



May 30, 2025

Senator Charles Grassley
Chair, Senate Judiciary Committee

Senator Richard Durbin
Ranking Member, Senate Judiciary Committee

Dear Senator Grassley and Senator Durbin:

On behalf of our hundreds of thousands of supporters and activists nationwide, People For the American Way opposes the first slate of judicial nominations of President Trump's second term. The five nominees are Whitney Hermandorfer (Sixth Circuit), Zachary Bluestone (Eastern District of Missouri), Josh Divine (Eastern and Western Districts of Missouri), Maria Lanahan (Eastern District of Missouri), and Cristian Stevens (Eastern District of Missouri).

While we have concerns about some of the nominees' records, we are much more concerned about the record of the man making the nominations. The Senate should not confirm the judicial nominees of any president who defies the courts and threatens judges he disagrees with.

Just days into his second term, Trump and Vice President J. D. Vance were already signaling their plans to defy court orders they disagree with. In response to Judge Paul Engelmayer's order temporarily blocking DOGE agents' access to Treasury Department payments systems, Vance stated that "Judges aren't allowed to control the executive's legitimate power," suggesting that judicial orders holding the president accountable to the law are "illegal."ⁱ The following day, Trump stated that "No judge should, frankly, be allowed to make that kind of a decision."ⁱⁱ

A few days later, the administration violated Rhode Island district court judge John McConnell's order barring the Office of Management and Budget from freezing federal spending and from refusing to disburse congressionally appropriated funds. This led Judge McConnell to note on February 10 that "all orders and judgments of courts must be complied with promptly," and that parties who "refuse to obey an order generally risk criminal contempt even if the order is ultimately ruled incorrect."ⁱⁱⁱ

Americans saw a similar refusal to comply with court orders when the administration began to dismantle the Consumer Financial Protection Bureau, which it cannot do without congressional approval. A court ordered that reductions in force (RIFs) could occur only after a particularized assessment that an employee is not necessary to the bureau's statutorily-mandated duties. Instead of complying, the administration quickly moved to fire more than 90 percent of the bureau's employees. This led a DC Circuit court panel to reverse its

own earlier decision and strengthen the injunction the administration was already subject to, prohibiting RIFs altogether.^{iv}

Perhaps most shocking and terrifying is the administration's defiance of the courts in cases involving Trump's program of kidnapping residents and sending them to foreign prisons without due process. Most Americans are now familiar with one particular victim, Kilmar Abrego Garcia. On April 10, the Supreme Court ordered the Trump administration to facilitate his release from custody in El Salvador. More than seven weeks later, that still has not happened. Instead, his administration is defying district court judge Paula Xinis's order to turn over evidence of its efforts to comply with that order. She described the Trump administration's defiance as "a willful and bad faith refusal to comply with discovery obligations."^v

In addition to the defiance of the courts, there are the threats against judges. When Washington DC district court judge James Boasberg temporarily blocked one of the administration's programs, Trump posted, "This judge, like many of the Crooked Judges' I am forced to appear before, should be IMPEACHED!!!"^{vi} The next day, Attorney General Bondi followed his lead. On Fox News, she accused Judge Boasberg of "meddling in our government," and accused him of "trying to protect terrorists who invaded our country over American citizens."^{vii}

According to press reports, Trump's demand for Judge Boasberg's removal "set off a string of near-instant social media taunts and threats, including images of judges being marched off in handcuffs."^{viii} Judges hearing Trump cases are now facing increased threats including bomb threats and swatting.^{ix} Perhaps for the first time in history, federal judges are now worried that the White House will order the U.S. Marshals Service to withdraw the security protection it now provides judges.^x Adding fuel to the fire, on May 17, Trump "re-truthed" a supporter's post suggesting he release supposed terrorists near the homes of Supreme Court justices.^{xi}

This is not normal.

And yet it is not a surprise. When asked if he is required to "uphold the Constitution of the United States as president," Trump answered, "I don't know."^{xii}

The federal courts are essential to providing the checks and balances needed to prevent tyranny. At present, they are the only branch of the federal government carrying out this essential function. When the president is defying court orders and threatening judges, he should not be allowed to name anyone to the one branch of the federal government that is checking his power.

Beyond the overarching issue of who is nominating individuals for lifetime seats on our federal courts, there are specific concerns about the records of several of the individuals in the first slate of Trump's second term judicial nominees.

As director of strategic litigation in the Tennessee attorney general's office, Sixth Circuit nominee Whitney Hermandorfer has joined amicus briefs defending Trump's blatantly illegal order abrogating the Fourteenth Amendment's grant of birthright citizenship. She has defended Tennessee's abortion ban even though the narrowness and lack of clarity of its exceptions have dissuaded medical professionals from providing necessary abortion care to people in her state. She led a six-state coalition in litigation against federal protections for transgender students, and she is helping Tennessee defend its anti-transgender laws before the Supreme Court in *U.S. v. Skrmetti*. While lawyers are expected to represent their clients' positions regardless of their own, a former Trump White House lawyer stated that Hermandorfer "has bled on the battlefield of the conservative legal movement"^{xiii} opposing abortion and transgender rights, suggesting that the legal positions she took also reflect her own views of the law.

