NATIONAL WOMEN'S LAW CENTER
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June 23, 2025

VIA EMAIL

The Honorable Chuck Grassley
Chair
U.S. Senate Committee on the Judiciary
135 Hart Senate Office Building
Washington, DC 20510

The Honorable Dick Durbin
Ranking Member
U.S. Senate Committee on the Judiciary
711 Hart Senate Office Building
Washington, DC 20510

Re: Nomination of Jordan Pratt for the U.S. District Court for the Middle District of Florida

Dear Senators Grassley and Durbin:

On behalf of the National Women's Law Center (the "Law Center"), an organization that has advocated on behalf of women and girls for over fifty years, we write in strong opposition to the nomination of Mr. Jordan Pratt for the U.S. District Court for the Middle District of Florida.

Mr. Pratt's legal record demonstrates both his disregard for binding legal precedent and his zeal for overturning legal protections for abortion and reproductive rights. As a District Judge on the Florida Fifth District Court of Appeals, Mr. Pratt ignored legal precedent to deny a young woman's petition for waiver of parental notice and consent in order to obtain an abortion, and he went out of his way to reach a result that would strike such waivers as a violation of the 14th Amendment to the U.S. Constitution.[1] Similarly, as Senior Counsel at the First Liberty Institute, Mr. Pratt submitted an amicus brief in support of Florida's extreme 15-week abortion ban that encouraged the court to ignore longstanding precedent.[2]

Further, through his advocacy, Mr. Pratt has advanced a deeply concerning theory that nondiscrimination protections for trans people are a form of compelled speech that violates the

[1] *See Doe v. Uthmeie*r, No. 5D2025-1363 (Fla. Dist. Ct. App May 14, 2025), https://5dca.flcourts.gov/content/download/2452033/opinion/Opinion_2025-1363.pdf.
[2] Brief of Amicus Curiae National Institute of Family and Life Advocates (NILFA) in Support of Respondents, *Planned Parenthood of Sw. and Cent. Fla. v. State*, No. SC2022-1050 & SC2022-1127 (Fla. Apr.6, 2023), https://firstliberty.org/wp-content/uploads/2023/04/NIFLA-Amicus-FINAL-AS-FILED_Redacted.pdf; *see Planned Parenthood of Sw. and Cent. Fla. v. State*, Nos. SC2022-1050 & SC2022-1127 (Fla. April 1 2024), https://law.justia.com/cases/florida/supreme-court/2024/sc2022-1050.html.

First Amendment.[3] Mr. Pratt's record of undermining the rights of women, pregnant people, and LGBTQ people calls into question his commitment to equal justice under law and his ability to be a fair-minded judge for all litigants.

Mr. Pratt engaged in unwarranted judicial activism in striking down a longstanding Florida law that protected access to abortion for pregnant minors.

As the District Judge on Florida's Fifth District Court of Appeals, Mr. Pratt drafted the opinion in *Doe v. Uthmeier* that upended Florida's judicial waiver process for the parental notification and consent requirements for minors to receive an abortion.[4] In this case, a 17-year-old girl appealed a trial court's decision to deny her a judicial waiver that would have allowed her to receive an abortion in the absence of parental consent, after the trial judge determined that she lacked the maturity to make the decision. The trial court's finding was partially based on the trial court judge's personal recollection of Doe's prior testimony in a different matter some months before, pertaining to a separate waiver request, for which an official transcript was not available. Mr. Pratt wrote an opinion for the appellate court that affirmed the decision but based on different reasoning than the trial court. He confirmed that precedent required that only record evidence may be relied upon to make determinations on judicial waivers, and thus the trial judge's reliance on personal recollection was improper.[5] Rather than overturning the lower court's decision based on that determination or remanding for further consideration, however, Mr. Pratt explained that the constitutional issue had "evaded review" and that this "may be the first and only opportunity an appellate court of this state has ever had to address the constitutional question."[6] Unfortunately for Ms. Doe, and for other minors who are now unable to access abortion in Florida, Mr. Pratt was not about to let this opportunity to make new law pass by.[7] Mr. Pratt directed Ms. Doe's counsel to weigh in on several significant constitutional issues with only a three-day timeline, including whether the waiver process conflicts with standing requirements, separation of powers constraints, the Florida Constitution, or parental rights protected by the Due Process Clause of the 14th Amendment.[8] At the same time, he invited the Florida Attorney General's office to submit an amicus brief regarding these issues, and the Attorney General instead intervened in opposition to Ms. Doe's waiver.

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[3] *See* Jordan Pratt, "A Tale of Two Colleges: The Right Way (and the Wrong Way) to Handle the Gender Debate," The Western Journal (Apr. 28, 2022), https://www.westernjournal.com/tale-two-colleges-right-way-wrong-way-handle-gender-debate/.

