



April 21, 2022

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

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

On behalf of our 1.5 million supporters nationwide, People For the American Way enthusiastically supports the nominations of Nusrat Jahan Choudhury and Natasha Merle to be federal district court judges in the Eastern District of New York. Both women have a demonstrated record of commitment to the legal rights and dignity of all people, not just the wealthy and powerful.

Nusrat Choudhury is currently the legal director of the Roger Baldwin Foundation of the American Civil Liberties Union. If confirmed, she will be the first Muslim woman (and the second Muslim person overall) to be a lifetime federal judge. After graduating from Yale Law School in 2006, Choudhury had two prestigious clerkships: first with Judge Denise L. Cote in the Southern District of New York, and then with Judge Barrington D. Parker, Jr. on the Second Circuit Court of Appeals. Following these clerkships, she chose to dedicate her career to working at the ACLU, using her formidable legal skills to advance justice and fairness for all people.

Choudhury has litigated numerous cases focused on racial disparities in the legal system, eventually becoming deputy director of the ACLU's Racial Justice Program. For instance, she represented nine Black and Latino people in Wisconsin who had been stopped or stopped and frisked by Milwaukee police officers without sufficient legal justification. The case led to a settlement agreement that reformed the city's stop-and-frisk practices, instituted data collection on police encounters with members of the public, improved officer training and supervision, and improved the process for filing police complaints.ⁱ

Choudhury also represented several individuals who lacked resources and were jailed when unable to pay fines for traffic tickets or misdemeanor violations.ⁱⁱ One of those cases led to a landmark settlement agreement in which the city of Biloxi established a public defender's office to represent indigent people in Biloxi Municipal Court. The settlement also changed how the court imposes and collects fines and fees, evaluates a party's ability to pay, and uses alternatives to incarceration.ⁱⁱⁱ Her work in a similar case in Georgia led to a settlement in which DeKalb County Recorders Court adopted measures to protect the rights of people who cannot afford to make fine or fee payments required as a condition of probation.^{iv}

Choudhury also spent five years as a staff attorney in the ACLU's National Security Project, litigating cases to protect individuals' constitutional rights to due process, equal protection, freedom of religion, and freedom from unreasonable search and seizure, as well as their rights

under federal immigration laws and the Freedom of Information Act. For instance, she represented a number of Muslim citizens and permanent residents who were separated from their families, jobs, and schools because they were on the “no fly list.” Federal officials refused to explain their reasons for putting them on the list. In some cases, officials even offered to remove them from the list if they agreed to spy on their fellow Muslims.^v

Natasha Merle’s record and her commitment to civil rights is equally impressive. Currently the deputy director of litigation at the NAACP Legal Defense and Educational Fund, Merle has dedicated her career to making real the promises of justice and equality enshrined in our law.

And she will bring to the court the wisdom gained from her lived experience as a Black woman.

After graduating with honors from New York University School of Law, Merle had a clerkship with Judge Robert L. Carter of the Southern District of New York. She was then awarded an Equal Justice Works fellowship and spent two years in Texas as a capital defense attorney at the Gulf Region Advocacy Center, representing individuals who a federal court had held were entitled to new capital sentencing hearings. After the fellowship, she continued her capital defense work as a post-conviction public defender in Arizona, providing legal assistance to indigent people unable to afford counsel to protect their legal rights. Returning to New York in 2013, she worked at the law firm of Fried, Frank, Shriver & Jacobson as an NAACP Legal Defense and Educational Fund Fellow. Since 2016, she has focused on civil rights litigation as an attorney at LDF, working to help individuals and non-profit organizations vindicate their rights under both federal and state civil rights laws. She also teaches a Racial Equities Strategies clinic at New York University School of Law.

Among Merle’s current litigation, she is representing Black voters who claim the current method of electing judges to the Arkansas Supreme Court and Court of Appeals denies them an equal opportunity to participate in the electoral process.^{vi} One of her most prominent cases involved Duane Buck, who was contesting his death sentence. At his trial, his own attorney had presented false “expert” testimony that Buck was more likely to commit future acts of violence because he was Black, and he was sentenced to death. In 2017, the Supreme Court ruled that he had been denied effective assistance of counsel in violation of the Sixth Amendment.^{vii}

In another case, she led the LDF team that successfully challenged the legality of then-Attorney General Barr’s Commission on Law Enforcement & the Administration of Justice. Although Congress requires advisory commissions to be “fairly balanced,” all 18 members were law enforcement professionals, and none had a background in criminal defense, civil rights, or community organization. Because of these statutory violations, the judge hearing the case ruled that any commission report must have a disclaimer that the commission had been structured illegally and lacked provisions to prevent inappropriate influence by the Justice Department or special interests.^{viii}

Both Natasha Merle and Nusrat Choudhury exemplify the level of excellence and commitment to the rights of all people that all our federal judges should have. They will advance justice for all in the Eastern District of New York, and we urge their prompt confirmation.

Sincerely,

A handwritten signature in cursive script that reads "Marge Baker".

Marge Baker
Executive Vice President

ⁱ *Collins v. Milwaukee*, No. 2:17-cv-234 (E.D. Wis.).

ⁱⁱ *Brown v. Lexington County*, No. 3:17-cv-1426 (D.S.C.); No. 18-1524 (4th Cir.).

ⁱⁱⁱ *Kennedy v. Biloxi*, No. 1:15-cv-348 (S.D. Miss.).

^{iv} *Thompson v. DeKalb County*, No. 1:15-cv-280 (N.D. Ga.).

^v *Latif v. Holder*, No. 10-cv-750 (D. Or.).

^{vi} *Christian Ministerial Alliance v. Arkansas*, No. 4:19-cv-402-JM (E.D. Ark.) (Moody, J.).

^{vii} *Buck v. Davis*, 137 S. Ct. 759 (2017).

^{viii} *NAACP LDF v. Commission on Law Enforcement & the Administration of Justice*, 496 F. Supp. 3d 116 (D.D.C. 2020); 2020 U.S. Dist. LEXIS 203703 (D.D.C. Nov. 2, 2020); 2021 U.S. Dist. LEXIS 34110 (D.D.C., Feb. 24, 2021).