



**National
Urban League**

*Empowering Communities.
Changing Lives.*

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Honorable Lindsey Graham
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Graham and Ranking Member Feinstein:

As President and CEO of the National Urban League, and on behalf of its 90 affiliates in 36 states and the District of Columbia, I call upon members of this committee and the entire Senate to soundly reject the nomination of Andrew Brasher to the United States Court of Appeals for the Eleventh Circuit. Mr. Brasher's nomination is being considered by the committee despite objection from home state Senator Doug Jones who has not returned his blue slip on Mr. Brasher and voted against his nomination as district judge for the Middle District of Alabama in May 2019. This confirmation vote was party-line (52-47).

Mr. Brasher's elevation to the 11th Circuit would be a civil rights travesty for people of color who reside within its jurisdiction (Alabama, Florida and Georgia). Among its sitting judges, the composition of the 11th Circuit is 90 percent white, while the population is comprised of 45 percent people of color.ⁱ

The nomination of Andrew Brasher is the latest in a long line of judicial nominees by this President with an ultraconservative, anti-civil rights ideology. The National Urban League is deeply concerned about Mr. Brasher's record with respect to access to voting and justice for persons of color:

- Brasher filed an amicus brief in *Shelby County v. Holder* that supported gutting the Voting Rights Act (VRA) on the grounds that the issues that had led to the need for the law had "faded away."ⁱⁱ
- As Solicitor General of Alabama, Brasher also defended the state's felon anti-voter law that, according to one study, disenfranchised over 286,000 Alabamians, more than half of whom were black.ⁱⁱⁱ
- As Deputy Alabama Solicitor General he filed an amicus brief in support of an Arizona law, rejected by the Supreme Court, that would have required voters to show proof of citizenship before voting.^{iv}
- Brasher has a history of defending unconstitutional racial gerrymanders in Alabama and in Virginia and, in his personal capacity, has criticized the Supreme Court's efforts to remedy racial gerrymanders.^v
- As Solicitor General of Alabama, Brasher repeatedly defended death sentences that were struck down by the courts. In one instance, he sought the death penalty for a defendant with mental illness after denying him sufficient access to a competent psychiatrist as required under federal law. The Supreme Court found the state's actions unconstitutional and struck down the sentence.^{vi}

- Brasher also has advocated for the position that children be eligible for sentencing of life in prison without possibility of parole.^{vii}

Brasher's alarming anti-civil rights record provides no assurance that people of color would receive justice in his court. We believe that there are amply more qualified, balanced and fair nominees that can be elevated to the 11th Circuit and we would once again be most pleased to share our recommendations with you.

Respectfully,



Marc H. Morial
President and CEO

Cc: Members, Senate Judiciary Committee

ⁱ“RELEASE: New CAP Report Shows Stunning Lack of Diversity in Federal Judiciary, Center for American Progress, October 3, 2019, Accessed at: <https://www.americanprogress.org/press/release/2019/10/03/475346/release-new-cap-report-shows-stunning-lack-diversity-federal-judiciary/>

ⁱⁱAFJ Nominee Report ANDREW BRASHER, U.S. Court of Appeals for the Eleventh Circuit, by Alliance for Justice, p.2. Accessed at: <https://afi.org/wp-content/uploads/2018/05/Final-Brasher-Report-Eleventh-Circuit.pdf>

ⁱⁱⁱ*Id.*

^{iv}*Id.*

^v*Id.*

^{vi}Op. cit., *AFJ Nominee Report*, p.6.

^{vii}*Id.*