



November 13, 2020

United States Senate  
Washington, DC 20510

Dear Senator:

On behalf of our 1.5 million supporters nationwide, People For the American Way opposes the confirmation of any more of President Trump's nominees to the federal courts during the short time he has left in office, and we urge you to do so as well.

In the days since the election that made Donald Trump a one-term president, the COVID-19 crisis has continued to worsen. As of November 13, more than 10.6 million people in the United States have contracted the disease, with nearly 250,000 having died of it.<sup>i</sup> The number of new cases per day continues to increase and the American people are facing dire circumstances. Yet rather than take action to help Americans harmed by the pandemic, Senate Republicans' top priority is to confirm more of Trump's judicial nominees in the short time he has left in office.

This adds yet another bipartisan principle that Senate Republicans have abandoned in order to enhance their power by any means necessary. Confirming the lifetime nominees of an outgoing president who will be replaced by a president of another party during a lame duck is not simply unusual; it has happened only once in the past 120 years.<sup>ii</sup> Even that instance—the 1980 confirmation of Stephen Breyer to the First Circuit—was done with substantial bipartisan support.

Four years ago, during President Barack Obama's last year in office, Republicans controlling the Senate stopped confirming his judicial nominees in July. They blocked not only Supreme Court nominee Merrick Garland but also more than 50 circuit and district court nominees from receiving a vote during the remaining half year of Obama's presidency.

Instead of supporting the nominees that the Republican majority is attempting to ram through at this late date, Democratic senators should use this opportunity to talk about the vital role federal courts play in protecting the rights and the health of the American people. In this way, they can demonstrate a clean break with the Republican agenda, which has been to name judges who will put the interests of the powerful ahead of the rights of the rest of us in areas including corporate power, police violence, access to health care, racial justice, voting rights, and LGBTQ+ equality.

After Republicans abused their power to install Amy Coney Barrett on the Supreme Court before Election Day, Democrats should not help them violate yet another norm and continue to damage the nation's courts. That is certainly not what the American people want to see: Indeed, a majority of voters who considered the Supreme Court an important factor in their vote chose Joe

Biden over Donald Trump, a change from previous elections when conservative and Republican voters cared more about the Court.<sup>iii</sup>

By undermining the fairness of the judiciary, Senate Republicans are endangering the welfare of people across the country, especially communities of color, low-income people, and other historically marginalized groups. Repairing our federal courts must be a priority. We expect President-elect Biden to nominate fair-minded constitutionalists to the bench so the federal judiciary can fulfill its mission of protecting our rights and our democracy. Those, and not more Trump judges, are the types of nominees Democratic senators should be voting to put on the bench.

Sincerely,

A handwritten signature in cursive script that reads "Marge Baker".

Marge Baker  
Executive Vice President

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<sup>i</sup> "Covid in the U.S.: Latest Map and Case Count," New York Times,

<https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> (data retrieved Nov. 13, 2020).

<sup>ii</sup> Data from "Biographical Directory of Article III Federal Judges, 1789-present," Federal Judicial Center,

<https://www.fjc.gov/history/judges/search/advanced-search>.

<sup>iii</sup> "National Exit Polls: How Different Groups Voted," New York Times,

<https://www.nytimes.com/interactive/2020/11/03/us/elections/exit-polls-president.html>.