



1350 I STREET NW
SUITE 700
WASHINGTON, DC 20005
202-588-5180
NWLC.ORG

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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 Justice William “Will” Crain to the U.S. District Court for the Eastern District of Louisiana

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 Justice William “Will” Crain for the U.S. District Court for the Eastern District of Louisiana.

Justice Crain’s record of strong opposition to reproductive rights and his dismissal of vulnerable survivors who report sexual assault demonstrates that his decision making is guided by personal ideology rather than a commitment to equal justice. Prior to the *Dobbs* decision and with blatant disregard for binding legal precedent, he prominently campaigned as an anti-abortion candidate during his race for the highest court in Louisiana, implying that he would rule based on his ideology rather than the law.¹ Justice Craine went on to carry out his anti-abortion campaign promise in the *June Medical v. Landry* case as one of just two Louisiana Supreme Court justices who ruled in favor of allowing the Louisiana anti-abortion “trigger” laws to go into effect in the wake of the *Dobbs* decision.² Earlier in his career, Justice Crain demonstrated his judicial

¹ The Committee to Elect Appeals Court Judge Will Crain for Supreme Court, Facebook post (Oct. 11, 2019), <https://www.facebook.com/share/p/1C6qbwAWrk/>; The Committee to Elect Appeals Court Judge Will Crain for Supreme Court, *The balance of the Supreme Court is in the hands of voters. We need a proven conservative judge who shares our beliefs and values. Judge Will Crain is the consensus choice.*, FACEBOOK (Sept. 3, 2019), <https://www.facebook.com/share/p/1BdVAa4y8S/>.

² *June Med. Servs., L.L.C. v. Landry*, No. 2022-CD-01038 (La. July 6, 2022) (per curiam) (denying stay and writ; declining supervisory jurisdiction), <https://www.lasc.org/opinions/2022/22-1038.CD.action.pdf>; *June Med. Servs.*,

disregard for the laws and legal protections that are paramount to women and girls in *Ray v. LeBlanc*.³ In *Ray*, he dismissed an incarcerated woman's claims that she experienced retaliation for seeking to help a fellow inmate reporting sexual assault by a prison employee. Justice Crain's anti-reproductive rights record and callousness toward survivors of sexual assault casts serious doubt on his ability to be a fair-minded jurist who treats all litigants equally.

In his bid for the Louisiana Supreme Court in 2019, Justice Crain campaigned on being anti-abortion and pro-life even though *Roe* was binding precedent at the time.

In his political campaign for the Louisiana Supreme Court, Justice Crain campaigned based on his partisan views on abortion, the death penalty, and religious beliefs implying they would impact his judicial decision-making.⁴ In fact, his anti-abortion stance, more than any other issue, formed the core of his campaign message and advertisements. Although he claimed to not legislate from the bench in his campaign materials, Crain's campaign ads heavily imply anti-abortion outcomes, asserting that "with the balance of the court in jeopardy," Justice Crain would "protect our beliefs," while describing himself as "pro-life."⁵ A fair and impartial judge may not pre-determine how they would decide cases based on their personal views. Instead, they are legally required to evaluate cases based on the facts before them and the applicable law, and to recuse themselves if there is a reasonable appearance of bias. Justice Crain's highly visible anti-abortion campaign demonstrates both a disregard for then-applicable legal precedent, as he ran on this issue despite the constitutional protections for abortion that had been in place for nearly 50 years, and a disregard for judicial propriety. How can a party seeking to protect reproductive rights that appears before Justice Crain expect a fair hearing and unbiased decision making when he based his election campaign on this issue? The simple fact is that they cannot. And yet, Justice Crain has never recused himself from a case concerning reproductive rights.⁶ Just the

L.L.C. v. Landry, No. 2022-CD-01038 (La. July 6, 2022) (Crain, J., dissenting and would grant supervisory writ), <https://www.lasc.org/opinions/2022/22-1038.CD.wjc.grant.pdf>.

³ *Ray v. LeBlanc*, No. 2013 CA 0017, 2013 La. App. Unpub. LEXIS 592 (La. Ct. App. 1st Cir. Sept. 13, 2013), https://scholar.google.com/scholar_case?case=17414568250021932336&q=Ray+v.+Leblanc&hl=en&as_sdt=20000006&as_vis=1.

