

# United States Senate

July 21, 2020

The Hon. Robert Luck  
United States Court of Appeals for the Eleventh Circuit  
United States Courthouse Annex  
111 North Adams Street, Room 5 SE  
Tallahassee, FL 32301

Dear Judge Luck:

We write to request an explanation for your continued participation in *Jones v. DeSantis*, a case implicating the voting rights of 750,000 Florida residents.

The *Jones v. DeSantis* case addresses whether Florida can require individuals with past felony convictions to pay fines, fees, and other costs before regaining the right to vote. While a member of the Florida Supreme Court, you participated in an Advisory Opinion on this very issue, issued at the request of Governor Ron DeSantis. According to a motion to disqualify filed by the Campaign Legal Center, you participated in oral argument in that case on November 6, 2019 — just weeks before your confirmation to the Eleventh Circuit.

In documents and written testimony submitted to the Committee as part of your Eleventh Circuit nomination you promised under oath that, if confirmed to the Eleventh Circuit, you would recuse yourself from cases in which you participated as a Florida Supreme Court Justice. Specifically:

- In your Senate Judiciary Questionnaire (SJQ), you stated that you would “recuse [yourself] from any case where [you] have ever played any role.” You likewise asserted you would “address any real or potential conflicts of interest by reference to section 455 of Title 28 of the United States Code and all applicable canons of the Code of Conduct for United States Judges.” (SJQ at 56) Notably, 28 U.S.C. § 455 requires a judge disqualify himself or herself “in any proceeding in which his impartiality might reasonably be questioned.”
- In Questions for the Record (QFRs) submitted to the Committee, you “anticipate[d] that there will be matters from which [you would] need to recuse [yourself], most notably cases on which [you] served as a lawyer, or as a trial or appellate judge.” (Response to Leahy QFR 18(a))

Your participation in the decision to grant *en banc* review in *Jones*, and any further participation in this case, appears to contradict the commitments you made to the Committee that you would recuse yourself from *any* case where you have “ever played any role.”

Your involvement in this case also appears to violate the Code of Conduct for United States Judges. Canon 3(C) of the Code governs “Disqualification,” and 3(C)(1)(e) directs a judge to disqualify himself or herself where he or she “participated as a judge (in a previous judicial position) . . . concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.”

As the first branch, it falls to Congress to oversee the federal Judiciary. That oversight includes a responsibility to ensure that sitting federal judges honor their commitments to the Senate and the public and follow all applicable rules and codes of judicial conduct. Consistent with this congressional oversight purpose, we ask you to explain how your involvement in the decision to grant *en banc* review in *Jones v. DeSantis* — and your continued participation in this case — is consistent with the commitments you made to the Senate Judiciary Committee and the Code of Conduct.

Sincerely,



DIANNE FEINSTEIN  
Ranking Member



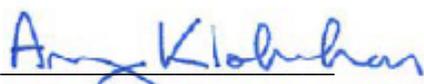
PATRICK LEAHY  
United States Senator



RICHARD J. DURBIN  
United States Senator



SHELDON WHITEHOUSE  
United States Senator



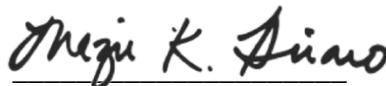
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RICHARD BLUMENTHAL  
United States Senator



MAZIE K. HIRONO  
United States Senator



CORY A. BOOKER  
United States Senator



KAMALA D. HARRIS  
United States Senator

cc: The Hon. Ralph R. Erickson; The Hon. William H. Pryor, Jr.