

to see the inspiring things he will accomplish in his next chapter.

I want to thank Franz for his dedication, his leadership, and his expertise. I want to thank his family for sharing him with us these past 8 years in my office and these 2 decades here in the Senate. He inspires me every day to be a better and more thoughtful, more careful, and more caring legislator. He leaves a deep and positive impact on all of us that we will not soon forget. Thank you, Franz. You will be deeply missed.

Thank you, Mr. President.

I yield the floor.

JUDICIAL NOMINATIONS

Mrs. FEINSTEIN. Mr. President, I rise today in opposition to three circuit court nominees who will receive votes on the floor this week: Allison Jones Rushing, nominated to the Fourth Circuit Court of Appeals; Chad Readler, nominated to the Sixth Circuit Court of Appeals; and Eric Murphy, also nominated to the Sixth Circuit.

I want to begin by addressing how these nominations were handled and the ongoing disregard for Senate norms and traditions by Republican leadership. Most notable is the change in how blue slips are treated. Blue slips work. The blue slip ensures that the interests of home State Senators are respected when it comes to judicial nominees from their States.

Honoring blue slips helps guarantee that the White House nominates well-qualified, mainstream individuals to key seats on the circuit and district courts, and it prevents the selection of nominees who do not reside in the circuit in which they are slated to serve.

In the past century, before President Trump took office, only five judges had ever been confirmed with only one blue slip; two were by a Democratic chair over the objection of a Democratic Senator, not over the objection of a Republican, then in the minority. The other three instances occurred when a Republican chairman overruled a Democratic Senator.

In fact, Democratic chairs have never moved a judicial nominee to confirmation over the objection of a Republican Senator. Let me say that again: Democratic chairs have never confirmed a judicial nominee without a blue slip from a Republican Senator.

However, since President Trump took office, 10 circuit court nominees have received hearings, and four have been confirmed over the objection of Democratic home State Senators. In just over 2 years, Republicans are on their way to doubling the number of judges confirmed over the objection of home State Senators than have been confirmed in the last 100 years.

This week we are considering both Mr. Readler and Mr. Murphy who lack blue slips from Ohio's Senior Senator, my friend and colleague Senator BROWN.

Senator BROWN's opposition was not unreasonable; in fact, Senator BROWN

worked with the White House for weeks in an effort to find consensus picks for the Sixth Circuit.

But the White House refused to cooperate, and he was left with no choice but to withhold his blue slip. In doing so, Senator BROWN said: "I cannot support nominees who have actively worked to strip Ohioans of their rights. Special interests already have armies of lobbyists and lawyers on their side, they don't need judges in their pockets."

Further, when the majority did move forward on the nominations of Mr. Readler and Mr. Murphy, the two appeared on the same panel at the same hearing. With 5-minute rounds of questioning, these stacked circuit court hearings make it all but impossible for Senators on the committee to thoroughly vet judicial nominees, and that, in turn, makes it impossible for this body to fulfill its obligation of providing advice and consent.

Ms. Rushing's nomination is also the product of a departure from Senate norms. Then-Chairman GRASSLEY held Ms. Rushing's hearing on October 17, 2018, during an extended Senate recess. Only two Senators questioned Ms. Rushing, and no Democrats were present to question the nominee.

These process violations matter. They matter because they impact the quality of the nominees we are considering and the ability of the nominee to reflect the State and community to which they are being nominated.

We have already seen several nominees who have had no judicial experience, and others with no trial experience whatsoever. We have seen nominees who have been rated unqualified for lack of experience and also for lack of judgement, ethical problems, and issues with impartiality and temperament.

This isn't a partisan issue. This is an issue that should concern Senators from both sides of the aisle. At a time when Americans increasingly distrust the institutions of our government, we should not be degrading the Federal judiciary with unqualified and ideological nominees.

Turning to the nominees themselves, I first want to discuss Allison Rushing. Ms. Rushing is only 36 years old. In fact, she has practiced law for only 9 years. She has never tried a case in the Fourth Circuit, the court to which she has been nominated, and she was not even admitted to practice in the Fourth Circuit until 2017; yet she is being nominated to serve on a Federal circuit court.

Even in her limited experience, Ms. Rushing has demonstrated strong ideological views. For instance, in 2013, Ms. Rushing spoke about the Supreme Court's decision to strike down a key provision of the Defense of Marriage Act. She claimed that Justice Kennedy had written "the opinion in a unique way that calls it bigotry to believe that homosexuality does not comport with Judeo-Christian morality."