⁴ The Committee to Elect Appeals Court, Judge Will Crain for Supreme Court, Facebook post (Oct. 11, 2019), <https://www.facebook.com/share/p/1C6qbwAWrk/>; The Committee to Elect Appeals Court Judge Will Crain for Supreme Court, *The balance of the Supreme Court is in the hands of voters. We need a proven conservative judge who shares our beliefs and values. Judge Will Crain is the consensus choice.*, FACEBOOK (Sept. 3, 2019), <https://www.facebook.com/share/p/1BdVAa4y8S/>.

⁵ The Committee to Elect Appeals Court Judge Will Crain for Supreme Court, *The balance of the Supreme Court is in the hands of voters. We need a proven conservative judge who shares our beliefs and values. Judge Will Crain is the consensus choice*, FACEBOOK (Sept. 3, 2019), <https://www.facebook.com/share/p/1BdVAa4y8S/>; The Committee to Elect Appeals Court Judge Will Crain for Supreme Court, *Judge Will Crain: Strength and Wisdom for our Supreme Court*, FACEBOOK (Oct. 12, 2019), <https://www.facebook.com/share/v/17NjP2JCZk/>.

⁶ We note also that Justice Crain was forcibly recused from other cases with ties to the trial lawyer that funded his opponent because of his campaign activities, showing a pattern of questionably unethical behavior. Andrea Gallo and John Simerman, *At Louisiana Supreme Court, campaign style attacks and recusal wars keep erupting*,

opposite, he advocated for the Louisiana Supreme Court to take a more interventionist approach.

Justice Crain was one of two Louisiana Supreme Court justices who would have defied court norms to intervene in a lower court’s temporary order and allow Louisiana’s anti-abortion “trigger” laws to go into effect.

After the 2022 *Dobbs* decision, Louisiana’s three “trigger” laws went into effect, which criminalized abortion care in the state.⁷ These trigger laws were written to enact an abortion ban if *Roe v. Wade* was overturned, but they have conflicting definitions and application, resulting in considerable confusion regarding which of the laws was in effect and what conduct would be prohibited.⁸ Doctors filed a lawsuit challenging the conflicting laws, and the state district court granted a temporary restraining order (TRO) blocking the abortion bans until it could hold a hearing and consider whether preliminary injunctive relief was warranted.⁹ Louisiana immediately sought to stay this TRO through a supervisory writ from the Louisiana Supreme Court. The Supreme Court denied the writ; however, Justice Crain, proving his anti-abortion bona fides, was one of two justices who dissented from the decision, instead arguing that the Louisiana Supreme Court should grant the writ and intervene to stay this temporary order.¹⁰

Under Louisiana state court rules, TROs last only until a time can be set by the court for a preliminary injunction hearing, generally within 10 days.¹¹ These orders are intended to preserve the relative positions of the parties, preventing irreparable harm, while the court determines an appropriate briefing schedule. While appellate courts have plenary power to review TROs, they are rarely subject to a full appellate review due to their brief timeline and deference to the lower

NOLA.com (Jul. 13, 2020), https://www.nola.com/news/courts/at-louisiana-supreme-court-campaign-style-attacks-and-recusal-wars-keep-erupting/article_f68692da-c2c0-11ea-9d46-9710ac2f03a0.html.

⁷ *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. ___, 142 S. Ct. 2228 (2022); La. R.S. § 40:1061 (as amended by Act 545, 2022), <https://legis.la.gov/Legis/Law.aspx?p=v&d=97020>; La. R.S. § 14:87.7 (as enacted by Act 545, 2022), <https://legis.la.gov/Legis/Law.aspx?d=1294861>; La. R.S. § 14:87.8 (as enacted by Act 545, 2022) <https://legis.la.gov/Legis/Law.aspx?d=1294863>.

⁸ Piper Hutchinson, *Politicized language contributes to confusion over Louisiana abortion ban, experts say*, Louisiana Illuminator (Jul. 31, 2022), <https://lailluminator.com/2022/07/31/politicized-language-contributes-to-confusion-over-louisiana-abortion-ban-experts-say/>.

