

March 13, 2014

Dear Senator:

The National Lawyers Guild and the undersigned legal organizations write to express our great disappointment with your vote last week against Debo Adegbile for the position of Assistant Attorney General for Civil Rights at the Department of Justice. Lawyers should not have to refrain from taking cases that law enforcement officials deem controversial in order to assume public office. Such a proposition insults the very best traditions of the legal profession and our system of government, namely representing “unpopular” clients vigorously and conscientiously.

While some of the undersigned organizations refrain from taking a position on nominees, we all agree that Senate confirmations should not turn on a nominee’s representation of someone in a criminal matter.

There is a long and noble history of lawyers going against popular opinion in this country. John Adams successfully defended British soldiers accused of killing colonists. His son effectively represented the Amistad case. James Horton, the presiding judge in the Scottsboro case, is remembered today as heroic but at the time lost his job as a judge and couldn’t maintain his law practice due to his affiliation with the case.

ABA Model Rule 1.2 states that legal representation should not be denied to those “whose cause is controversial or the subject of popular disapproval.” ABA Model Rule 1.2(b) itself assures that representation of a client “does not constitute an endorsement of the client’s political, economic, social or moral view or activities.” Although the Model Rules do not force lawyers to take on unpopular clients, ABA Model Rule 6.2(c) states that lawyers should not turn down court appointments unless “the client or the cause is so repugnant to the lawyer as to be likely to impair the client-lawyer relationship.”

As President Obama noted, “The fact that his nomination was defeated solely based on his legal representation of a defendant runs contrary to a fundamental principle of our system of justice.” Rather than discussing the merits of Mr. Adegbile’s qualifications for the position, which both Republicans and Democrats have agreed are impeccable, the debate on the Senate Floor on March 5 was shaped by a smear campaign engineered by the influential Fraternal Order of Police (FOP). Ironically, the Senate and the FOP are sending the message that lawyers who fulfill their mission of upholding the U.S. Constitution through representing clients—in this case former death row inmate Mumia Abu-Jamal—should be disqualified from serving in high levels of the government.

The campaign to discredit Mr. Adegbile is reminiscent of criticism leveled at attorneys representing or advocating on behalf of Guantánamo detainees. In 2010 they were vilified and labeled “unpatriotic” in several media campaigns. Responding to an inquiry from Senator Charles Grassley (R-IA), the Department of Justice identified nine of its attorneys as involved in defense work. As a result, these lawyers, along with several other non-government attorneys

representing detainees, found their ethics and loyalties under attack for pro-bono work they conducted as a matter of conscience and professional responsibility.

Bar associations and legal organizations defended the Guantánamo lawyers in 2010, speaking out publicly against criticisms of their service on behalf of the detainees. We now object to attempts to vilify attorneys such as Debo Adegbile, and the honorable work of the NAACP Legal Defense Fund, as antithetical to the fundamental rights enshrined in our constitutional system. The Legal Defense Fund's willingness to represent high-profile, and to some, unpopular, defendants demonstrates a respect for the rule of law. Rather than punish principled legal advocacy, as an elected official who took an oath to uphold and defend the Constitution of the United States, you should commend it as integral to our democracy.

Sincerely,

National Lawyers Guild

Heidi Boghosian, Executive Director

Center for Constitutional Rights

Vincent Warren, Executive Director

Human Rights Defense Center

Paul Wright, Executive Director

LatinoJustice PRLDEF

Juan Cartagena, President and General Counsel

Legal Services for Prisoners with Children

Dorsey Nunn, Executive Director

Massachusetts Employment Lawyers Association

David Belfort, President

National Association of Criminal Defense Lawyers

Jerry J. Cox, President

National Conference of Women's Bar Associations

Andrea Carlise, President

National Legal Aid & Defender Association

Jo-Ann Wallace, President

National Native American Bar Association

Mary Smith, President

National Police Accountability Project

Brigitt Keller, Executive Director

Partnership for Civil Justice Fund

Mara Verheyden-Hilliard, Executive Director

People's Law Office

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