



1300 I STREET N.W | SUITE 400 E | WASHINGTON, DC 20005
(202) 216-9309 | WWW.JUDICIALACTIONGROUP.COM

July 24, 2024

Senator Charles E. Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

Senator Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

Senator Dick Durbin
Chairman, Judiciary Committee
United States Senate
Washington, D.C. 20510

Senator Lindsey Graham
Ranking Member, Judiciary Committee
United States Senate
Washington, D.C. 20510

Re: Request to Freeze Confirmation of Judges to the Federal Bench Pursuant to the Senate’s Constitutional Role to Provide “Advice and Consent.”

Dear Sirs,

President Joe Biden recently announced his withdrawal from the 2024 Presidential Election amidst increasing evidence advocated by his own party that he lacks the mental capacity to perform the duties of the Presidency. Accordingly, we respectfully request that you freeze all action on the Senate floor and in the Senate Judiciary Committee on President Biden’s judicial nominations. Confirmations of persons to near-lifetime positions to Article III judgeships are nearly irreversible and, therefore, should not occur until concerns are fully resolved.

In President Biden’s formal statement announcing his withdrawal from the Presidential Campaign he did not address his mental capacity, but stated, “while it has been my intention to seek reelection, I believe it is in the best interest of my party and the country for me to stand down and to focus solely on fulfilling my duties as President for the remainder of my term.”¹ Biden’s ability to execute his duties as President, given the concerns over his mental capacity, or lack thereof, demands that the United States Senate pause judicial confirmations under U.S. Const. Art. II § 2, cl. 2, as is the Senate’s prerogative. While some Senators tend to give deference to the President’s judicial appointments, recent events highlight that this deference must be re-evaluated to safeguard the Constitutional legitimacy of Article III judges. Indeed, the Honorable Speaker of the House went so far as to say, “[i]f Joe Biden is not fit to run for President, he is not fit to serve as President. He must resign the office immediately.”²

Concerns relating to President Biden’s mental fitness and, therefore, his ability to consciously select prospective appointees to the federal bench are well documented. Evidence of his lack of

¹ Letter from President Joseph R. Biden to the American People (July 21, 2024) ([posted](#) on CNN Politics).

² Clare Foran & Morgan Rimmer, *Speaker Johnson calls on Biden to resign after the president announces he won’t seek reelection*, CNN POLITICS (Jul. 21, 2024, 5:54 PM), <https://edition.cnn.com/2024/07/21/politics/mike-johnson-gop-calls-biden-resign/index.html>.

capacity is bi-partisan and comes from nearly all sectors, including medical experts, elected members of the President’s own party, and media outlets across the political spectrum.

1. **Concerning medical commentary and events.**

Despite repeated denials that Biden is suffering from Parkinson’s and other neurological conditions, Dr. Kevin Cannard, a neurologist who specializes in Parkinson’s and movement disorders, “visited the White House *eight times in eight months* from last summer through this spring, including at least once for a *meeting with President Biden’s physician*, according to official visitor logs.”³ Nonetheless, Biden refuses to submit to an independent cognitive exam.⁴

Dr. Thomas C. Pitts, *a lifelong Democrat*, and Neurologist at New York Presbyterian Hospital-Columbia and Cornell, as well as Miami Valley Hospital, expressed his medical opinion regarding Biden’s mental capacity following the debate.⁵ In Dr. Pitts’ decade-plus of experience in neurology, he stated, “I could have diagnosed him from across the mall [with Parkinson’s].”⁶ Pitts also postulated, “this guy is not a hard case [] I see him [twenty] times a day in clinic.”⁷

In a separate interview for the National Review, Dr. Pitts reaffirmed that Biden has “classic features of neurodegeneration.”⁸ In further elaborating, Pitts stated, “I mean, word-finding difficulties, and that’s not, ‘oh, I couldn’t find the word,’ that’s from degeneration of the word retrieval area.”⁹ Moreover, behavior such as “[r]igidity, loss of arm swings, [and] standing up robotically. You notice, when [Biden] turns, it’s kind of end-block turning, it’s not a quick turn. That’s one of the hallmarks of Parkinson’s, rigidity and Bradykinesia, slow movement. And he has that hallmark, especially with the low voice.”¹⁰

Biden could easily refute concerns by providing medical records to the Senate but has refused to do so, while also being unwilling to submit to any independent cognitive exam.