⁹ *June Med. Servs., LLC v. Landry*, No. ____ (La. Civ. Dist. Ct. for the Parish of Orleans June 27, 2022) (temporary restraining order), <https://reproductiverights.org/wp-content/uploads/2022/06/LA-Trigger-Ban-Claim.pdf>; *June Med. Servs., LLC v. Landry*, Center for Reproductive Rights, <https://reproductiverights.org/case/post-roe-state-abortion-ban-litigation/june-medical-services-v-landry/>; *June Med. Servs., LLC v. Landry*, No. 2022-5633 (La. Civ. Dist. Ct. for Orleans Par. June 27, 2022) (granting TRO), <https://clearinghouse.net/doc/131561/>; *June Med. Servs., LLC v. Landry*, No. C-716741 Sec. 23 (La. 19th Jud. Dist. Ct. for E. Baton Rouge Par. July 11, 2022) (granting TRO), <https://clearinghouse.net/doc/134530/>.

¹⁰ *June Med. Servs., L.L.C. v. Landry*, No. 2022-CD-01038 (La. July 6, 2022) (per curiam) (denying stay and writ; declining supervisory jurisdiction), <https://www.lasc.org/opinions/2022/22-1038.CD.action.pdf>; *June Med. Servs., L.L.C. v. Landry*, No. 2022-CD-01038 (La. July 6, 2022) (Crain, J., dissenting and would grant supervisory writ), <https://www.lasc.org/opinions/2022/22-1038.CD.wjc.grant.pdf>.

¹¹ LSA-C.C.P. Art. 3601.

courts. However, in Justice’s Crain’s dissent, he laid out a view that intervention is *always* warranted for abortion-related cases because “terminating alleged life during the period of the temporary restraining period is irreparable” and the Louisiana Supreme Court has “a constitutional duty to consider whether the trial court correctly made these determinations.”¹² In other words, Justice Crain would have defied usual court practice to review and overturn this TRO, due to a personal bias, instead of waiting a few days to see if the lower court would issue a preliminary injunction and whether that injunction would be appealed. The majority of the Louisiana Supreme Court, in line with the court’s typical practice, “declined to exercise its plenary supervisor jurisdiction at this preliminary stage of the proceedings.”¹³

Furthermore, Justice Crain was unwilling to concede in his dissent that the conflicting anti-abortion laws caused doctors any irreparable harm, and he instead argued that the only irreparable harm was to the fetuses.¹⁴ Because a TRO requires a *prima facie* showing of irreparable harm, Justice Crain concluded that the balance of harms favored staying the TRO, writing “whether these doctors will suffer irreparable harm by being prohibited from performing abortions is debatable, terminating alleged life during the period of the temporary restraining order is irreparable.”¹⁵ In his balancing of harms, he made no mention whatsoever of the impact of the confusing and conflicting abortion bans on pregnant people, thus treating them as irrelevant to the legal questions at hand and focusing only on the interests of the doctors and the state’s asserted interest in the fetuses. Justice Crain’s dissent in *June Medical* is an example of his rejection of judicial norms in favor of a commitment to his political beliefs and campaign promises. Furthermore, his disregard for the autonomy of pregnant people, even as he fixates on the harms to hypothetical fetuses, calls into question whether he can set aside his ideological biases and treat litigants in a fair and evenhanded manner.

Justice Crain dismissed an incarcerated woman’s claims of retaliation after she was transferred to a maximum-security prison for supporting another incarcerated woman who asserted she was sexually assaulted by a prison employee.

In *Ray v. LeBlanc*, Justice Crain wrote that opinion for the court, which dismissed an incarcerated woman’s claims of retaliation after helping a survivor of prison sexual assault. In this case, the complainant, Jeanne Ray, was disciplined for copying down prison employee regulations that prohibited sexual misconduct.¹⁶ For this offense, Ms. Ray lost her job, was

¹² *June Med. Servs., L.L.C. v. Landry*, No. 2022-CD-01038 (La. July 6, 2022) (Crain, J., dissenting and would grant supervisory writ), <https://www.lasc.org/opinions/2022/22-1038.CD.wjc.grant.pdf>; LSA-C.C.P. Art. 3601.

¹³ *June Med. Servs., L.L.C. v. Landry*, No. 2022-CD-01038 (La. July 6, 2022) (per curiam) (denying stay and writ; declining supervisory jurisdiction), <https://www.lasc.org/opinions/2022/22-1038.CD.action.pdf>.

