

## OPPOSE JUDGE GORSUCH TO FILL US SUPREME COURT VACANCY

**NCJW Message:** NCJW is deeply alarmed by Judge Neil Gorsuch's nomination to the US Supreme Court by President Trump. Judge Gorsuch has repeatedly denounced women's reproductive and religious freedoms as well as LGBTQ rights, and is an opponent of class action lawsuits that are a critical tool to fight employment discrimination. NCJW believes that only women and men committed to upholding constitutional rights and fundamental freedoms should be confirmed to lifetime seats on the federal bench. Judge Gorsuch, through his court opinions and essays, has made it clear that he has no respect for the constitutional principles that have supported the progress made by women and people of color throughout our country's history. **NCJW urges the Senate to oppose the nomination of Judge Gorsuch based on a thorough, independent review of his record.**

### TALKING POINTS:

- ▶ **Judge Gorsuch has repeatedly denounced women's reproductive and religious freedoms.** He voted to uphold the right of employers to refuse to pay for health insurance that covers all forms of contraception. In the case *Hobby Lobby Stores, Inc. v. Sebelius*, Judge Gorsuch argued that corporations are people exercising religious rights and therefore did not have to comply with the Affordable Care Act benefit requiring that all health insurance plans for employees include contraceptive coverage. In *Little Sisters of the Poor Home for the Aged v. Burwell*, a similar case, Little Sisters of the Poor claimed that the mere act of filing the coverage exemption waiver was a violation of their religious freedom, and Judge Gorsuch agreed, thereby giving groups the right to deny contraceptive coverage under federal health plans without even stating a reason. And in *Planned Parenthood Association of Utah v. Herbert*, Judge Gorsuch dissented and would have allowed the Utah Governor to defund Planned Parenthood, basing his opinion on false and misleading videos.
- ▶ **Judge Gorsuch has a long and troubling record opposing civil rights, and LGBTQ rights in particular.** Gorsuch called marriage equality part of the liberal social agenda, saying, "American liberals have become addicted to the courtroom... as the primary means of effecting their social agenda on everything from gay marriage to assisted suicide..." He joined the Tenth Circuit's decision in *Hobby Lobby*, an expansive ruling that could allow employers to deny transgender employees access to hormone treatment, access to birth control, and other crucial health care for LGBTQ individuals. In 2015, Gorsuch joined a ruling denying a transgender woman consistent access to hormone therapy while incarcerated. The ruling dismissed the prisoner's claims that the denial of care amounted to cruel and unusual punishment under the US Constitution. And, he has advocated for eliminating the *Chevron* deference, a critical administrative law doctrine that allows our federal system of regulations to function, which could result in the significant loss of protections for LGBTQ people in addition to having other ramifications.
- ▶ **Judge Gorsuch's record demonstrates that he consistently puts corporate interests ahead of working families.** Judge Gorsuch is an opponent of class action lawsuits, a critical tool to fight employment discrimination. In *Compass Environmental, Inc. v. OSHRC*, the majority held that the employer must pay a fine for disregarding an internal policy and failing to train a worker who was electrocuted to death because he was not properly trained about the electrocution danger posed by high-voltage lines. Judge Gorsuch issued a dissent and would have simply dismissed the case because he didn't believe the employer was negligent. In *TransArm Trucking, Inc. v. Administrative Review Board*, the majority held that a trucking company unlawfully

fired an employee in violation of federal whistleblower protections. In that case, the employee was ordered to wait in a freezing truck with no heat, leading to difficulty breathing and loss of feeling in his feet and torso. Judge Gorsuch dissented, stating that the employee should have followed orders rather than leaving the truck after three hours despite the risk of serious injury.

- ▶ **Today, more than ever, and independent justice is needed on the US Supreme Court.** The overreach of the Trump Administration underscores why we need a justice who will serve as a check on the politicians in all branches of government when they break the law or violate the Constitution. The next justice must be an open-minded, fair, and independent individual who will stand up for the constitutional values and protections for everyone. The fact that Judge Gorsuch apparently passed Trump's so-called "litmus tests" as a prerequisite for nomination suggests that he may rule in accordance with Trump's prescribed ideologies as opposed to the law itself.
  
- ▶ **The Supreme Court is the final arbiter of our laws, and its rulings dramatically impact the lives and rights of all Americans.** Judge Gorsuch's decade-long record on the federal bench, as well as his writings, speeches, and activities throughout his career, demonstrate he is a judge with an agenda. His frequent radical dissents show he is out of the mainstream of legal thought and unwilling to accept the constructs of binding precedent and *stare decisis* when they dictate results he disfavors. If confirmed to the Supreme Court, which is closely divided on many critical issues, Judge Gorsuch would tip the balance in a direction that would undermine many of our core rights and legal protections. He lacks the impartiality and independence the American people expect and deserve from the federal bench.