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The Honorable Thom Tillis, United States Senator
The Honorable Ted Budd, United States Senator
Washington, D.C.

Re: Ryan Park

Dear Senators:

I write in support of my friend Ryan Park, whom I understand is under consideration to be nominated to a seat on the U.S. Court of Appeals for the Fourth Circuit. I am a lifelong Republican, and I have a somewhat lonely job as a conservative on an overwhelmingly progressive law faculty at Duke Law. I have not been thrilled about many of the Biden Administration's judicial appointments, and I am concerned about the present direction of the Fourth Circuit. But when the Administration puts forward nominees who are honorable people with good judgment, a sense of moderation, and a strong, nonideological commitment to the rule of law, I think conservatives should support them. This letter explains why I think Ryan is such a nominee.

Although I met him years earlier, I did not really get to know Ryan until he moved down to North Carolina and began working in the state solicitor general's office. As one whose scholarship has focused on American federalism, I believe the state solicitor general position is tremendously important. When I was a young professor at the University of Texas, I worked with Greg Coleman and Ted Cruz when they were state SGs, and I saw how important it was for Texas to have a first-rate professional appellate lawyer defending its interests in the U.S. Supreme Court and the Fifth Circuit. I also saw how the varied interests of the State required its SGs to frequently take positions in court that did not align with their individual ideological or policy preferences. Ryan has played a very similar role in North Carolina, and he has done an outstanding job. He has been an effective advocate for the State in the Supreme Court, both in cases where he was personally sympathetic to the State's position and in cases where he may have had his doubts (like *Allen v. Cooper*, which reaffirmed state sovereign immunity in a copyright case). Ryan won the *Allen* case 9-0, which is almost unheard of in state immunity cases. And Ryan successfully represented the State in an ACLU prison lawsuit seeking mass release of inmates during the pandemic, as well as in a lawsuit challenging a state election law brought by the North Carolina Democratic Party.

Ryan's conduct as SG displayed both professionalism and great skill. But I think a job like that also necessarily has an enduring effect on one's values and legal views. Good appellate lawyers

simply have to be good at seeing both sides of an issue. To write an effective appellate brief at the highest level, one has to be able to imagine and anticipate the strongest possible version of the argument for the other side, and to acknowledge the weaknesses in one's own positions. One must see a case as an objective judge is going to see it. Moreover, being the State's top appellate lawyer inevitably brings with it an appreciation for certain kinds of interests—such as providing justice and closure to victims of crime, running an election system with integrity, or protecting the public fisc against claims by private plaintiffs—that progressives sometimes discount. There are good reasons why Ryan has garnered the support of important law enforcement constituencies, for example.

While serving as SG, Ryan has extended himself by helping educate young lawyers at the state's top law schools. He has taught courses in appellate practice at Duke Law, and on North Carolina constitutional law at UNC. At Duke, he stepped in on short notice to teach appellate practice when my friend and colleague Sean Andrussier decided to return to private practice. And his office has sponsored internships and externships for our students interested in public lawyering. At both Duke and UNC, conservative students have been among Ryan's biggest fans. They see him as rigorous, fair-minded, and open to a wide variety of perspectives. That is a big reason why I pressed him pretty hard (but unsuccessfully) to become the permanent director of our appellate clinic. In the academy these days, the crucial divide is not so much between Republicans and Democrats as between those who can appreciate arguments on both sides of a case and follow where the law takes them, on the one hand, and those who see the law as simply an instrument for advancing political goals. Ryan is clearly on the right side of that divide.

One final illustration may clarify why I think Ryan is a fortuitous choice for the Fourth Circuit. In January of 2023, the Duke Law chapter of the Federalist Society held an event on "The Life and Times of a Solicitor General" at which Ryan was slated to appear alongside Scott Stewart, the Mississippi SG who prevailed in *Dobbs v. Jackson Women's Health Organization*. I did not know it at the time, but Ryan was urged by several progressive groups to pull out of the event in order to avoid sharing a podium with Stewart, who was held partly responsible for the demise of *Roe v. Wade*. Ryan rejected those suggestions out of hand. Not everyone would have done that. I attended the event (I have long been faculty advisor to our Federalist Society chapter), and it turned out to be one of our very best events of the year. Both Ryan and Mr. Stewart spent most of their time discussing the institution of the state solicitor general and the opportunities that those offices afford for young lawyers interested in appellate work. I could not have asked for two better models of professionalism giving valuable, practical advice about how to plan a legal career. The obvious respect that both those prominent lawyers had for one another, despite their different political perspectives, was exactly the sort of thing that law students need to see right now.

A last and smaller point: Federal judges need to be both independent of *and* grounded in the political community in which they sit. Ryan is not a North Carolina native, but he has chosen to make this state his home and never looked back. One does not work up a law school course on North Carolina's state constitutional law if one is not committed to the jurisdiction. And his extensive experience in state government is highly useful to the federal bench—if unfortunately rare.

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It is entirely appropriate, in my view, to oppose judicial nominees who lack extensive experience or whose devotion to a particular cause or point of view might undermine their ability to see both sides of important issues. The country needs judges who are more devoted to the law than to their politics, and who understand that those two things are not the same. And because circuit judgeships are rare positions of leadership in our legal system, we should reject mediocrity and hold out for excellence. I am convinced that Ryan Park meets all those standards. He is a real lawyer, first and last, and he will put the law above partisanship. He sees both sides of arguments, and he respects—even likes!—people who hold views quite different from his own. And his record displays a level of excellence that few nominees can rival. It is hard to imagine this administration nominating someone who could better appeal to serious lawyers across the political spectrum.

I hope you will seriously consider supporting Ryan. If I can be of any further assistance concerning his candidacy, please do not hesitate to call.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Ernest A. Young', with a long horizontal flourish extending to the right.

Ernest A. Young
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of Law