

**Workplace Protections for Federal Judiciary Employees: Flaws in the
Current System and the Need for Statutory Change**

Hearing before the House Judiciary Committee

Subcommittee on Courts, Intellectual Property, and the Internet

Testimony of Caitlyn Clark

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Thank you Chairman Johnson, Ranking Member Issa, and members of this Subcommittee for the opportunity to testify today. My name is Caitlyn Clark, and I am a former law clerk to Judge C. Ashley Royal, a Senior U.S. District Judge on the U.S. District Court for the Middle District of Georgia. I am here today to describe to you my experience clerking in the federal judiciary, both as a woman, and as an expectant mother.

While clerking for Judge Royal, I became pregnant with my second child. I quickly learned that “pregnant” is something that law clerks cannot be. My pregnancy was blatantly treated as a burden and an inconvenience, and I felt belittled because of it. I believe that I was ultimately terminated because of my pregnancy. To seek justice, I attempted to utilize the Middle District of Georgia’s current Employment Dispute Resolution procedures. As I will explain, despite recent reform efforts, this process remains fraught with inherent procedural flaws and systemic obstacles. The process completely failed me. Because I do not want it to fail other women—for any woman to experience similar treatment in chambers and face what has often felt like insurmountable obstacles in seeking justice—I decided to testify today.

At the outset, I would like to emphasize that it is absolutely not my intention to smear Judge Royal’s name, or to personally attack anyone I worked with in chambers.

For those reasons, I have decided not to share the name of his career clerk or of any other employees. Instead, my testimony will tell my story and my experience with the inadequate mechanisms currently in place to protect the rights of judiciary employees.

I. Background

I graduated cum laude from Mercer University School of Law in Macon, Georgia in 2017. I placed thirteenth in my class of over 120 students and served on the editorial board for the Mercer Law Review. During my third and final year of law school, I held a part-time position with Judge Royal's chambers. Before passing the Georgia Bar Exam, I was hired by a mid-sized law firm in my home town of Macon. While pregnant with my first child, I practiced general litigation full-time, and passed a second state's Bar Exam. My son, Jeffrey, was born in December 2018. I worked at the firm for nearly two years before Judge Royal asked me to return to his chambers for a two-year clerkship. At the time, I was thrilled. Clerking for a federal judge is a prestigious opportunity, and I was honored—it seemed that Judge Royal remembered and appreciated the quality of my work.

I began working in Judge Royal's chambers in July 2019, and for the first six months of my clerkship, I had a wonderful experience. By November 2019, Judge Royal asked me to stay for an additional two years, and I immediately agreed, meaning I was set to clerk in his chambers for a total of four years. I enjoyed the work and was eager to take on more responsibility. I consistently received positive feedback on my writing, and in early January 2020, I received an encouraging performance review and a nearly \$15,000 raise.

I had great relationships with Judge Royal's staff, including his career clerk, who has been working for the judge for over fifteen years. The career clerk trained and mentored new law clerks, and she worked directly with me throughout my time in

chambers. Because Judge Royal often worked remotely, even before the pandemic, he depended on his career clerk to review all of my work. In fact, Judge Royal never reviewed my work firsthand. I looked up to the career clerk as a mentor and a friend, and was hopeful that I could follow a similar career path. I truly believed I could achieve this dream—until I got pregnant, and the career and reputation I had spent years building imploded within months.

II. Treatment During Pregnancy

I told Judge Royal and his staff that I was pregnant with my second child on January 23, 2020. Judge Royal and his court deputy responded with congratulations, and I expected the judge’s career clerk, who also has children, albeit teenagers, to respond in the same way. But when I told her, her reaction was strange and inappropriate. She told Judge Royal’s court deputy that I would “never get work done now.” Judge Royal’s court deputy, who was in the room with us, later confronted the career clerk about her negative reaction and rude comments. It was obvious to everyone that the career clerk was upset that I was pregnant. At home, my husband and I were excited to grow our family. At work, I felt awkward and belittled.

The atmosphere in chambers worsened over the next few weeks, and Judge Royal’s career clerk began to treat me differently. Where she was once friendly and supportive, she was now snappy, rude, and caustic. Before I was pregnant, I considered her a mentor. But now, when I asked for help or training, she made it clear that I was bothering her. Additionally, she began treating my work differently. Before I was pregnant, we worked as a team. She had a practice of reviewing each draft before sharing it with the judge, and in the past, she provided light edits and helpful feedback. But now—at a time when we needed to move quickly to get a handle on the judge’s burdened docket—she became hypercritical of my writing. She provided excessive and often

contradictory edits to the point that I could barely even work. What used to take days began to take weeks, and I struggled to meet deadlines because of the delay. If I called her to ask her a question about her edits, she would berate the quality of my work. She frequently brought me to tears, and although I have always been a strong writer, I completely lost confidence in my writing ability. She never did any of this before I was pregnant. I recognize the career clerk's actions now as sabotage—she wanted me to quit. But at the time, I took her feedback in stride and did my best to implement her edits without complaint.