2. **Recent concerns expressed by figures traditionally aligned with the President.**

³ Emily Baumgaertner & Peter Baker, *Parkinson’s Expert Visited the White House Eight Times in Eight Months*, THE NEW YORK TIMES (Jul. 8, 2024), <https://www.nytimes.com/2024/07/08/us/politics/parkinsons-expert-white-house.html> (emphasis added).

⁴ Meredith Deliso, *Biden won’t commit to independent cognitive test when asked in ABC News interview*, ABC NEWS (Jul. 5, 2024, 9:27 PM), <https://abcnews.go.com/Politics/biden-independent-cognitive-test-debate/story?id=111695187>.

⁵ Dr. Thomas C. Pitts, MD, U.S. News (July 22, 2024), <https://health.usnews.com/doctors/thomas-pitts-1221633> (emphasis added).

⁶ Editorial Board, *Is the Joe Biden Parkinson’s issue obvious to everyone except the prez?*, NEW YORK POST (Jul. 10, 2024, 1:01 PM), <https://nypost.com/2024/07/10/opinion/is-the-joe-biden-parkinsons-issue-obvious-to-everyone-except-the-prez/>.

⁷ *Id.*

⁸ *Id.*

⁹ Jim Geraghty, *President Biden and the Difficult Question of Diagnosing Parkinson’s Disease*, NATIONAL REVIEW (Jul. 11, 2024, 12:49 PM), <https://www.nationalreview.com/corner/president-biden-and-the-difficult-question-of-diagnosing-parkinsons-disease/>.

¹⁰ *Id.*

A recent New York Times report, opined in part by the Times's chief White House correspondent after interviewing numerous White House staff, discussed legitimate concerns raised by those who have recently been in a room with the President.¹¹ When discussing a fundraiser Biden attended on July 9th, the President himself stated, "I didn't listen to my staff, and I came back, and I fell asleep on the stage."¹² The authors described an anonymous source account of "[o]ne person who sat close to the [P]resident said that he had a 'dazed and confused' expression during much of the event [a recent celebration of Juneteenth]. This person [also] said Mr. Biden had shown a 'sharp decline' since a meeting only weeks earlier."¹³

Following Biden's crushing debate performance on June 27th, Jake Tapper "rebuked" Representative Bennie Thompson's (D-Miss.) defense of Biden in an interview. In Tapper's words, "[w]ith all due respect, sir, it wasn't just a bad debate. I mean, we've seen other incidents, and I'm not just talking about aging."¹⁴ Tapper further posited that "[m]any Democratic officials with whom I've spoken are worried that President Biden and his family and his inner circle appear to be in complete denial, not just about whatever might be wrong with him, but the state of his candidacy right now."¹⁵ Similarly, George Stephanopoulos states in an interview, "I don't think [Biden] can serve four more years."¹⁶

In reacting to a Biden interview, Nate Silver confessed, "I wimped out in [a] column and deleted a line saying [Biden] should formulate a plan to transition the presidency to Harris within 30-60 days, but I'm there now."¹⁷

3. Concerns raised by lawmakers regarding the President's Fitness.

NBC also compiled some deeply troubling statements from Democratic members of Congress regarding Biden's fitness to serve as President. Speaking anonymously, one U.S. Senator even proclaimed that the "country saw [at the debate] what those of us who have had personal interactions with him have all known for the last 2 [and a half] years."¹⁸ Additionally, Democrat

¹¹Peter Baker, et. al., *Biden's Lapses Are Said to Be Increasingly Common and Worrisome*, THE NEW YORK TIMES (Jul. 7, 2024, 6:23 AM), https://www.nytimes.com/2024/07/02/us/politics/biden-lapses.html#:~:text=Democrats%20React-_Biden's%20Lapses%20Are%20Said%20to%20Be%20Increasingly%20Common%20and%20Worrisome,after%20Thurs,day's%20debate%2C%20more%20worrisome.