[4] *Doe v. Uthmeie*r, No. 5D2025-1363 (Fla. Dist. Ct. App May 14, 2025), https://5dca.flcourts.gov/content/download/2452033/opinion/Opinion_2025-1363.pdf.

[5] *See In re Doe*, 924 So. 2d 935, 940 (Fla. 1st DCA 2006) ("Courts in judicial bypass cases are constrained to consider only the record in making a decision.").

[6] *Doe* at 12.

[7] We note that the decision in this case was issued on May 14, 2025, mere days before Mr. Pratt was nominated to serve on the Middle District Court of Florida on May 28, 2025. Mr. Pratt was likely aware of his impending nomination, or at least that he was under consideration for this role, during the pendency of this case.

[8] *Doe* at 6-8.

It is a foundational judicial principle that courts must not reach constitutional issues unless it is a "strict necessity,"[9] and courts should "not pass upon a constitutional question... if there is also present some other ground upon which the case may be disposed."[10] Despite these judicial norms, Mr. Pratt took the opportunity to greatly expand the concept of parental rights protected by the Due Process Clause of the 14th Amendment,[11] and to set, without precedent,[12] an absurd standard that would require notice be given to an applicant's parents before any waiver of the parental notice and consent process could be considered.[13] In other words, Mr. Pratt went out of his way, despite a lack of precedent and in violation of judicial principles, to strike a provision passed by the Florida Legislature to ensure that minors are able to access abortion in appropriate circumstances. Judges must be fair and neutral arbiters; it is not their role to find excuses to impose their own beliefs upon the law. Mr. Pratt ignored this fundamental principle.

As an advocate, Mr. Pratt has called upon the Supreme Court of Florida to disregard the state's legal precedents in order to undermine the right to abortion.

As the Senior Counsel at the First Liberty Institute, Mr. Pratt called on the Supreme Court of Florida to disregard its existing precedents concerning abortion rights, and he made unsubstantiated claims blaming the right to abortion, and abortion rights advocates, for violence against anti-abortion centers. In defense of Florida's 15-week abortion ban, Mr. Pratt authored an amicus brief for the National Institute of Family and Life Advocates, submitted in *Planned Parenthood of Southwest and Central Florida v. State of Florida*.[14] In his brief, Mr. Pratt argued that "[t]his Court has every reason to recede from its abortion precedents," because of the legal precedent set by *Dobbs*,[15] despite the fact that the Florida Supreme Court's precedents were based on the Florida Constitution rather than federal law.

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[9] *Rescue Army v. Municipal Court of Los Angeles*, 331 U.S. 549, 568 (1947), https://tile.loc.gov/storage-services/service/ll/usrep/usrep331/usrep331549/usrep331549.pdf.

[10] *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 347 (1936), https://tile.loc.gov/storage-services/service/ll/usrep/usrep297/usrep297288/usrep297288.pdf.

[11] Notably, Mr. Pratt recognized that the Florida Constitution provides greater protection for parental rights than the U.S. Constitution. *Doe* at 13-14. Despite this fact, he based the decision on federal constitutional grounds rather than exercising appropriate judicial restraint.

[12] Mr. Pratt cited to *Troxel v. Granville*, 540 U.S. 57 (2000), and *Parham v. J.R.*, 442 U.S. 584, to support his broad conception of parental rights, despite the fact that neither case has any relation to waivers of parental consent for abortion and that such waivers have been widely available in Florida and many other states for decades without any supposed conflict with parental rights protected by the 14th Amendment.

[13] *Doe* at 14-15 (stating that any deprivation of a parental right must consist of due process, consisting of notice and an opportunity to be heard).

[14] Brief of Amicus Curiae National Institute of Family and Life Advocates (NILFA) in Support of Respondents, *Planned Parenthood of Sw. and Cent. Fla. v. State*, No. SC2022-1050 & SC2022-1127 (Fla. Apr.6, 2023), https://firstliberty.org/wp-content/uploads/2023/04/NIFLA-Amicus-FINAL-AS-FILED_Redacted.pdf; *see Planned Parenthood of Sw. and Cent. Fla. v. State*, Nos. SC2022-1050 & SC2022-1127 (Fla. April 1 2024), https://law.justia.com/cases/florida/supreme-court/2024/sc2022-1050.html.

[15] NIFLA Amicus Brief at 3-4 (referring to precedents such as *Gainesville Woman Care, LLC v. State*, 210 So. 3d 1243 (Fla. 2017); *N. Fla. Women's Health & Counseling Servs., Inc. v. State*, 866 So. 2d 612 (Fla. 2003); *In re T.W.*, 551 So. 2d 1186 (Fla. 1989)).

