

September 1, 2017

The Honorable Charles Grassley  
Chairman Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Dianne Feinstein  
Ranking Member Senate Committee on the Judiciary  
152 Dirksen Senate Office Building  
Washington, D.C. 20510

Re: Reproductive Health, Rights, and Justice Groups Oppose Confirmation of Amy Coney Barrett

Dear Chairman Grassley and Ranking Member Feinstein:

We are 17 reproductive rights, health, and justice organizations writing to urge you to reject the nomination of Amy Coney Barrett to the U.S. Court of Appeals for the Seventh Circuit.

President Trump has vowed to use federal-court appointments to elevate and cement in place his extreme agenda, and we see him doing just that—once again—with this nomination. A qualified nominee must believe in and uphold our fundamental constitutional rights, including reproductive freedom. Barrett does not.

In fact, Barrett has expressly opposed reproductive and women’s rights. She believes that life begins at conception.<sup>i</sup> During a presentation on *Roe v. Wade*, Barrett spoke disapprovingly of the landmark decision, claiming “*Roe* essentially permitted abortion on demand, and *Roe* recognizes no state interest in the life of a fetus.”<sup>ii</sup>

Barrett has also criticized the Affordable Care Act’s contraceptive-coverage policy, which is being threatened by the Trump administration even though it has benefited millions. She joined a public “statement of protest” that called the policy an “assault on religious liberty” and accused the Obama administration of “compelling religious people and institutions who are employers to purchase a health-insurance contract that provides abortion-inducing drugs, contraception and sterilization.”<sup>iii</sup> It also referred to emergency contraception as “the embryo-destroying ‘five-day-after pill.’”<sup>iv</sup>

Furthermore, she wrote that judges who face conflicts due to their faith should recuse themselves on cases involving the death penalty but did not make a similar recommendation for conflicted judges in abortion-related cases.<sup>v</sup> In an article discussing how legislatures can seek to override or circumvent “unpopular constitutional decision[s],” Barrett highlighted the

Partial-Birth Abortion Ban Act as an “example of congressional success” that undermined the Supreme Court’s decision in *Stenberg v. Carhart*.<sup>vi</sup>

Relatedly, in an article calling for greater “flexibility” from *stare decisis*, Barrett cited *Planned Parenthood v. Casey* as an example of a decision where the court failed to overturn an “erroneous decision” (i.e. *Roe*).<sup>vii</sup> From both her choice of language and repeated references to *Casey*, one reasonably infers that she believes *Roe* was incorrectly decided.

Reproductive rights are under intense attack in Congress and in the states. In 2016 alone, states have enacted 56 new anti-choice measures. Now, more than ever, women must be able to rely on the courts to protect their constitutional rights. But Barrett’s record shows she will undermine, not protect, the freedoms Americans depend on.

This nominee would put reproductive freedom in danger. We urge you to vigorously oppose the nomination of Amy Coney Barrett to the Seventh Circuit.

Sincerely,

Advocates for Youth  
Catholics for Choice  
NARAL Pro-Choice America  
National Abortion Federation  
National Asian Pacific American Women's Forum (NAPAWF)  
National Center for Lesbian Rights  
National Council of Jewish Women  
National Health Law Program  
National Institute for Reproductive Health  
National LGBTQ Task Force Action Fund  
National Network of Abortion Funds  
National Organization for Women  
National Partnership for Women and Families  
National Women’s Health Network  
People for the American Way  
Planned Parenthood Federation of America  
Secular Coalition for America

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<sup>i</sup> John Nagy, *Students, faculty mark 40 years of Roe*, Notre Dame Magazine, Jan. 25, 2013, available at [http://magazine.nd.edu/news/lazy-i-students-faculty-mark-40-years-of-roe/](http://magazine.nd.edu/news/lazy-i-students-faculty-mark-40-years-of-ro/) (last visited May 16, 2017).

<sup>ii</sup> Christian Myers, *Law professor reflects on landmark case*, The Observer, Jan. 21, 2013, available at <http://ndsmcobserver.com/2013/01/law-professor-reflects-on-landmark-case/> (last visited May 16, 2017).

<sup>iii</sup> *Cardinal Dolan Joins Protest Over ‘Unacceptable’ Attack on Religious Liberty*, National Catholic Register, Feb. 27, 2012, available at <http://www.ncregister.com/daily-news/archbishops-kurtz-and-chaput-sign-petition-for-religious-liberty/> (last visited Aug. 21, 2017).

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<sup>iv</sup> Ibid.

<sup>v</sup> John H. Garvey and Amy Coney Barrett, *Catholic Judges in Capital Cases*, Legal Studies Research Paper Series, Boston College Law School.

<sup>vi</sup> Amy Coney Barrett, *Symposium: Stare Decisis and Nonjudicial Actors*, Notre Dame Law Review 1147, 2008.

<sup>vii</sup> Amy Coney Barrett, *Stare Decisis and Due Process*, University of Colorado Law Review, Summer 2003.