¹²*Id.*

¹³*Id.*

¹⁴Miranda Nazzaro, *CNN host pushes back on Thompson's defense of Biden debate performance*, THE HILL (Jul. 2, 2024, 7:43 PM), <https://thehill.com/homenews/media/4752856-jake-tapper-bennie-thompson-biden-post-debate/>.

¹⁵Lauren Sforza, *CNN's Tapper picks apart Biden's 'Morning Joe' interview*, THE HILL (Jul. 8, 2024, 10:06 PM), <https://thehill.com/homenews/campaign/4761086-cnn-jake-tapper-joe-bidens-morning-joe-interview/>.

¹⁶Jackson Walker, *Stephanopoulos doesn't think Biden can serve another term following interview*, ABC7 News (Jul. 10, 2024, 10:46 AM), <https://abc7amarillo.com/news/nation-world/stephanopoulos-doesnt-think-biden-can-serve-another-term-following-abc-interview-abc-news-host-george-stephanopoulos-said-tuesday-he-is-not-confident-in-president-joe-bidens-ability-to-serve-another-term-in-the-oval-office.>

¹⁷Joseph A. Wulfsohn, *Critics pile on Biden following ABC interview, blast his refusal to commit to cognitive test: 'Disqualifying'*, Fox News (Jul. 6, 2024), <https://www.msn.com/en-us/news/politics/critics-pile-on-biden-following-abc-interview-blast-his-refusal-to-commit-to-cognitive-test-disqualifying/ar-BB1pvGGN.>

¹⁸Peter Nicholas, et. al., *Some Democrats say Biden's debate performance wasn't an anomaly*, NBC NEWS (Jul. 4, 2024, 5:39 PM), <https://www.nbcnews.com/politics/joe-biden/democrats-say-bidens-debate-performance-wasnt-anomaly-rcna160151.>

Representative Jared Golden from Maine stated, “I will not vote for someone if I don’t think they are physically or mentally equipped to lead this nation. And I don’t know the answer to that question at this time.”¹⁹

Likewise, The Wall Street Journal published an article entitled “Behind Closed Doors, Biden Shows Signs of Slipping,” which contains comments made by those who have recently been near the President, indicating that he was demonstrating signs of “slipping” while meeting with lawmakers, his staff, and other officials.²⁰

4. **Conclusion**

The process for near lifetime appointment of federal judges is composed of two steps: (1) nomination by the President, and (2) confirmation by the Senate. The first step of that process is in constitutional jeopardy because evidence suggests the President lacks the mental capacity to exercise the powers of the Presidency. Therefore, we respectfully request that the United States Senate immediately freeze all Senate and Committee action on judicial nominations consistent with the Senate’s role in providing “advice and consent.” U.S. Const. Art. II § 2, cl. 2 (emphasis added).

Respectfully,



Phillip L. Jauregui
President, Judicial Action Group

¹⁹ NBC News, *First Democratic senator calls for Biden to drop out: Highlights*, NBC NEWS (Jul. 10, 2024, 11:02 PM), <https://www.nbcnews.com/politics/2024-election/live-blog/trump-biden-election-2024-live-updates-rcna161049>.

²⁰ Annie Linskey & Siobhan Hughes, *Behind Closed Doors, Biden Shows Signs of Slipping*, THE WALL STREET JOURNAL (Jun. 4, 2024, 9:00 PM), <https://www.wsj.com/politics/policy/joe-biden-age-election-2024-8ee15246>.