

REPUBLICAN NATIONAL LAWYERS ASSOCIATION



July 30, 2021

Senator Dick Durbin
711 Hart Senate Office Building
Washington, D.C. 20510

Senator Chuck Grassley
135 Hart Senate Office Building
Washington, D.C. 20510

Re: Opposition of Nomination of Myrna Pérez to the United States Court of Appeals for the Second Circuit

Dear Chairman Durbin and Ranking Member Grassley,

The Republican National Lawyers Association (“RNLA”) urges you to oppose the nomination of Myrna Pérez to the United States Court of Appeals for the Second Circuit. Previously, RNLA opposed Ms. Pérez’s unsuccessful nomination to the U.S. Election Assistance Commission (“EAC”).¹ It is even more imperative the Senate oppose her nomination to a lifetime position on the Second Circuit.

We did not oppose Ms. Pérez’s nomination to the EAC on a partisan basis. Rather, we opposed her nomination “because her views are so far outside the mainstream as to be objectionable to reasonable people on the right and the left and because she has demonstrated a willingness to manufacture facts to support her views when the real facts do not do so.”² We believe these same attributes disqualify her from being elevated to a position on the Second Circuit.

At her confirmation hearing, Ms. Pérez stated, “I am pledging to no longer participate in policy disputes, and instead I will impartially and objectively review the law, apply it to the record before me, and be faithful to the precedent both of the Supreme Court and the 2nd Circuit.”³ Unfortunately, there is little in Ms. Pérez’s record to suggest that she will be able to follow through with her pledge.

Since her failed nomination to the EAC in 2014, Ms. Pérez has continued to prove how her views fall well outside of the mainstream and are more partisan than ever.⁴ In May of this year, Ms. Pérez authored an article titled, “The GOP Campaign to Make Elections Less Free.”⁵ Senator Tom Cotton pointed out during her confirmation hearing how he agreed with Senator Durbin who remarked that this article “sounded like a speech he would give on the Senate floor.”⁶ Another article authored by Ms. Pérez from March is titled, “Texas Republicans Move Swiftly on Voter Suppression Bills.”⁷ As a Circuit Judge, Ms. Pérez will inevitably preside over electoral disputes. How can she do so in an impartial manner after publicly displaying such disdain for the Republican Party?

To be clear, it is not our disagreement with her views that motivates our opposition; it is the manner in which she attacks those who disagree with her. As RNLA highlighted when Ms. Pérez was nominated to the EAC, she previously implied that supporters of voter ID requirements are racist.⁸ Her employer, the Brennan Center, routinely opposes commonsense voter ID laws.⁹ This is in direct opposition to the proposal of the bipartisan Carter-Baker Commission and, more importantly, the will of the American people.¹⁰ Poll after poll shows how voter ID requirements are widely popular across demographics.¹¹

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RNLA Letter in Opposition to the Nomination of Myrna Pérez

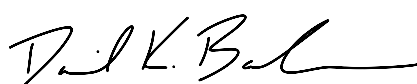
In 2018, Pérez co-authored a report on voter list maintenance where she and her colleagues referred to the practice as “purges” that present a “threat to the right to vote.”¹² This should be unsurprising considering how Pérez has gone so far as to label routine voter list maintenance “fear-mongering” in the past.¹³ Ironically, those who support common sense, mainstream ideas like voter list maintenance include President Obama’s Commission on Election Administration.¹⁴

Perhaps even more concerning is Ms. Pérez’s willingness to bend the facts to fit her desired narrative. Ms. Pérez “once spoke of how an election call center that she was helping to run ‘spoke to thousands of voters . . . at risk of disenfranchisement’ on one day. The problem is that the center only received 800 calls that day total.”¹⁵ This blatant misrepresentation foreshadows Ms. Pérez’s willingness to do the same as a judge on the Second Circuit, if confirmed.

Finally, Ms. Pérez has shown an astonishing lack of respect to the federal judiciary in the past and lacks the required temperament to serve as a judge. Indeed, Ms. Pérez was chastised by a federal judge in September 2008 for suggesting that she needed to explain to the court the meaning and import of certain cases because the court would not otherwise be able to appreciate their nuances as Ms. Pérez did.¹⁶

Considering Ms. Pérez’s undeniable partisanship, extreme views outside of the mainstream, willingness to misrepresent the truth, and prior disrespect to the federal judiciary, her nomination to the United States Court of Appeals for the Second Circuit should be opposed.

Sincerely,



David K. Bowsher
President



Michael Thielen
Executive Director

¹ <https://obamawhitehouse.archives.gov/the-press-office/2014/11/19/presidential-nominations-and-withdrawal-sent-senate>

² <https://d3n8a8pro7vhm.cloudfront.net/rnla/pages/2218/attachments/original/1627488687/OppositiontoMPerez.pdf?1627488687>

³ <https://www.rollcall.com/2021/07/14/myrna-Pérez-senate-confirmation-hearing/>

⁴ https://www.brennancenter.org/search/?author_friendly=Myrna%20P%C3%A9rez&

⁵ <https://sojo.net/magazine/august-2021/voters-want-to-vote>

⁶ <https://www.youtube.com/watch?v=8pjQNYnWvAQ> at 3:39

⁷ <https://www.brennancenter.org/our-work/analysis-opinion/texas-republicans-move-swiftly-voter-suppression-bills>
⁸ <https://d3n8a8pro7vhm.cloudfront.net/rnla/pages/2218/attachments/original/1627488687/OppositiontoMPerez.pdf?1627488687>

⁹ <https://www.brennancenter.org/issues/ensure-every-american-can-vote/vote-suppression/voter-id>

¹⁰ <https://www.legislationline.org/download/id/1472/file/3b50795b2d0374cbef5c29766256.pdf>

¹¹ <https://electiontransparency.org/2021/07/19/washington-democrats-descend-on-atl-for-partisan-roadshow-as-bipartisan-majority-of-georgians-favor-voter-id-protections/>

¹² <https://www.brennancenter.org/our-work/research-reports/purges-growing-threat-right-vote>

¹³ <https://votingrights.news21.com/article/registration/>

¹⁴ https://www.eac.gov/sites/default/files/eac_assets/1/6/Amer-Voting-Exper-final-draft-01-09-14-508.pdf

¹⁵ http://www.lafayette-online.com/community/2008/05/indiana-voter-id-law-significant-issue-scattered-problems-reported#.UvK_4fldV8E

¹⁶ https://d3n8a8pro7vhm.cloudfront.net/rnla/pages/2218/attachments/original/1627488648/PORT_CHESTER_TR_ANNOTATED.pdf?1627488648