

December 3, 2019

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

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

The National Council of Jewish Women (NCJW) writes to express its strong opposition to the nomination of Andrew Brasher to the US Court of Appeals for the Eleventh Circuit. Due to his long record of affiliation and support for far-right organizations, including the Federalist Society and the Rule of Law Defense Fund, it is clear Brasher has a partisan and ideological agenda. His refusal to provide notes or transcripts from his many ultra conservative speaking engagements prevents transparency in the nomination process and erodes trust. This background undermines any confidence that he would serve as a fair and impartial judge. Furthermore, he devoted much of his career to efforts to restrict voting rights, LGBT equality, reproductive freedom, environmental protection, and other critical civil and human rights — leading us to believe that he would prioritize his personal beliefs before the US Constitution if confirmed.

In particular, Brasher has repeatedly defended unconstitutional laws, including one that would allow a judge to appoint an attorney for a fetus and allow a prosecutor to have witnesses testify regarding the maturity of a minor seeking abortion care. Further demonstrating his flagrant hostility to women's access to health care, Brasher supported laws requiring abortion providers have admitting privileges, restricting the proximity of facilities that provide abortion to schools, as well as effectively criminalizing the most common method of second trimester abortions. His ruling in *Eternal World Television Network v. Burwell* claiming that the Affordable Care Act contraception coverage accommodation violates religious freedom was rejected by the Eleventh Circuit — the very court he is nominated to. In *Planned Parenthood Southeast v. Strange* Brasher defended a discredited so-called expert witness, Vincent Rue, who has argued that abortion leads to mental illness. His decisions show that he will continue to create an "undue burden" for individuals seeking access to health care and that he is out of step with mainstream judicial standards.

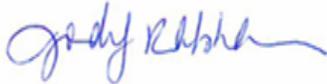
That Brasher would be elevated to a circuit court judgeship after supporting laws that brazenly disregard the US Constitution undermines the integrity of the judiciary. These include his defense of Florida's unconstitutional law that allowed judges to overrule juries to impose the death penalty, and repeatedly opposing the right of individuals to band together to hold corporations accountable. At his nomination hearing, Mr. Brasher was unwilling to state that *Brown v. Board* was correctly decided in response to a direct question. Mr. Brasher's unabashed refusal to respond in the affirmative to this landmark civil rights case provides further evidence of enmity to basic civil and human rights.

As if that history weren't sufficiently disqualifying, while serving as Solicitor General of Alabama, Brasher filed an [amicus brief](#) in *Shelby County v. Holder* that supported

eroding the Voting Rights Act. He also defended Alabama's felon anti-voter law and supported an Arizona law, rejected by the Supreme Court, requiring voters to show proof of citizenship before voting. And, he has been [critical](#) of the Supreme Court's efforts to correct racial gerrymanders. Brasher's attacks on civil rights are not limited to issues of voting and enfranchisement; they include supporting drug tests for TANF applicants, defending Alabama's ban on marriage equality, and donating to the political campaign of a judge who supported conversion therapy.

NCJW believes that lifetime seats on our nation's judiciary must be reserved for those committed to equality and justice for all. Accordingly, **we strongly urge the Senate Judiciary Committee to vote against the confirmation of Andrew Brasher** to the United States Court of Appeals for the Eleventh Circuit.

Sincerely,



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