

December 8, 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 Matthew Kacsmaryk

Dear Chairman Grassley and Ranking Member Feinstein:

We are 12 reproductive rights, health, and justice organizations writing to urge you to reject the nomination of Matthew Kacsmaryk to serve on the U.S. District Court for the Northern District of Texas.

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. Kacsmaryk does not.

In fact, Kacsmaryk has built a career on undermining reproductive and LGBTQ rights. During his tenure at the deeply conservative First Liberty Institute, Kacsmaryk represented several religious and religiously-affiliated institutions in their challenges to the Affordable Care Act's contraceptive-coverage policy.¹ Of the cases, he said that victory for the employers would "defend unborn human life."² Kacsmaryk was also involved in an amicus brief filed on behalf of 43 anti-choice members of Congress in support of a Washington pharmacy that refused to carry emergency contraception.³

Kacsmaryk's advocacy did not stop in the courts—he wrote a scathing article against equal marriage in which he lamented that "sexual revolutionaries" had "litigated and legislated to remove three pillars of marriage law: ...permanence... exclusivity... [and] procreation."⁴ The last of those fell, he argued, "when the Supreme Court declared unconstitutional nearly all restrictions on contraceptives and abortion in *Griswold v. Connecticut* (1965), *Eisenstadt v. Baird* (1965), *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992)."⁵ In other written works, Kacsmaryk has decried efforts to "weaponize *Obergefell*"⁶ and complained that because of the Sexual Revolution, "marriage, sexuality, gender identity, and even the unborn child must yield to the erotic desires of liberated adults."⁷

Reproductive rights are under intense attack in Congress and in the states. In 2017 alone, states so far have enacted more than 50 new anti-choice laws. Now more than ever, women must be able to rely on the courts to protect their constitutional rights. But Kacsmark's record shows he 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 Matthew Kacsmark to serve on the U.S. District Court for the Northern District of Texas.

Sincerely,

Advocates for Youth

In Our Own Voice: National Black Women's Reproductive Justice Agenda

NARAL Pro-Choice America

National Abortion Federation

National Asian Pacific American Women's Forum (NAPAWF)

National Council of Jewish Women

National Health Law Program

National Institute for Reproductive Health (NIRH)

National Partnership for Women & Families

People For the American Way

Planned Parenthood Federation of America

URGE: Unite for Reproductive and Gender Equity

¹ Christian and Missionary Alliance Foundation, Inc. v. Burwell, No. 2:14-cv-580 (D. Middle Florida 2015); Insight for Living Ministries v/ Burwell, No. 4:14-cv-675 (D. Eastern Texas 2014); Zubik v. Burwell, No. 14-1418 (U.S. 2016).

² First Liberty Institute, "Federal Court Grants Insight for Living Ministries Relief from Federal Abortion Pill Mandate Fines," News & Commentary (Nov. 14, 2014), available at <https://firstliberty.org/newsroom/victory-federal-court-grants-insight-for-living-ministries-relief-from-federal-abortion-pill-mandate-fines/> (last visited Oct. 17, 2017).

³ Brief of Amici Curiae 43 Members of Congress in Support of Petitioners on Petitioners' Request for Writ of Certiorari, *Stormans, Inc. v. Wiesman*, 794 F.3d 1064 (9th Cir. 2015), cert denied 136 S. Ct. 2433 (2016).

⁴ Matthew Kacsmark, *The Abolition of Man...and Woman*, *National Catholic Register* (June 24, 2015), available at <http://www.ncregister.com/daily-news/the-abolition-of-man-...-and-woman> (last visited Oct. 20, 2017).

⁵ Ibid.

⁶ Matthew Kacsmark, *With new bill, US elitists plotting to weaponized gay 'marriage' and stamp out dissent*, LIFE SITE NEWS, Sept. 11, 2015, at <https://www.lifesitenews.com/opinion/with-new-bill-us-elitists-plotting-to-weaponize-gay-marriage-and-stamp-out> (last visited Oct. 17, 2017).

⁷ Matthew Kacsmark, *The Inequality Act*, THE WITHERSPOON INSTITUTE, September 4, 2015, at <http://www.thepublicdiscourse.com/2015/09/15612/> (last visited Dec. 4, 2017).