Nearly 60 Current & Former Criminal Justice Leaders Call On GA Supreme Court to Protect Prosecutorial Discretion and the Will of Georgia Voters

Allowing a lower court’s unprecedented ruling against DA Deborah Gonzalez to stand would undermine local control and erode well-settled prosecutorial independence

Today, a group of 57 current and former elected prosecutors and former U.S. Attorneys and Department of Justice officials filed an amicus brief urging the Georgia Supreme Court to uphold the well-established autonomy and discretion of duly elected Western Judicial Circuit District Attorney Deborah Gonzalez. The signatories call for the dismissal of a case that could give the judiciary the power to oversee decision-making vested in the elected DA. Allowing the case to proceed would infringe on prosecutorial independence and endanger the ability of voters to have a say in their local justice system, eroding community trust and thereby undermining public safety.

The case at hand, Miller v. Gonzalez, involves a single private citizen who asked the lower court to determine that DA Gonzalez was “not performing the duties of her office” and to micromanage how her office exercises discretion and uses limited resources to keep the community safe and healthy. The Superior Court denied DA Gonzalez’s motion to dismiss the case, despite the fact that the petitioner brought the suit simply because he opposed DA Gonzalez’s evidence-backed decision to focus her office’s time and efforts on violent crime instead of low-level offenses like marijuana possession or truancy. But as the signatories to the brief note, “no prosecutor has the ability and resources to prosecute every case and every violation of the law,” and “this suit is simply an attempt by a single individual to harness the authority of the court system to prevent DA Gonzalez from making policy decisions with which he does not agree.”

“The people elected DA Gonzalez because of her unwavering commitment to a new vision of public safety and justice. It is deeply troubling that a court would entertain a case that could override the will of thousands of voters to appease the complaints of a single unelected individual,” said Miriam Krinsky, Executive Director of Fair and Just Prosecution and a former federal prosecutor. “District attorneys are uniquely vested with the power to make decisions about which issues and cases to prioritize. For the judiciary to insert itself in the
discretionary decisions of a prosecutor’s office sets a dangerous precedent that threatens the essential building blocks upon which our legal system is built.”

The signatories also emphasize that the court’s ruling erodes the integrity of the electoral system and the rights of Georgians to have a say in their local justice system: “Local residents and voters choose the leader that best reflects and furthers their vision for the justice system in their community. If District Attorneys fail to adhere to promises made, or if the public decides it disapproves of them, they will inevitably be voted out of office…. This suit by a single dissatisfied voter asked the court system to step in and force an outcome that is more appropriately pursued through the democratic process.”

“The independence of locally elected prosecutors has been well-settled since the founding of our country, and the courts protected their discretion even as some district attorneys pursued overly punitive policies that damaged communities instead of making them safer. Now, when we have reform-minded leaders chosen by the voters to bring about change, the discretion that judges have respected for decades must continue to be safeguarded,” said Ramsey County, Minn. Attorney John Choi, a signatory to the brief.

“Communities around the country are demanding new approaches to public safety, and they are electing prosecutors who share their vision of justice. If the judiciary can effectively nullify voters’ preferences by blocking a duly elected official’s discretionary choices, people are less likely to trust in democracy, the rule of law and government institutions – making it harder to keep our communities safe,” noted Shay Bilchik, one of the nearly 60 amici and a former DOJ Associate Deputy Attorney General and former administrator of the DOJ Office of Juvenile Justice and Delinquency Prevention.

“The lower court’s decision will create the potential for serious disruptions in our state,” said former DeKalb County, Ga. District Attorney J. Tom Morgan, another signatory on the brief. “It is essential that the Georgia Supreme Court reverse the lower court’s order, affirm DA Gonzalez’s discretion and defend the right to local governance and separation of powers.”

Local counsel for amici includes former Macon Judicial Circuit District Attorney David Cooke of Gautreaux Law Firm.

Read the brief here; see below for a list of amici.

