



HUMAN
RIGHTS
CAMPAIGN®

November 29, 2017

Dear Senator:

On behalf of the Human Rights Campaign (HRC), America's largest civil rights organization working to achieve lesbian, gay, bisexual, transgender, and queer (LGBTQ) equality, we write to oppose the nomination of L. Steven Grasz to the United States Court of Appeals for the Eighth Circuit. Based on our review of his record, we believe Grasz does not possess the temperament required to be an impartial adjudicator. Impartial organizations that seek to preserve the integrity of our judicial system agree with our assessment. The American Bar Association's Standing Committee on the Federal Judiciary unanimously found Grasz to be "Not Qualified" to serve on the Eighth Circuit.¹

The President and the Senate should ensure that only fair-minded individuals, committed to impartial judgments and policies based upon fact rather than ideology, serve our nation in the courts. Only nominees with exceptional intellectual ability, distinguished experience in law, and a temperament that would enable them to make decisions fairly and with an open mind should be confirmed for lifetime appointments to the bench. These attributes are vital to ensuring the future of our nation's civil rights laws and guaranteeing that courts recognize LGBTQ people's fundamental rights and basic equality.

Throughout the course of his career in both the private and public sectors, Grasz has threatened the civil liberties of LGBTQ Americans. As a member of the City of Omaha Charter Review Convention and as Chief Deputy Attorney General of Nebraska, Grasz advocated for the removal of protections that benefited the LGBTQ community. Further, Grasz served on the Board of Directors of the Nebraska Family Alliance (NFA) since August 2015,² an organization opposed to LGBTQ rights and recognition, claiming, "[a]dding sexual orientation and gender identity as protected classifications in the law is a troublesome—and unnecessary—proposal that inflicts

¹ See Pamela A. Bresnahan, American Bar Association, Standing Committee on the Federal Judiciary, *Concerning the Nomination of Leonard Steven Grasz to be Judge of the United States Court of Appeals for the Eighth Circuit* (Oct. 30, 2017),

<https://www.americanbar.org/content/dam/aba/uncategorized/GAO/GraszStatement.authcheckdam.pdf>.

² See Sen. Comm. On the Judiciary, 115th Cong., Leonard Steven Grasz: Questionnaire for Judicial Nominees, Financial Disclosure Report.

great harm on all citizens.”³ Of particular concern is NFA’s stance on LGBTQ rights is a direct restatement of the Alliance Defending Freedom’s, the nation’s largest anti-LGBTQ legal organization.⁴ NFA also supports conversion therapy,⁵ a set of practices that have been rejected by every mainstream medical and mental health organization for decades. Even so, NFA defends the use of conversion therapy and condemns states’ bans on its use stating, “[c]onversion therapy bans for minors trample on parental rights and decrease options for young people struggling with unwanted same-sex attraction or gender dysphoria.”⁶

Moreover, during his time as Chief Deputy Attorney General of Nebraska, Grasz authored an opinion on the constitutionality of a Nebraska state hate crimes bill that protected people on the basis of sexual orientation. Grasz equated the inclusion of “sexual orientation” as a protected characteristic as encompassing all “orientation of a sexual nature” including bigamy and pedophilia.⁷

Grasz also actively opposed the recognition in Nebraska of same-sex marriages performed in other states. One of his opinions provides insight into his view on same-sex marriage, which stated that such marriages were “a grave danger” to Nebraska state law because “the Nebraska Supreme Court might well recognize same-sex marriages performed in Hawaii as being valid in Nebraska, even though such a result is not required under the U.S. Constitution.”⁸ Grasz wrote a subsequent opinion after the passage of the federal Defense of Marriage Act (DOMA), urging the Nebraska Legislature to pass a state constitutional amendment expressly prohibiting legal recognition of same-sex marriages.⁹

Finally, in *In re Adoption of Luke*,¹⁰ a case involving an unmarried lesbian couple, Grasz argued before the Nebraska Supreme Court that Nebraska state law would not allow a same-sex couple to adopt the child in question, thereby, denying the non-biological mother from becoming her son’s legal parent.¹¹

Grasz’s record demonstrates he would not be a fair and impartial judge for all Americans, regardless of their sexual orientation and gender identity. We strongly urge you to oppose

³ See Nebraska Family Alliance, *Sexual Orientation and Gender Identity Laws* (2017), <https://nebraskafamilyalliance.org/policy/sexual-orientation-and-gender-identity-laws/>.

⁴ *Id.*

⁵ See Nate Grasz, *Legislation Criminalizing Conversion Therapy Sweeping the Nation*, Nebraska Family Alliance (July 21, 2017), <https://nebraskafamilyalliance.org/legislation-criminalizing-conversion-therapy-sweeping-nation/>.

⁶ *Id.*

⁷ See *The Constitutionality of LB 396, The Bill*, Neb. Op. Att’y Gen No. 92078, (June 4, 1992).

⁸ See *Validity in Nebraska of Same-Sex Marriages Contracted in Another State*, Neb. Op. Att’y Gen. No. 96025, 1996 WL 132907 (Mar. 25, 1996).

⁹ See *Same-Sex Marriage – Impact of Baehr v. Lewin and the Defense of Marriage Act on Nebraska Law*, Neb. Op. Att’y Gen, No. 96090, 1996 WL 739040 (Dec. 30, 1996).

¹⁰ 640 N.W.2d 374 (2002).

¹¹ *Id.* at 379.

Grasz's nomination to the United States Court of Appeals for the Eighth Circuit. If confirmed, the addition of Gratz to that bench would endanger the fundamental rights of LGBTQ people and expose litigants to the risk that their cases will not be decided fairly.

Thank you for your consideration. If you have any questions or need more information, please contact me at david.stacy@hrc.org.

Sincerely,

A handwritten signature in cursive script that reads "David Stacy".

David Stacy
Government Affairs Director