Mr. Pratt also argued that courts' recognition of a constitutional right to abortion had removed this issue from democratic processes, and this resulted in a breakdown of political processes which, newly prompted by the leak of *Dobbs*, led to instances of violence against anti-abortion centers.[16] Mr. Pratt painted supporters of abortion access as violent extremists, and he argued that the only way to bring about "healing and equilibrium" was for the issue to be in the hands of the voters rather than recognized as a right by the courts.[17] His argument that violence is a consequence of the recognition of constitutional rights, and that this justifies withdrawal of those constitutional rights, is deeply concerning, as it speaks to his disregard for individual freedom and foundational civil rights within our constitutional framework.

Throughout his career, Mr. Pratt has demonstrated hostility to abortion rights, and he regularly urged courts to ignore precedent to achieve his preferred outcomes. These activities cast doubt on his ability to be a fair and impartial judge when it comes to reproductive rights and raise questions about whether he would adhere to binding precedent as a district court judge.

Mr. Pratt has advanced extreme theories to attack nondiscrimination protections for trans students.

As an advocate at the First Liberty Institute, Mr. Pratt portrayed nondiscrimination protections for trans students in public school and higher education as a violation of free speech and "federal laws protecting religious freedom."[18] He argued that requiring teachers and professors to use pronouns consistent with a student's gender identity in public colleges and universities is "forc[ing] citizens to speak according to a government-imposed orthodoxy."[19] This differs significantly from the approach the U.S. Supreme Court has taken on the issue of whether public employees may assert First Amendment protections for speech made as part of their official duties.[20] Mr. Pratt argues for a novel and expansive view of free speech and religious freedom protections that would undermine other important legal considerations and key civil rights protections. His hostility toward nondiscrimination protections and his disregard for LGBTQ people and others who would be harmed by his extreme legal positions cast doubt on whether he would be a fair-minded judge who would treat all litigants equally.

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[16] *Id.* at 12-15.
[17] *Id*.
[18] Jordan Pratt, "A Tale of Two Colleges: The Right Way (and the Wrong Way) to Handle the Gender Debate," The Western Journal (Apr. 28, 2022), https://www.westernjournal.com/tale-two-colleges-right-way-wrong-way-handle-gender-debate/.
[19] *Id.*
[20] *See Garceti v. Ceballos*, 547 U.S. 410 (2016) (holding that public employees have limited free speech protections for speech made as part of their official job duties); *See also 303 Creative LLC v. Elenis*, 600 U.S. __ (2023) (confirming a compelling governmental interest in nondiscrimination protections and recognizing limited free speech exceptions).

Conclusion

A thorough review of Mr. Pratt's legal arguments, positions, and judicial decisions makes clear that his adherence to binding legal precedent is conditional at best, quickly receding when in conflict with his preferred political outcomes. Mr. Pratt has demonstrated a disturbing willingness to cast aside judicial norms in order to reach and advance novel constitutional arguments that undermine longstanding civil rights protections. His record of attacking the rights of pregnant people and trans people raises serious concerns about his commitment to fairness and treating all litigants equally. Particularly with the high volume of cases in the Middle District of Florida,[21] this position is too important, and would impact the lives of too many people, to be entrusted to Mr. Pratt, who has shown an inability or unwillingness to separate his political views from his legal analysis.

For these reasons, National Women's Law Center strongly opposes the confirmation of Mr. Jordan Pratt to the U.S. District Court for the Middle District of Florida and urges the U.S. Senate Committee on the Judiciary to reject his nomination. If you have questions about the Law Center's opposition to Mr. Pratt's nomination, please contact me or Alison Gill, Director of Nominations & Democracy, at agill@nwlc.org.

Sincerely,

Fatima Goss Graves
President and CEO

Cc: Senate Judiciary Committee

[21] In just a 12-month period, approximately 10,000 civil and criminal cases were brought in the Middle District Court of Florida, and each judicial vacancy would be responsible for a docket of approximately 600 cases. *Table C—U.S. District Courts–Civil Federal Judicial Caseload Statistics* (March 31, 2025), U.S. COURTS, https://www.uscourts.gov/data-news/data-tables/2025/03/31/federal-judicial-caseload-statistics/c; *Table D-3—U.S. District Courts–Criminal Federal Judicial Caseload Statistics* (March 31, 2025), U.S. COURTS, https://www.uscourts.gov/data-news/data-tables/2025/03/31/federal-judicial-caseload-statistics/d-3; *Judicial Emergencies* (Jun. 17, 2025), U.S. COURTS, https://www.uscourts.gov/data-news/judicial-vacancies/judicial-emergencies.