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_Fair and Just Prosecution is a national network of elected prosecutors working towards common-sense, compassionate criminal justice reforms. To learn more about FJP’s work, visit our website and follow us on Facebook, Twitter, LinkedIn, and Threads._
List of Amici

Roy L. Austin, Jr.
Former Deputy Assistant Attorney General, Civil Rights Division, U.S. Department of Justice
Former Deputy Assistant to President Obama for the Office of Urban Affairs, Justice, and Opportunity (White House Domestic Policy Council)

Donald Ayer
Former Deputy Attorney General, U.S. Department of Justice
Former U.S. Attorney, Eastern District of California

Diana Becton
District Attorney, Contra Costa County, California

Wesley Bell
Prosecuting Attorney, St. Louis County, Missouri

Buta Biberaj
Commonwealth’s Attorney, Loudoun County, Virginia

Shay Bilchik
Former Associate Deputy Attorney General, U.S. Department of Justice
Former Administrator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice

Chesa Boudin
Former District Attorney, City and County of San Francisco, California

Aisha Braveboy
State’s Attorney, Prince George’s County, Maryland

John Choi
County Attorney, Ramsey County (St. Paul), Minnesota

Dave Clegg
District Attorney, Ulster County, New York

Laura Conover
County Attorney, Pima County (Tucson), Arizona

Kara Davis
District Attorney, Gilliam County, Oregon

Satana Debbery
District Attorney, Durham County, North Carolina
Parisa Dehghani-Tafti  
Commonwealth’s Attorney, Arlington County and the City of Falls Church, Virginia

Steve Descano  
Commonwealth’s Attorney, Fairfax County, Virginia

Michael Dougherty  
District Attorney, 20th Judicial District (Boulder), Colorado

Mark Dupree  
District Attorney, Wyandotte County (Kansas City), Kansas

Matt Ellis  
District Attorney, Wasco County, Oregon

Ramin Fatehi  
Commonwealth’s Attorney, City of Norfolk, Virginia

Lisa Foster  
Former Director, Office for Access to Justice, U.S. Department of Justice

Kimberly M. Foxx  
State’s Attorney, Cook County (Chicago), Illinois

Gil Garcetti  
Former District Attorney, Los Angeles County, California

Stan Garnett  
Former District Attorney, 20th Judicial District (Boulder), Colorado

George Gascón  
District Attorney, Los Angeles County, California  
Former District Attorney, City and County of San Francisco, California

Sarah F. George  
State’s Attorney, Chittenden County (Burlington), Vermont

Eric Gonzalez  
District Attorney, Kings County (Brooklyn), New York

Scott Harshbarger  
Former Attorney General, Massachusetts  
Former District Attorney, Middlesex County, Massachusetts

Jim Hingeley  
Commonwealth’s Attorney, Albemarle County, Virginia
Elizabeth K. Humphries
Commonwealth’s Attorney, City of Fredericksburg, Virginia

Natasha Irving
District Attorney, 6th Prosecutorial District, Maine

Kathleen Jennings
Attorney General, Delaware

Justin F. Kollar
Former Prosecuting Attorney, County of Kaua’i, Hawaii

Lawrence S. Krasner
District Attorney, Philadelphia, Pennsylvania

Scott Lassar
Former U.S. Attorney, Northern District of Illinois

Rebecca Like
Prosecuting Attorney, County of Kaua’i, Hawaii

Robert L. Listenbee
Former Administrator, Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice

Karen Loeffler
Former U.S. Attorney, District of Alaska

Leesa Manion
Prosecuting Attorney, King County (Seattle), Washington

Brian S. Mason
District Attorney, 17th Judicial District, Colorado

Beth McCann
District Attorney, 2nd Judicial District (Denver), Colorado

Ryan Mears
Prosecuting Attorney, Marion County (Indianapolis), Indiana

J. Tom Morgan
Former District Attorney, DeKalb County, Georgia

Mary Moriarty
County Attorney, Hennepin County (Minneapolis), Minnesota
Steve Mulroy
District Attorney, Shelby County (Memphis), Tennessee

Jerome O’Neill
Former U.S. Attorney, District of Vermont

Joseph Platania
Commonwealth’s Attorney, City of Charlottesville, Virginia

Ira Reiner
Former District Attorney, Los Angeles County, California
Former City Attorney, Los Angeles, California

Mimi Rocah
District Attorney, Westchester County, New York

Jacqueline Sartoris
District Attorney, Cumberland County (Portland), Maine

Daniel T. Satterberg
Former Prosecuting Attorney, King County (Seattle), Washington

Eli Savit
Prosecuting Attorney, Washtenaw County (Ann Arbor), Michigan

Mike Schmidt
District Attorney, Multnomah County (Portland), Oregon

Carol Siemon
Former Prosecuting Attorney, Ingham County (Lansing), Michigan

Eric Sparr
District Attorney, Winnebago County, Wisconsin

Matthew Van Houten
District Attorney, Tompkins County, New York

Cyrus R. Vance
Former District Attorney, New York County (Manhattan), New York

William Wilmoth
Former U.S. Attorney, Northern District of West Virginia