



## Stop Kavanaugh: Senior Citizens

*Judge Kavanaugh would threaten hard-won rights and protections for senior citizens.*

Judge Kavanaugh's narrow understanding of employment discrimination and expansive view of employers' rights have troubling implications for senior citizens pursuing **age discrimination** claims.

- *Miller v. Clinton* dissent attacks, in the words of his fellow judges, "the entire edifice of [our] anti-discrimination canon" in allowing the State Department to set a mandatory retirement age for certain employees abroad and terminate them solely based on age<sup>i</sup>

Many senior citizens depend on **Medicaid and Social Security** for their basic survival. Judge Kavanaugh was a senior advisor in the George W. Bush administration when both programs came under serious attack. Today, the American people are being denied access to records that would tell us what role he played in those attacks.

- President Bush proposed converting Medicaid into a block grant program, which would "slash federal funding, shift costs to states, and leave millions more uninsured"<sup>ii</sup>
- President Bush's Social Security privatization proposal and other sweeping program changes he supported would have "ultimately lead to the unraveling of Social Security"<sup>iii</sup>
- Judge Kavanaugh served as White House staff secretary—a senior advisor role deeply involved in major policy decisions—from 2003-2006, when these proposals were offered<sup>iv</sup>
- A responsible senator who supports senior citizens will not recklessly allow a vote on this lifetime nominee until they have a chance to review his full record, including documents from his staff secretary tenure<sup>v</sup>

Americans who **access health care** on the private insurance market, including senior citizens, depend on market competition to help keep their monthly premiums and other costs down—competition that Judge Kavanaugh opposed.

- *U.S. v. Anthem* dissent, according to his fellow judges, "applies the law as he wishes it were, not as it currently is" in arguing that an Anthem-Cigna merger that would have reduced competition for health care consumers in 14 states should have been approved<sup>vi</sup>

Judge Kavanaugh has repeatedly criticized the **Affordable Care Act**, indicating his embrace of ongoing legal challenges to the 2010 law.

- *Seven-Sky v. Holder* dissent editorializes against the individual mandate and suggests that presidents succeeding Obama would have no obligation to enforce it<sup>vii</sup>
- *Sissel v. U.S. Department of Health and Human Services* dissent argues that the full court should consider whether the ACA was constitutionally flawed based on a theory that the majority noted runs counter to "more than a century" of Supreme Court jurisprudence<sup>viii</sup>
- *Priests for Life v. U.S. Department of Health and Human Services* dissent argues in favor of employers' religious beliefs overriding their employees' rights<sup>ix</sup>

**Federal agencies** fill many critical needs in the daily lives of senior citizens. Judge Kavanaugh, however, appears likely to side with Trump's first Supreme Court nominee, Justice Gorsuch, in limiting agency roles regarding the laws they are expressly charged with implementing.

- Argues for limiting judicial deference to agencies' interpretations of the statutes they administer and for the outright reduction or elimination of some agencies<sup>x</sup>
- Overturned by the Supreme Court in *Environmental Protection Agency v. EME Homer City Generation*, holding that, in attempting to undermine the EPA, Kavanaugh tried to "improve upon" rather than "apply" federal law<sup>xi</sup>
- Overturned by his own D.C. Circuit Court in *PHH Corporation v. Consumer Financial Protection Bureau* after he argued that independent agencies like CFPB, which, among its other functions, combats predatory business practices that take advantage of older adults,<sup>xii</sup> "pose[d] a significant threat to individual liberty"<sup>xiii</sup>

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<sup>i</sup> <http://www.bazon.org/wp-content/uploads/2018/07/Kavanaugh-Disability-Report-2018.pdf>

<sup>ii</sup> <https://www.cbpp.org/research/health/medicaid-block-grant-would-slash-federal-funding-shift-costs-to-states-and-leave>

<sup>iii</sup> <https://www.cbpp.org/research/why-the-presidents-social-security-proposals-could-ultimately-lead-to-the-unraveling-of>

<sup>iv</sup> <https://www.washingtonpost.com/news/monkey-cage/wp/2018/08/04/this-is-why-the-senate-should-care-about-brett-kavanaughs-time-as-bushs-staff-secretary/>

<sup>v</sup> <http://www.pfaw.org/press-releases/pfaw-statement-on-gop-plans-to-move-forward-on-kavanaugh-hearings-without-full-record/>

<sup>vi</sup> <http://www.pfaw.org/report/the-dissents-of-judge-brett-kavanaugh-a-narrow-minded-elitist-who-is-out-of-the-mainstream/>

<sup>vii</sup> <http://www.bazon.org/wp-content/uploads/2018/07/Kavanaugh-Disability-Report-2018.pdf>

<sup>viii</sup> <http://www.bazon.org/wp-content/uploads/2018/07/Kavanaugh-Disability-Report-2018.pdf>

<sup>ix</sup> <http://www.bazon.org/wp-content/uploads/2018/07/Kavanaugh-Disability-Report-2018.pdf>

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<sup>xi</sup> <http://www.bazon.org/wp-content/uploads/2018/07/Kavanaugh-Disability-Report-2018.pdf>

<sup>xii</sup> <https://www.consumerfinance.gov/practitioner-resources/resources-for-older-adults/> incl

<https://www.consumerfinance.gov/about-us/blog/spotlight-on-scams-that-target-older-adults/>

<sup>xiii</sup> <http://www.bazon.org/wp-content/uploads/2018/07/Kavanaugh-Disability-Report-2018.pdf>