



NAACP

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May 19, 2021

The Honorable Richard Durbin
Chairman, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member, Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, DC 20510

RE: NOMINATION OF CANDACE JACKSON-AKIWUMI TO SEVENTH CIRCUIT

Dear Chairman Durbin and Ranking Member Grassley:

On behalf of the NAACP, our nation's oldest, largest, and most widely recognized grassroots-based civil rights organization, I strongly urge you to support the nomination of Candace Jackson-Akiwumi to the U.S. Court of Appeals for the Seventh Circuit.

Ms. Jackson-Akiwumi is an extraordinary nominee for the Seventh Circuit. She is a 41-year-old Black woman who has spent most of her career as a public defender. She will bring much needed diversity and balance to this circuit and to the appellate bench nationally. Ms. Jackson-Akiwumi served for ten years with the Federal Defender Program in Chicago. Previously, she was a litigator in the Chicago office of Skadden, Arps, Slate, Meagher & Flom. She clerked for U.S. Circuit Judge Roger Gregory on the Fourth Circuit and U.S. District Court Judge David Coar on the Northern District of Illinois. She received her B.A. from Princeton University and her J.D. from Yale Law School, where she served on the Yale Law Journal and was an Earl Warren Legal Scholar with the NAACP Legal Defense & Educational Fund, Inc. Currently, Ms. Jackson-Akiwumi serves as a partner with the Washington, D.C. law firm of Zuckerman Spaeder. The American Bar Association awarded her its highest judicial rating of "Well-Qualified."

I. CANDACE JACKSON-AKIWUMI WILL RE-INTEGRATE THE SEVENTH CIRCUIT

When confirmed, Ms. Jackson-Akiwumi will re-integrate the Seventh Circuit and will be only the second judge of color ever to serve on the Seventh Circuit. Shockingly, in 2021, the Seventh Circuit is once again an all-white court. The court has eleven seats, and all ten judges currently serving are white. The Seventh Circuit is the only all-white appellate court in the country.

The Seventh Circuit covers Illinois, Wisconsin, and Indiana. Its jurisdiction includes cities such as Chicago, Milwaukee, and Indianapolis. Thirty percent of the 25 million residents within the Seventh Circuit are people of color. It is unfathomable that this vital circuit court which hears appeals of federal cases affecting the rights and liberties of its residents currently has no racial or ethnic diversity whatsoever. The absence of diversity undermines

the integrity and legitimacy of the federal judiciary. Judges from different racial, ethnic, and other backgrounds enrich judicial decision-making and promote trust and confidence by communities impacted by their rulings.

Efforts to diversify the federal appellate courts were begun over seventy years ago. The first federal appellate court was racially integrated in 1949, when President Harry Truman appointed William Henry Hastie to the Third Circuit. In 1961, President Kennedy appointed Thurgood Marshall to the Second Circuit. In the ensuing decades, presidents from both parties appointed Black judges, Latino judges, and Asian-American judges to our appellate courts. Tragically, no Native American judge has ever served on the appellate bench.

More than twenty years ago, President Clinton appointed the first and only judge of color to serve on the Seventh Circuit, Judge Ann Claire Williams. Judge Williams is a Black woman, who was first appointed to the U.S. District Court for the Northern District of Illinois by President Reagan in 1985. President Clinton appointed Judge Williams to an Illinois vacancy on the Seventh Circuit in 1999. The very next year, President Clinton integrated the last all-white appellate court in the country. Faced with insurmountable Republican obstruction of multiple nominations of African Americans to the Fourth Circuit, President Clinton took the extraordinary step of recess appointing Roger Gregory to the court. When President George W. Bush entered office in 2001, he appointed Judge Gregory to a lifetime position on the Fourth Circuit.

Since then, every appellate court in the country reflected some degree of racial or ethnic diversity until the Trump administration. Donald Trump appointed the least representative federal judges in modern history. Nearly 85% of his appointees are white. Trump's lack of diverse appointments to appellate courts—which usually have the final word on cases given the small docket of the Supreme Court—is especially destructive. Trump appointed zero African Americans, zero Native Americans, and only one Latino appellate judge.

Trump's failure to make diverse appointments caused devastating damage to the federal courts. Nowhere is that more evident than in the Seventh Circuit, which resegregated under Trump's watch. Today, we once again have an all-white appellate bench, thanks to Donald Trump. The Seventh Circuit lost its only judge of color at the beginning of Trump's term. (Republicans had blocked President Obama's nomination of a Black woman, former Indiana Supreme Court Justice Myra Selby, to the court.) In 2017, Judge Ann Claire Williams retired from the bench. Thereafter, Trump had five vacancies to fill on this circuit. Instead of nominating one or more persons of color to restore diversity to the court, Trump appointed five white individuals: Amy Coney Barrett, Michael Brennan, Amy Joan St. Eve, Michael Scudder and Thomas Kirsch. It is past time for the segregation of this appellate court to end. The Seventh Circuit and, indeed, the nation need the Senate to confirm Ms. Jackson-Akiwumi to this seat as soon as possible.

II. THE SEVENTH CIRCUIT NEEDS A PUBLIC DEFENDER ON ITS COURT

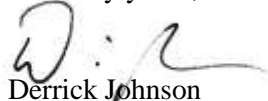
Ms. Jackson-Akiwumi would bring substantial public defender experience to the Seventh Circuit and to appellate courts nationally. She would be the first public defender ever to serve on the Seventh Circuit. Only two sitting appellate judges in the country, Eighth Circuit Judge Jane Kelly and D.C. Circuit Judge Robert Wilkins, have more public defender experience than she does. This is critical representation in our federal judiciary since former prosecutors are vastly overrepresented on our nation's appellate courts.

Candace Jackson-Akiwumi has extraordinary qualifications to fill this unique role. She served for ten years with the Federal Defender Program in Chicago. She has represented over 400 indigent defendants at all stages of the criminal justice system. She has tried numerous jury cases to verdict and argued six appeals before the circuit court. She successfully challenged racial targeting of Black and Brown people by law enforcement, securing a federal court order that there is a "strong showing of potential bias" in robbery stings operated by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives that resulted in incarceration of 26 people, all of whom were Black or Hispanic.

The NAACP believes that our federal courts desperately need more judges with Ms. Jackson-Akiwumi's background. Our criminal justice system is suffering from a crisis of confidence due to racism that infects every stage of the process. The lack of trust in the judicial system by communities of color is exacerbated by the severe over-representation of former prosecutors, many of whom are white, on our federal trial and appellate courts. The federal bench is in desperate need of balance. We applaud President Biden's efforts to nominate public defenders to the bench, and we encourage the Senate to be a full partner in restoring balance to the bench, in both identifying and confirming such judicial nominees.

Thank you for your attention to this important matter. Should you have any questions or comments, please contact Hilary Shelton, Director of the Washington Bureau and Senior Vice President for Policy and Advocacy, at his office at (202) 463-2940.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Johnson", with a stylized flourish extending to the right.

Derrick Johnson
President and CEO

cc: Members of the Senate Judiciary Committee