



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #DEN-18-042

Title: Opposition to Nomination and Confirmation of Eric Miller to the Ninth Circuit Court of Appeals

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States and the United Nations Declaration on the Rights of Indigenous Peoples, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, President Donald Trump has nominated Eric Miller to fill a vacant seat on the Ninth Circuit Court of Appeals; and

WHEREAS, there are 427 federally recognized tribes in the Ninth Circuit, more than any other Federal Court of Appeals; and

WHEREAS, because the Ninth Circuit hears more tribal cases than any other, it is a leader in the field of federal Indian law, other circuits often follow its example, and it feeds more tribal cases into the Supreme Court; and

WHEREAS, Miller built a law practice on mounting repeated challenges to tribal sovereignty, lands, religious freedom, and the core attribute of federal recognition of tribal existence in cases and more than half of the professional accomplishments listed on his law firm website came at the expense of tribal rights and interests; and

WHEREAS, his advocacy has focused on undermining the rights of Indian tribes, often taking extreme positions and using pejorative language to denigrate tribal rights; and

WHEREAS, Mr. Miller's record makes clear that he does not possess a mainstream understanding of tribal sovereignty, treaty rights, and the federal trust responsibility, or their role in the Constitution and federal law; and

WHEREAS, the positions Mr. Miller has repeatedly advocated would have very serious consequences on the federal-tribal relationship and would undermine fundamental principles of tribal sovereignty, governance, and self-determination; and

WHEREAS, an appointment to the federal bench is a lifetime appointment and a commitment to fundamental Constitutional principles is essential.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby oppose the nomination and confirmation of Eric Miller, as Judge for the Ninth Circuit Courts of Appeals; and

BE IT FURTHER RESOLVED, that NCAI will immediately urge President Trump to reconsider and withdraw Eric Miller's nomination; and

BE IT FURTHER RESOLVED, that NCAI will immediately convey its opposition to the nomination to the Senate Judiciary Committee and request to be made part of the confirmation hearing process; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.