

February 1, 2024

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

***Re: The Nomination of Mr. Amir Ali to the United States District
Court for the District of Columbia***

Dear Chairman Durbin, Ranking Member Graham, and Committee Members:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (“LDF”), I write to express LDF’s strong support for Mr. Amir Ali to serve as a judge on the U.S. District Court for the District of Columbia.

Founded in 1940 by Thurgood Marshall, LDF is the country’s first and foremost civil rights law organization. Through litigation, advocacy, and public education, LDF seeks structural changes to expand democracy, eliminate disparities, and achieve racial justice in a society that fulfills the promise of equality for all Americans.

LDF has examined and reviewed the record of judicial nominees for decades. In so doing, we focus on assessing the capacity of judicial nominees to undertake their work with fairness and impartiality, and with respect for the rights of those who are often most marginalized in our society. The role of a federal judge is among the most central to maintaining the rule of law and the preservation of our constitutional democracy. Article III judges enjoy lifetime tenure and are subject to the rigorous process of Senate confirmation to ensure their independence and integrity, and to equip them to hold a position of the highest public trust. It is important, therefore, that individuals who serve as judges have a demonstrated commitment to fairness and to upholding the rule of law.

The U.S. District Court for the District of Columbia carries special significance for LDF. One of LDF’s most illustrious alumni, the Hon. Spotswood Robinson, III, was appointed to the D.C. District Court in 1964, becoming the first Black person to serve on that Court, and later the first Black person to serve on the U.S. Court of Appeals for the District of Columbia. Judge Robinson previously had been a core member of the LDF’s legal team from 1948-1960, litigating one of the four cases that led to the landmark decision in *Brown v. Board of Education*.

Nearly 60 years later, Mr. Ali's confirmation will bring another distinguished "first" to the D.C. District Court: he will be the first Muslim and Arab-American confirmed to the Court.

The impressive record Mr. Ali has amassed over the course of his professional career shows that he is exceptionally well qualified to serve on the U.S. District Court for the District of Columbia.

Mr. Ali graduated magna cum laude from Harvard Law School. After graduating, he clerked with Judge Raymond C. Fisher of the United States Court of Appeals for the Ninth Circuit, as well as with the Supreme Court of Canada, where Mr. Ali grew up.

Following his clerkships, Mr. Ali was a member of the Supreme Court and Appellate Practice at the Washington, D.C. law firm of Jenner & Block LLP from 2011-2016.

In 2017, Mr. Ali joined the MacArthur Justice Center in Washington, D.C., one of the nation's premier civil rights legal non-profits, as the organization's D.C. Office Director. In January 2022, Mr. Ali was named as the President and Executive Director of the MacArthur Center, overseeing the Center's work on behalf of indigent people in federal and local courts, in both the civil and criminal contexts.

Mr. Ali also has experience in academia. He directs Harvard Law School's Criminal Justice Appellate Clinic, which brings students to Washington D.C. to work on civil rights cases, and teaches at the University of the District of Columbia David A. Clarke School of Law.

Mr. Ali's impressive accomplishments as both a trial and appellate court litigator have earned him widespread respect and make him a compelling candidate for the federal judiciary. He has litigated and won multiple landmark cases before the U.S. Supreme Court and the lower federal courts.

Mr. Ali argued his very first case before the U.S. Supreme Court when he was a fifth-year associate at Jenner & Block. In *Welch v. United States*,¹ Mr. Ali won a landmark ruling resulting in the reversal of hundreds of illegal mandatory minimum sentences. The 7-1 decision, authored by Justice Kennedy, established that the Supreme Court's earlier decision in *Johnson v. United States*,² which struck down a

¹ 578 U.S. 120 (2016).

² 576 U.S. 591 (2015).

provision of the Armed Career Criminal Act (ACCA) as unconstitutionally vague, constituted a new substantive rule that must be applied retroactively on collateral review of convictions.

Subsequently, in *Garza v. Idaho*,³ Mr. Ali persuaded the Supreme Court that the constitutional right to effective assistance of counsel includes a right to file an appeal, even in cases where a plea agreement requires the waiver of certain appellate rights. He won another significant Supreme Court victory in *Thompson v. Clark*,⁴ representing Larry Thompson, a Black veteran of the Navy and a U.S. postal worker, who had been detained by New York City Police Department officers when he refused them entry into his home without a warrant. After two days of detention, the charges against Mr. Thompson were dismissed without explanation. Mr. Thompson brought a claim of malicious prosecution under the Fourth Amendment to the U.S. Constitution, but the lower courts rejected his claim, imposing a requirement that malicious prosecution plaintiffs show that the underlying prosecution ended in a manner affirmatively indicating innocence. The MacArthur Justice Center took Mr. Thompson's case to the Supreme Court and won reversal. The Supreme Court made clear that the victim of false criminal charges "need only show that his prosecution ended without a conviction" to have the opportunity to sue.⁵ LDF followed the *Thompson* case closely because of its importance and filed an amicus brief supporting Mr. Johnson's claims.