Ms. Rushing also demonstrated her hostility to the rights of employees in a brief she submitted in a 2018 Supreme Court case. Ms. Rushing argued that employment agreements requiring employees to waive their rights to go to court as a condition of employment should be allowed, even though most people don't have a choice to turn down a job.

Ms. Rushing's view prevents employees who have entered arbitration agreements from bringing lawsuits against their employers, even if the employers have violated their rights or fired them against the law.

As the dissent pointed out, Ms. Rushing's position risked leading to "the under-enforcement of federal and state statutes designed to advance the well-being of vulnerable workers."

I next would like to address the nomination of Chad Readler. Mr. Readler previously headed the Justice Department's Civil Division. In that position, he defended some of the most troubling policies this administration has implemented. He defended the President's decision to end the DACA program, the policy to separate immigrant children from their parents, and the President's Muslim travel ban.

Most concerning, however, is that Mr. Readler led the administration's efforts to overturn the Affordable Care Act. Mr. Readler argued that the healthcare law's protections for pre-existing conditions should be struck down. Even Senator LAMAR ALEXANDER called the arguments made in Mr. Readler's brief "as far-fetched as any I've ever heard."

Finally, the Senate is voting on Eric Murphy to the Sixth Circuit. As the chief appellate lawyer for the State of Ohio, Mr. Murphy led the State's defense of its law banning same-sex marriage, which was struck down by the Supreme Court in *Obergefell v. Hodges*. Jim Obergefell wrote an op-ed recently saying: "Barely four years ago, Mr. Murphy made a forceful argument that my marriage was unconstitutional. As the attorney tasked with defending Ohio's discriminatory ban on same-sex marriage, he used dog-whistles . . . [I]f Murphy had been successful, [my husband] and I, and tens of thousands of couples like us, would have been denied the right to marry and forced to live as second-class citizens."

Mr. Murphy also led Ohio's defense of restrictive voting laws, including the Ohio law allowing the State to purge eligible voters if they missed voting in just one Federal election, and he has amassed a troubling record on women's reproductive rights, arguing for instance in support of a 20-week abortion ban, which he claimed would create "at most, an incidental burden" on a woman's right to make her own reproductive health care decisions.

The three nominees before the Senate exemplify the Trump administration's efforts to stack our courts with nominees who are far outside the judicial mainstream. I believe they will

not protect the rights of all Americans and should not be confirmed. I will vote no on each of these nominees, and I hope my colleagues will do the same.

The PRESIDING OFFICER. The Senator from Ohio.

NOMINATION OF CHAD A. READLER

Mr. BROWN. Mr. President, I rise to speak on the judicial nomination coming up and the cloture vote on the other nominee.

With both nominees, I offered the White House cooperation to choose two more moderate nominees for Ohio, both of whom had been vetted by a bipartisan commission Senator PORTMAN and I had, and the White House said they would rather pick these two extremist judges—these two young, far-right judges who have attacked America’s healthcare and have attacked the consumer protection on preexisting condition.

Judges are making decisions right now—in this body, fortunately, as Members of the Senate, we all have good coverage and health insurance—that try to take insurance away from millions of Americans and several thousands in my State, even as they have tried to eliminate the consumer protections for those people who have preexisting conditions. There are millions of Americans who are anxious about holding onto their insurance because they get sick a lot and it is expensive to take care of them. They are afraid of having their insurance canceled, and they can’t get insurance because of a preexisting condition, and this Congress tried to repeal that law and it failed.

Now, Senator MCCONNELL has turned to the Federal Judiciary, and the President of the United States seems to think the only way to eliminate the consumer protection for those with preexisting conditions is through the Judiciary. Judges are making decisions right now on voting rights, on civil rights, on women’s rights, LGBT rights, on healthcare, on sentencing, and on corporate power—decisions that could limit those rights for a generation.

We know that the Federal Judiciary already puts its thumb on the scales of justice to support corporations over workers, to support Wall Street over consumers, and to support insurance companies over patients. We know that the Federal Judiciary and the Supreme Court have done that dozens of times. We know that the Federal Judiciary, increasingly, is looking like a group of far-right, young, detached people who never go out and get their public opinion pass, as Lincoln said. They never consider what the public wants in this country.