Another recent Trump nominee whose record raises concerns is Joshua Divine (Eastern and Western Districts of Missouri), Missouri's solicitor general and director of special litigation in the state attorney general's office. That office describes him as "the architect" of Missouri's litigation that blocked President Biden's student loan forgiveness program.^{xiv} The state's lawyers devised an argument for why it had standing to sue over a policy disagreement, since the debt forgiveness plan did not actually harm the state. Divine's successful strategy led to a Supreme Court ruling that saddled millions of Americans with crushing debt. Divine also defended Missouri's laws barring transgender adolescents from receiving gender-affirming medical care, prohibiting Medicaid coverage for gender-affirming medical care for transgender people of any age, and penalizing health care professionals who provide such care to minors with the loss of their medical licenses.

Senators should also be concerned about the records of Missouri Eastern District nominees Maria Lanahan and Zachary Bluestone. Lanahan is the state's principal deputy solicitor general, working with fellow nominee Josh Divine. Among other things, she represented Missouri in legally bankrupt litigation against the availability of mifepristone. And Bluestone graduated less than a decade ago from law school, giving him significantly less professional experience than is generally considered minimally required to be a federal judge.^{xv}

While the records are concerning, ultimately, it is the qualifications of the *nominator* that senators should be most concerned with. Donald Trump's conduct in office makes him dangerously unqualified to be naming lifetime judges to the United States courts. A president who defies the courts and threatens judges cannot be allowed to name the judges tasked with checking his power.

Sincerely,



Marge Baker
Executive Vice President

ⁱ <https://x.com/JDVance/status/1888607143030391287?mx=2>.

ⁱⁱ "Trump Signals He Might Ignore the Courts," The Atlantic, Feb. 10, 2025, <https://www.theatlantic.com/politics/archive/2025/02/trump-vance-courts/681632>.

ⁱⁱⁱ "By Refusing to Obey Court Orders, Trump Is Provoking a Constitutional Crisis," Truthout, Feb. 13, 2025, <https://truthout.org/articles/by-refusing-to-obey-court-orders-trump-is-provoking-a-constitutional-crisis>.

^{iv} "Trump Judges Split on Mass Layoffs at Consumer Protection Agency," People For the American Way, May 1, 2025, <https://www.peoplefor.org/trump-judges-split-mass-layoffs-consumer-protection-agency>.

^v "Judge Accuses Government of 'Willful and Bad Faith' Stonewalling in Deportation Case," The New York Times, April 22, 2025, <https://www.nytimes.com/2025/04/22/us/politics/trump-justice-department-abrego-garcia-el-salvador.html>.

^{vi} <https://truthsocial.com/@realDonaldTrump/posts/114183576937425149>.

^{vii} "Pam Bondi should know 'our government' includes Judge James Boasberg," MSNBC, March 20, 2025, <https://www.msnbc.com/opinion/msnbc-opinion/pam-bondi-attack-judge-boasberg-offense-rcna197195>.

^{viii} "Judges Fear for Their Safety Amid a Wave of Threats," The New York Times, March 19, 2025, updated March 21, 2025, <https://www.nytimes.com/2025/03/19/us/trump-judges-threats.html>.

^{ix} *Id.*

^x "Judges Worry Trump Could Tell U.S. Marshals to Stop Protecting Them," The New York Times, April 25, 2025, <https://www.nytimes.com/2025/04/25/us/politics/trump-judges-marshals-threats.html>.

^{xi} <https://x.com/jonfavs/status/1923824696182833455>.

^{xii} "Trump, asked if he has to 'uphold the Constitution,' says, 'I don't know,'" NBC News, May 4, 2025, <https://www.nbcnews.com/politics/trump-administration/trump-asked-uphold-constitution-says-dont-know-rcna204580>.

^{xiii} “Trump Returns to Red State Appeals Lawyers to Fill Judgeships,” Bloomberg Law, May 5, 2025, <https://news.bloomberglaw.com/us-law-week/trump-returns-to-red-state-appeals-lawyers-to-fill-judgeships>.

^{xiv} “President Trump Names Two Members of Missouri Attorney General Offices Team to Serve as Federal Judgeships,” Missouri Attorney General Press Release, May 6, 2025, <https://ago.mo.gov/president-trump-names-two-members-of-missouri-attorney-general-offices-team-to-serve-as-federal-judgeships>.

^{xv} “Standing Committee on the Federal Judiciary: What It Is and How It Works,” American Bar Association, August 2023, https://www.americanbar.org/content/dam/aba/administrative/federal_judiciary/2024-background.pdf.