—allies such as Allison Jones Rushing.

During law school, she chose a summer position at the Alliance Defending Freedom (ADF), then called the Alliance Defense Fund. Then and now, ADF is one of the far right’s leading organizations opposing LGBTQ equality, church-state separation, and abortion rights. In the eleven years since she graduated law school, she has continued to support the organization through its Blackstone Legal Fellowship, which helps mentor and advance like-minded lawyers.

People For the American Way’s Right Wing Watch has long tracked and reported on ADF’s harmful mission and dishonest tactics, both beforeⁱ and afterⁱⁱ its name change.ⁱⁱⁱ In addition, ADF’s extremism has led to its being designated as a hate group by the Southern Poverty Law Center (SPLC).^{iv} In explaining the designation, the civil rights organization notes that ADF has supported the re-criminalization of homosexuality in the U.S. and its criminalization abroad, and that it has defended state-sanctioned sterilization of transgender people abroad.

On its website, the civil rights organization provides numerous false and bigoted statements that ADF has made in its efforts to denigrate LGBTQ people. This includes the inflammatory libel of linking gay people to sexual assault against children. For example:

[C]ontrol of the educational system is central to those who want to advance the homosexual agenda. By its very nature, homosexual acts are incapable of bearing fruit—indeed, strictly speaking, they are not sexual, as they are incapable of being generative or procreative. Thus there is the need to desensitize and corrupt young minds, both to undermine resistance to the agenda and for recruitment among those that are at an emotionally vulnerable stage of development.

—Then-senior ADF Legal Counsel (Global) Piero Tozzi, speaking at the World Congress of Families gathering in Madrid, Spain, 2012

We mention the new promotion of pedophilia in the context of talking about the influence of homosexual behavior on college campuses, because, despite all objections to the contrary, the two are often intrinsically linked.

—[ADF president] Alan Sears and Craig Osten, *The Homosexual Agenda: Exposing the Principal Threat to Religious Freedom Today*, 2003

The endgame of the homosexual legal agenda is unfettered sexual liberty and the silencing of all dissent.

—ADF Senior Counsel Erik Stanley at the Gospel, Homosexuality, and the Future of Marriage conference, 2014

As the homosexual agenda continues to sexualize our culture, other once-forbidden behaviors are exalted as just more alternative lifestyles. The result is that the well-being of millions of children is at risk, along with the right of parents to protect their children from sexual exploitation.

—Alan Sears and Craig Osten, *The Homosexual Agenda: Exposing the Principal Threat to Religious Freedom Today*, 2003

Rushing’s anti-constitutional ideology has come through in other ways, as well. For instance, she co-authored an article evidencing a shocking mischaracterization of both the Establishment Clause and its supporters. She described lawsuits filed by supporters of the Establishment Clause as allowing:

[E]very village secularist to charge into court with the ACLU and challenge governmental acknowledgements of religion, no matter how passive or benign. These delicate plaintiffs with eggshell sensitivities—who claim deep offense at the acknowledgement of any beliefs that conflict with their own—then seek court orders censoring the religious message, as a type of ‘heckler’s veto.’^v

Allison Jones Rushing is exactly the kind of ideologue that the far right has long sought to take over our nation’s courts. Her vision of the Constitution excludes those she disfavors and elevates those she aligns with. She should not be confirmed to a lifetime appointment as a federal circuit court judge.

Sincerely,



Marge Baker
Executive Vice President for Policy and Program

ⁱ <http://www.rightwingwatch.org/organizations/alliance-defense-fund/>.

ⁱⁱ <http://www.rightwingwatch.org/organizations/alliance-defending-freedom/>.

ⁱⁱⁱ E.g., Right Wing Watch, “Celebrating Jeff Sessions, ADF Takes To Hate Radio To Claim They Aren’t A Hate Group” (Aug. 10, 2018), <http://www.rightwingwatch.org/post/celebrating-jeff-sessions-adf-takes-to-hate-radio-to-claim-they-arent-a-hate-group/>.

^{iv} <https://www.splcenter.org/fighting-hate/extremist-files/group/alliance-defending-freedom>.

^v Jordan Lorence and Allison Jones, "Nothing to Stand On: 'Offended Observers' and the Ten Commandments," 6 Engage 138 (2005), available at <https://www.afj.org/wp-content/uploads/2018/10/Allison-Rushing-Nothing-to-Stand-On-Offended-Observers.pdf>.