



New Hampshire

BAR ASSOCIATION

Equal Justice Under Law

2 Pillsbury Street, Suite 300 ✻ Concord, New Hampshire 03301-3502

T 603.224.6942 ✻ F 603.224.2910 ✻ www.nhbar.org

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November 17, 2015

The Honorable Maggie C.W. Hassan and Executive Council Members
State House
107 North Main Street
Concord, NH 03301

Dear Governor Hassan and Honorable Council Members,

The New Hampshire Bar Association Board of Governors, the elected representatives of the more than 5,000 active members licensed to practice law in our State, write regarding the recent judicial nomination process. Our Association plays an important role in the process, given the breadth and diversity of experience of our membership in the legal profession and justice system.

We are mindful of the multiple constituencies involved in the consideration, nomination and ultimate approval or rejection of judicial candidates. Because we recognize the paramount importance of the Executive Council's Constitutional duty in the judicial selection process, we write to offer additional information.

The press accounts suggest that a long-time public defender was not confirmed solely because of her work representing indigent and unpopular criminal defendants. If true, such a decision would impugn the fundamental principles on which our country was founded and the ideals essential to a fair and impartial criminal justice system.

More than 50 years ago the United States Supreme Court's seminal decision in *Gideon v. Wainwright* 372 U.S. 335 (1963) recognized the fundamental role of the public defender in our system of justice. Justice Hugo Black wrote then:

From the very beginning, our state and national constitutions and laws have laid great emphasis on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.

As such, a lawyer's zealous representation of a client in criminal proceedings, no matter how unpopular, is a professional duty and amongst the highest safeguards upon which our system of justice relies.

The appointment of qualified judicial candidates to serve in our Courts is essential to public confidence in our justice system, as is the process by which judicial candidates are selected or rejected. Accordingly, we believe that an otherwise qualified judicial candidate should not be categorically disqualified solely because he/she has exercised their professional responsibility in the representation of a client in criminal proceedings.

Signed,

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