

# United States Senate

July 21, 2020

The Hon. Barbara Lagoa  
United States Court of Appeals for the Eleventh Circuit  
James Lawrence King Federal Justice Building  
99 Northeast Fourth Street, Room 1223  
Miami, FL 33132

Dear Judge Lagoa:

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 in which [you] participated as a justice on the Supreme Court of Florida.” (SJQ at 54)
- In Questions for the Record (QFRs) submitted to the Committee, you reaffirmed this commitment to recuse yourself from “cases involving either the Supreme Court of Florida or the Florida Third District Court of Appeals while [you were] a member of either court.” (Response to Leahy QFR 19(a))

Your participation in the decision to grant *en banc* review in *Jones*, and any further participation in this case, appears to contradict your commitment to recuse yourself from *any* case in which you participated during your time on the Florida Supreme Court.

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

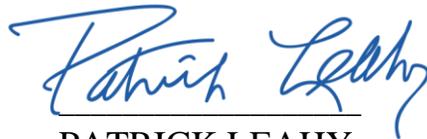
3(C)(1)(e) directs a judge to disqualify himself or herself where he or she “participated as a judge (in a previous judicial position) . . . concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.”

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



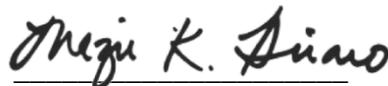
AMY KLOBUCHAR  
United States Senator



CHRISTOPHER A. COONS  
United States Senator



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.