¹⁴ *June Med. Servs., L.L.C. v. Landry*, No. 2022-CD-01038 (La. July 6, 2022) (Crain, J., dissenting and would grant supervisory writ), <https://www.lasc.org/opinions/2022/22-1038.CD.wjc.grant.pdf>.

¹⁵ *Id.* at 2.

¹⁶ *Ray v. LeBlanc*, No. 2013 CA 0017, 2013 La. App. Unpub. LEXIS 592 (La. Ct. App. 1st Cir. Sept. 13, 2013), https://scholar.google.com/scholar_case?case=17414568250021932336&q=Ray+v.+Leblanc&hl=en&as_sdt=20000006&as_vis=1.

assigned 90 days of solitary confinement, and was moved from a minimum to a maximum security prison. Ms. Ray was serving as a counsel substitute for another incarcerated woman who reported that she was sexually assaulted by a prison employee. Counsel substitutes are not attorneys but individuals who help inmates prepare and present claims.¹⁷ Ms. Ray brought a claim alleging unconstitutional retaliation, which the district court dismissed, stating that prisoners do not have a constitutionally protected right to a specific work interest (serving as a counsel substitute) and the Due Process Clause did not protect against the change in her housing conditions.¹⁸

Justice Crain’s opinion in *Ray* on behalf of the Louisiana First Circuit Court of Appeals affirmed the lower court decision and demonstrated a striking disregard for vulnerable women who are reporting assault. His opinion concluded that the “right she was exercising at the time (serving as counsel substitute) was not a constitutional right; and the punishment she received (loss of her job, administrative segregation, and a change in security status) did not prejudice a substantial right.”¹⁹ In other words, the court did not find there was no retaliation; it found that Ms. Ray did not have a right to challenge retaliation, even if it did occur. What is especially concerning is the language of this opinion which intentionally diminishes the retaliation Ms. Ray received. Solitary confinement and transferring an incarcerated woman from a minimum to maximum security prison are clearly disproportionate punishments for violating a trivial rule against copying publicly available prison regulations. Yet rather than look into this extraordinary response to the violation of a questionable prison rule,²⁰ a response that would tend to have the effect of protecting a prison employee alleged to have sexually assaulted a prisoner, Justice Crain validated the Louisiana Department of Public Safety and Corrections’ cruel and disturbingly punitive response. The appellate court decision also discounted any harm that the woman who had been sexually assaulted may have suffered as a result of this retaliation against her counsel substitute. Justice Crain’s demonstrated callousness towards Ms. Ray’s case raises concern about his bias against incarcerated people, and in particular, incarcerated women, as well as suggesting a disregard for the seriousness of sexual assault.²¹

Conclusion

Justice Crain’s statements during his political campaign and judicial decisions demonstrate a disregard for the autonomy of pregnant people and for the legal protections for women reporting

¹⁷ La. Admin. Code 22, Pt. I, § 341(f)(1)(a)(iii)(b).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ We note that the court did not cite this alleged rule, nor can it be found in the Louisiana Administrative Code. It is difficult to imagine a purpose to such a rule except to hamper any efforts by a counsel substitute to assist other incarcerated people.

²¹ We note also that Justice Crain has a long history of breaking with his colleagues to side against criminal defendants. *See, e.g., State v. Thomas*, 2024-KP-00267 (La. Jun 27, 2025); *State v. Allen*, No. 2022-KP-00508 (La. Nov. 2, 2022) (J. Crain dissented to oppose relief to defendants who has established that they received ineffective assistance of counsel).

sexual assault. His partisan, anti-abortion political views have motivated his judicial decision making in the past, which raises serious concerns about his ability to treat every case and every litigant that comes before him fairly. Additionally, his punitive attitude against incarcerated women seeking to address sexual assault reveals a chilling disregard for the wellbeing of and legal protections for women. Justice Crain's record of leading with his political views and disregard for pregnant people and women reporting sexual assault instill no confidence in his commitment to being a fair-minded and impartial federal judge.

For these reasons, the National Women's Law Center strongly opposes the confirmation of Justice William Crain to the U.S District Court for the Eastern District of Louisiana 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 Justice Crain's nomination, please contact me, or Alison Gill, Director of Nominations & Democracy, at agill@nwlc.org.

Sincerely,



Fatima Goss Graves
President and CEO