Mr. Ali's advocacy has garnered significant bipartisan support. In one of his recent Supreme Court cases on behalf of an incarcerated individual, *Terry v. United States*,⁶ Mr. Ali obtained amicus support from a bipartisan group of Senators, including Senators Grassley and Lee,⁷ and conservative groups such as Americans for Prosperity⁸ and the American Conservative Union.⁹ In *Thompson v. Clark*, the Supreme Court case involving police accountability described above, Mr. Ali again assembled support for his client from a wide variety of allies including

³ 589 U.S. ___, 139 S. Ct. 738 (2019).

⁴ 596 U.S. 36 (2022).

⁵ *Id.* at 49.

⁶ 593 U.S. ___, 141 S.Ct. 1858 (2021).

⁷ Brief of Senators Richard J. Durbin, Charles E. Grassley, Cory A. Booker, and Mike Lee as Amici Curiae in Support of Petitioner, *Terry v. United States*, No. 20-5904, filed February 19, 2021.

⁸ Brief for Amicus Curiae Americans for Prosperity Foundation in Support of Petitioner, *Terry v. United States*, No. 20-5904, filed February 19, 2021.

⁹ Brief of American Conservative Union & ACU Foundation, Cato Institute, Lincoln Network, and Rutherford Institute as Amici Curiae in Support of Petitioner, *Terry v. United States*, No. 20-5904, filed February 19, 2021.

former chiefs of police, prosecutors, and conservative groups such as the Cato Institute and the Alliance Defending Freedom.

Mr. Ali's advocacy in the lower courts has been equally impressive. For example, Mr. Ali successfully argued before an *en banc* panel of 18 judges on the Fifth Circuit on behalf of the family of Ryan Cole, a teenager who was shot from behind and permanently disabled by police in Texas.¹⁰ He successfully argued in the Tenth Circuit on behalf of the family of Marquez Smart, a 23-year-old Black man who was shot and killed by officers in Wichita, Kansas.¹¹ More recently, Mr. Ali obtained an important decision on qualified immunity in the Second Circuit, which held that an officer was not entitled to qualified immunity when he tased a Black man who was lying face down on the floor.¹² Mr. Ali's expertise also has been called upon by Congress, where he has testified on issues of federal procedure.¹³

In addition to his legal representation of some of our most vulnerable citizens, Mr. Ali also has a demonstrated commitment to mentoring the next generation and making the legal profession accessible to diverse lawyers. He is a founding Board member of The Appellate Project, a nonprofit that matches aspiring appellate lawyers from diverse backgrounds with expert appellate attorneys for support and mentorship. He also serves on the Board of the Death Penalty Information Center, a nonprofit organization that publishes information on issues concerning capital punishment. He is a Fellow of the American Bar Foundation and a member of the Edward Coke Appellate Inn of Court.

Throughout his career, Mr. Ali has conducted himself with the utmost professionalism, integrity, and dedication to justice and the rule of law. LDF is confident that he will bring to the U.S. District Court for the District of Columbia the same profound commitment to these values that we have witnessed throughout his esteemed career. We urge you and the Senate Judiciary Committee to approve Mr. Ali's nomination for the U.S. District Court for the District of Columbia.

¹⁰ *Cole v. Carson*, 935 F.3d 444 (5th Cir. 2019).

¹¹ *Estate of Smart v. City of Wichita*, 951 F.3d 1161 (10th Cir. 2020).

¹² *Jones v. Treubig*, 963 F.3d 214 (2^d Cir. 2020).

¹³ Statement of Amir H. Ali, U.S. Congress. House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet. *The Supreme Court's Shadow Docket. 117th Cong.*, 1st sess., February 18th, 2021, available at <https://judiciary.house.gov/calendar/eventsingle.aspx?EventID=4371>

Sincerely,

Janai S. Nelson

Janai Nelson
President and Director-Counsel
NAACP Legal Defense & Educational Fund
40 Rector Street
5th Floor
New York, NY 10006
jnelson@naacpldf.org