

are delusional. In his opposing Gavin in Virginia, Mr. Duncan advanced the offensive and discredited conspiracy theory that schools need to fear athletes who pretend to be transgender in order to gain a competitive advantage.

Outside of the court, outside of his client work, he has repeatedly addressed an organization that has been designated as a hate group by the Southern Poverty Law Center—an organization that calls marriage equality an “oxymoronic institution if ever there was one.”

There are other red flags about his commitment to defending civil rights.

For example, when the Supreme Court ruled that mandatory life sentences for minors were unconstitutional, he argued the ruling shouldn’t apply retroactively.

He argued that prisons that are packed to double their capacity were not in violation of the Eighth Amendment’s ban on cruel and unusual punishment. The Supreme Court disagreed, noting the problem caused “needless suffering and death.”

In a case involving an innocent man who had spent 14 years on death row—an innocent man—Mr. Duncan argued that the district attorney’s office was not at fault for failing to train a staff member who had withheld evidence.

When it comes to one of the fundamental rights in a democracy—the right to vote, the right of the people to choose their government officials—Mr. Duncan defended a racially tailored voter ID law in North Carolina, which the courts ultimately struck down for targeting African Americans with “almost surgical precision.”

Any one of these cases Mr. Duncan has chosen to take should raise alarm, and any one of the ideological arguments he has made should cause concern. Yet all of them together paint an unmistakable picture of a nominee who would not uphold women’s rights, LGBTQ rights, or civil rights.

To paraphrase one of his own statements, if confirmed, I believe the damage Mr. Duncan will do to people by putting his ideology over their rights will be severe, unavoidable, and irreversible. I oppose his nomination. I urge all of my colleagues to join me.

Thank you.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. LANKFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. LANKFORD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:15 p.m.

There being no objection, the Senate, at 12:27 p.m., recessed until 2:15 p.m.

and reassembled when called to order by the Presiding Officer (Mr. PORTMAN).

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. HASSAN. Mr. President, I rise today to oppose the nomination of Stuart Kyle Duncan to serve on the Fifth Circuit Court of Appeals.

Our Founders established our court system as an independent arbiter that would protect the rights of every American and ensure equal justice under the law. For us to move forward, our democracy requires an independent and impartial judiciary.

Unfortunately, the Trump administration has focused on nominating individuals to our courts who have extreme partisan agendas that would move us backward. This latest nomination is no different. Mr. Duncan has spent his career working to undermine the progress we have made toward building a more inclusive, more equal United States. Rather than working to include more people in our democracy, Mr. Duncan’s law practice has seemingly been devoted to restricting people’s rights and making life more challenging for some of the most marginalized among us. His dangerous record raises serious doubts about his ability to act impartially on the bench with regard to a number of key issues.

In recent years, our Nation has made significant progress in advancing the rights of our LGBTQ family and friends, built on the principle that all people deserve the right to fully participate in the social, civic, and economic life of our community. At every turn, Mr. Duncan has been on the wrong side of history, working at the forefront in the fight against LGBTQ equality. He has been vehemently opposed to marriage equality, filing a legal brief to the Supreme Court arguing against the decision that was reached in the 2015 Obergefell v. Hodges case, later claiming that the decision “raises a question about the legitimacy of the Court.” He has even gone so far as to repeatedly claim that nationwide marriage equality, “imperils civic peace,” a statement that is both ridiculous and offensive.

Mr. Duncan has fought against adoption rights for same-sex parents and has dismissed the real necessity for LGBTQ antidiscrimination laws.

He has been unyielding in his attempts to undermine the rights of transgender individuals. In two major cases involving transgender rights, including the now infamous so-called “bathroom bill” in North Carolina, Mr. Duncan has been the go-to attorney, demeaning transgender people and even describing them as “delusional.” Given his history, I am deeply concerned that Mr. Duncan would be unable to act impartially if a case involving LGBTQ Americans were to come before the Fifth Circuit.

I also have real concerns of Mr. Duncan’s record when it comes to women’s healthcare and their constitutionally protected rights because his record shows that he has been a consistent opponent of reproductive freedom.

Mr. Duncan was the lead counsel in the backward Supreme Court Hobby Lobby decision, which allows employers to deny contraceptive coverage to women. He has long supported efforts to diminish women’s access to their constitutionally protected right to an abortion, arguing in favor of a Texas law in *Whole Woman’s Health v. Hellerstedt* that shut down abortion providers and was eventually rejected by the Court. He even contested the fact that contraceptives can be necessary to protect a woman’s health and has challenged the importance of contraception to a woman’s capacity to compete economically.

Medical professionals prescribe contraceptives to women for a variety of health conditions, including conditions such as ovarian cysts, which can be debilitating and could threaten a woman’s fertility. Moreover, women who use contraceptives to engage in family planning often have better health outcomes, as do their children.

To compete economically on a level playing field, women must be able to make their own decisions about if or when to start a family. Studies have shown that women who have greater access to contraceptive coverage are better able to support themselves and their families and to be full participants not just in our economy but also in our democracy.

Women must be recognized for their capacity to make their own healthcare decisions, just as men are. They must also have the full independence to do so. But it is clear that Mr. Duncan has a fundamental misunderstanding of the importance of reproductive freedom and ensuring that women are treated equally.

On these key issues, Mr. Duncan lacks the impartiality and commitment to equal justice for every American that is needed to serve in a lifetime judicial appointment. This is particularly critical on the Fifth Circuit Court of Appeals, which covers States that lack critical protections for LGBTQ Americans and have a history of passing dangerous laws that have blocked women’s access to healthcare. Marginalized individuals in the States in the Fifth Circuit and all Americans deserve judges who will always use sound judgment and objectivity and not operate with extreme ideological agendas.

I will oppose Mr. Duncan’s nomination to the Fifth Circuit Court of Appeals, and I urge my colleagues to do the same.

Thank you.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.