Chad Readler, the nominee whom we will vote on in a moment, took it upon himself as a Jones Day lawyer—one of the greatest law firms in the country, headquartered in Cleveland—to write an op-ed as a private citizen saying we should allow the execution of 16-year-olds. He actually wasn’t that specific.

He implied it could be even younger than that. He said we would allow the execution of teenagers. At a time when this body—something we should be proud of—took important bipartisan steps forward on sentencing reform that was supported by the White House, supported by a lot of Republicans, and supported by virtually all Democrats, how do we turn around and put someone on the bench for life who supports executing children? How does that compute? How we can do that?

He argued on behalf of the far-right think tank for the elimination of “Golden Week” in Ohio, a period where people can vote early. They can register and vote early. It was passed by a Republican legislature. It has bipartisan support, but not by this right-wing nominee who thinks it is OK to eliminate people’s right to vote and restrict it. He defended restrictive voter ID. He defended the squeezing of provisional ballot laws.

On the eve of the 54th anniversary tomorrow of Bloody Sunday in Selma, AL, it is shameful to put on the bench another judge who will rubberstamp modern-day literacy tests and poll taxes. Fundamentally, it is the same purpose. You find ways to suppress the vote. You find ways to take people’s voting rights away. You find ways to disqualify people who want to vote.

Chad Readler’s record on healthcare is clear. He has been a ringleader in the Republican effort to take away the protections on preexisting conditions for all Americans. He wrote the White House’s brief. We all know that now. He wrote a brief that nobody else above him at the Justice Department was willing to do. Three people refused to write it. One actually resigned. The next day, he was rewarded by this lifetime appointment as a Sixth Circuit Federal judge. Remember that. The White House rewarded him after suggesting that we block the consumer protections for preexisting conditions for millions of Americans and for hundreds of thousands in Virginia, Arkansas, and in Ohio. Millions of Americans would lose their consumer protections under his views, and the next day the White House decided to reward him with a judgeship.

As I said, three career attorneys withdrew from the case. One resigned altogether in objection to doing this. Senator ALEXANDER, our friend from Tennessee, who sits near where Senator KAINE is sitting, said this was just amazingly awful language that Chad Readler had suggested.

The PRESIDING OFFICER. The Senator’s time has expired.

Mr. BROWN. Mr. President, I ask unanimous consent to speak for an additional 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BROWN. Mr. President, judges are deciding the future of America’s healthcare right now, the right to vote right now, civil rights right now,

LGBTQ rights right now, women’s rights right now. Judges around the country are deciding that. We can’t afford to put another out-of-the-mainstream judge on the court—and he is clearly out of the mainstream among Ohio lawyers, among Ohio judges, among Ohio citizens—who will not defend America’s right to healthcare.

I ask my colleagues to think about the families you promised to vote for. If any of you in your campaigns, if any of you in discussions you have had with your constituents, if any of you in your public statements, and if any of you running for office committed that you would support consumer protections for preexisting conditions, the only way you can prove you actually believe that is by voting no on Chad Readler in about 1 minute from now. If you really believe in preserving preexisting condition consumer protections so you don’t see in your State—in Tennessee, Virginia, Arkansas, and Ohio—millions of Americans lose their insurance, then your only way to support what you promise is to vote no on Chad Readler.

I yield the floor.

The PRESIDING OFFICER (Mrs. BLACKBURN). Under the previous order, all postcloture time is expired.

The question is, Will the Senate advise and consent to the Readler nomination?

Mr. KAINE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 37 Ex.]

YEAS—52

Alexander	Gardner	Portman
Barrasso	Graham	Risch
Blackburn	Grassley	Roberts
Blunt	Hawley	Romney
Boozman	Hoeben	Rounds
Braun	Hyde-Smith	Rubio
Burr	Inhofe	Sasse
Capito	Isakson	Scott (FL)
Cassidy	Johnson	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sullivan
Cramer	Lee	Thune
Crapo	McConnell	Tillis
Cruz	McSally	Toomey
Daines	Moran	Wicker
Enzi	Murkowski	Young
Ernst	Paul	
Fischer	Perdue	

NAYS—47

Baldwin	Coons	Jones
Bennet	Cortez Masto	Kaine
Blumenthal	Duckworth	King
Booker	Durbin	Klobuchar
Brown	Feinstein	Leahy
Cantwell	Gillibrand	Markey
Cardin	Harris	Menendez
Carper	Hassan	Merkley
Casey	Heinrich	Murphy
Collins	Hirono	Murray