



October 21, 2020

Dear Senator:

The undersigned Latino organizations respectfully urge you to vote no on consideration or confirmation of Judge Amy Coney Barrett's nomination to the U.S. Supreme Court, both on grounds of process and substance.

In terms of process, this nomination has been rushed, multiple precedents and conventions have been broken, and inadequate time has been given for Senators and the public to gather information about and review the nominee's record. No Latino witnesses have been called to provide their perspective, despite the Latino share of the U.S. population approaching one in five. All of this while Americans are in the middle of voting in a general election. For a lifetime appointment to the nation's highest court—the forum of last resort for Americans to seek justice—this process has been unacceptable. This nomination should wait until after Inauguration Day, once the people's choice of their national leaders has been made and those leaders take office.

On the nominee herself, Judge Barrett's record and performance during her confirmation hearings provide no reassurance that she would uphold equal justice for all. Judge Barrett's judicial record, statements, and evasive responses to Senators' questions indicate that she would likely harm Latinos' access to healthcare and reproductive health services, would erode Latinos' voting rights, LGBTQ equality, and labor protections, and would threaten immigrants' due process rights and the ability for families to stay together.

Healthcare and Reproductive Justice

- Judge Barrett criticized the Supreme Court's 2012 decision to uphold the Affordable Care Act (ACA)¹ and President Trump has repeatedly said he would only nominate judges who would overturn the ACA. This presents an immediate threat to Latinos' access to healthcare. The Supreme Court is scheduled to hear arguments in *California v. Texas*, a lawsuit brought by a group of states opposed to the ACA, on November 10. An estimated 5.4 million Latinos could lose their health coverage if the ACA is struck down.²
- Further, if the ACA is repealed, 61.4 million women could lose access to free or low-cost birth control.³ Latinas already face barriers to consistently accessing contraception that is affordable and available.⁴

Voting Rights and Democracy

- Latino voters are targets of voter suppression tactics, including voter identification laws, purges of voter rolls, and reduced early voting and election day polling places in predominantly Latino neighborhoods.⁵ In her Supreme Court confirmation hearing, Judge Barrett refused to answer simple questions about whether voter intimidation is illegal,⁶ whether discrimination against voters of color exists, and whether a sitting president can

¹ Supreme Court Vacancy: What's at Stake for Health Care, National Women's Law Center, 10/20, <https://nwlc.org/resources/supreme-court-vacancy-whats-at-stake-for-health-care/>

² Affordable Care Act Threatened: What's at Stake for Latinos, UnidosUS, 6/22/20, <http://publications.unidosus.org/handle/123456789/2061>

³ Supreme Court Vacancy: What's at Stake for Health Care, National Women's Law Center, 10/20, <https://nwlc.org/resources/supreme-court-vacancy-whats-at-stake-for-health-care/>

⁴ Just the Facts: Latinas & Contraception, National Institute for Latina Reproductive Justice, <https://www.latinainstitute.org/sites/default/files/NLIRH-Fact-Sheet-Latinas-and-Contraception-July-2012.pdf>

⁵ Who thinks that Latinos shouldn't be able to vote?, *The Washington Post*, 4/11/18, <https://www.washingtonpost.com/politics/2020/08/10/who-thinks-that-latinos-shouldnt-be-able-vote/>

⁶ Amy Coney Barrett dodges Klobuchar question on voter intimidation law, BBC News, <https://www.bbc.com/news/av/world-us-canada-54531577>

delay an election in which his name is on the ballot.⁷ Judge Barrett also refused to recuse herself from any cases related to the current election, even though the president who nominated her has stated publicly that he wants a ninth justice on the Supreme Court to rule on election cases and “get rid of ballots.” This nominee appears to lack the independence needed in a Supreme Court justice.

Immigration

- In *Cook County v. Wolf*, Judge Barrett argued in favor of upholding the Trump administration’s immigrant wealth test, known as the public charge rule. The public charge rule penalizes legal immigrants who accessed public benefits such as the Supplemental Nutrition Assistance Program, Section 8 housing vouchers, and Medicaid, thus creating barriers to low-income green card applicants.
- In her confirmation hearings, Judge Barrett refused to share any view on whether it is wrong to separate migrant children from their parents, and her record indicates a hostility toward protecting the due process rights of immigrants, which suggests that she would not challenge hardline executive branch policies that result in more detention, deportation, and family separations.
- Earlier this year, the fate of Dreamers enrolled in Deferred Action for Childhood Arrivals (DACA) was decided by one vote in a 5-4 Supreme Court decision. If confirmed, Judge Barrett could cast the deciding vote on the fate of over 300,000 immigrants with Temporary Protected Status who are living, working, and raising families in the United States. She would also make decisions on whether immigrants should be stripped of due process rights that will hasten deportation for some and prolong detention for others.

Workers’ Rights

- In her 2017 ruling on *EEOC v. AutoZone*, Judge Barrett refused the federal government’s request for an *en banc* review in a case in which AutoZone intentionally segregated employees for placement into different facilities on the basis of race. This disturbing ruling provides insight into her judicial view of how to apply Title VII of the Civil Rights Act, which was enacted to prevent discrimination in the workplace.⁸
- Judge Barrett has also ruled against workers’ right to overtime pay (*Wallace v. GrubHub Holdings* and *Burlaka v. Contract Transportation Services*) and ruled in favor of allowing age discrimination in hiring (*Kleber v. CareFusion Corporation*).

The significance of this nomination cannot be overstated. The decisions that the Supreme Court renders are the final words on the rights of all Americans. This nominee’s refusal to demonstrate judicial independence from the president nominating her, her judicial decisions in favor of the privileged and powerful, and her lack of demonstrable appreciation for the concept of equal justice make her unfit for a lifetime appointment to our nation’s highest court. The stakes for Latinos and all Americans are too high to take a risk on confirming Judge Barrett to the U.S. Supreme Court. We therefore urge you to vote no on consideration or confirmation of her nomination.

Sincerely,
Farmworker Justice
Hispanic Federation
Labor Council for Latin American Advancement
LatinoJustice PRLDEF
Latinos Unidos Nevada

⁷Barrett declines to say if Trump can unilaterally delay election, The Hill, 10/13/20,

<https://thehill.com/homenews/senate/520800-barrett-declines-to-say-if-trump-can-unilaterally-delay-election>

⁸ REPORT ON THE NOMINATION OF JUDGE AMY CONEY BARRETT AS AN ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT, Lawyer’s Committee for Civil Rights Under Law, 10/20,

<https://lawyerscommittee.org/wp-content/uploads/2020/10/Lawyers-Committee-Report-on-Amy-Coney-Barrett.pdf>

LATINOS FOR A FAIR JUDICIARY

Latino Victory Project

League of United Latin American Citizens

MALDEF (Mexican American Legal Defense and Educational Fund)

MANA, A National Latina Organization

Mi Familia Vota

National Latino Farmers & Ranchers Trade Association

Poder PAC, By Latinas For Latinas

UnidosUS

United We Dream Action

Voto Latino