In addition to treating me differently, she routinely made my pregnancy the topic of conversation around chambers and suggested that I would not be able to satisfy my job responsibilities due to my pregnancy. For example, in the spring, we began planning for the judge's upcoming Ninth Circuit sitting in San Francisco. Judge Royal often sits by designation with the Ninth and Eleventh Circuits, meaning that, in addition to his district court caseload, he takes on a number of appellate cases in these Circuits each year. As a clerk assisting Judge Royal during his Circuit sittings, my job was to help the judge prepare for the sittings by writing preparatory memos, attending the sittings, and ultimately drafting his final opinions. COVID later forced the sitting to take place virtually, but initially, Judge Royal's Ninth Circuit sitting was scheduled to take place in San Francisco in June 2020. While discussing our upcoming travel arrangements with the judge, the career clerk inappropriately—and falsely—suggested to the judge that because of my pregnancy, I may not be able to fly or accompany the team to San Francisco and that another term clerk should go instead. This was completely unfounded. By June, I would be twenty-seven weeks pregnant. In most cases, pregnant women can safely travel until they are thirty-six weeks pregnant. (Indeed, I myself am now thirty-one weeks pregnant with my third child, and I flew from Georgia to Washington to be here today.) I was absolutely prepared to travel to San Francisco with the judge, and I made

this clear to my colleagues. But Judge Royal did not listen to me, nor did he make use of the countless publicly available medical sources that clearly say women who are twenty-seven weeks pregnant can travel freely. Instead, he required that I obtain permission from my physician to travel. Medically, physician approval was completely unnecessary. I see now that the judge's career clerk was sending me a signal—now that I was pregnant, I would be excluded from career opportunities.

In early April 2020, a few weeks after I transitioned to telework due to the pandemic, Judge Royal called me to his home for a discussion. He had never done this before, and I could tell that he was angry when I arrived. He told me that I was moving too slowly, and when I tried to explain, I recall that he suggested that I was either “too stupid or just didn't care” about my clerkship. He insulted my work ethic, and told me that I lacked the “drive and intensity” that his career clerk had for her work. And then he brought up my pregnancy. I remember him saying something along the lines of: “While clerking may be a good ‘mommy job,’ work still has to be done.” I was stunned—not only by the judge's disparaging words, but because I had never received criticism like this from him (or anyone) before. A few months earlier, Judge Royal sang my praises, asked me to extend my clerkship an additional two years, and offered me a raise.

I was so shocked and upset by the judge's comments that, in the moment, I did not even think to explain the difficulties I had been having with his career clerk or the new challenges I was facing as a result of the pandemic. Like so many other parents at that time, I was balancing working from home with caring for my fifteen-month-old son without any childcare. Instead, I apologized and told him I would improve. After I left Judge Royal's home, I was devastated and extremely anxious. I felt that my job was in danger, but I did not know where to turn. The career clerk's unrelenting criticism had taken hold, and by then, I had completely lost confidence in my ability to write. But I kept

my head down and vowed to work harder. After calling my husband and mother in tears, I went back to work.

A few hours later, I called Judge Royal's career clerk to ask a work-related question. The conversation was entirely unrelated to my earlier conversation with Judge Royal. But during the call, as I sought clarity about a motion I was drafting, she became irate and started yelling at me. I recall her saying, "it's infuriating to me. I mean, you're pregnant." I distinctly remember that word—"infuriating." She told me that she was frustrated that I got pregnant so soon after starting my clerkship, that it was unfair that she would be responsible for my work during my maternity leave, and that she would be expected to travel more in my place. She suggested that my new baby was going to ruin her ability to enjoy her son's senior year of high school. I was reduced to tears. I realized that *this* was what had been building ever since I shared the news of my pregnancy. This was why she treated me differently; this was why she sabotaged my work. My pregnancy inconvenienced her. She wanted me gone so that Judge Royal could hire someone in my place. Gradually, she got her way.

I reported this conversation and the career clerk's conduct to Judge Royal the next day. At the time, the Middle District of Georgia had a dispute resolution process in place, but it did not cover law clerks, so resolving the issue through Judge Royal was my only hope. But when I told him, he pretended that he could not hear me—he did not even respond. It was obvious that he was going to prioritize his career clerk, who had worked for him for fifteen years, over me. Since the career clerk had apologized to Judge Royal for her outburst, he stated that he didn't see the need to do anything about it. He "thought that it was fine."

After the meeting at Judge Royal's home, I decided to start working in the office again, in hopes that I would have more direct contact with him. Even though we were in

a pandemic and vaccines were not yet available, I wanted to demonstrate my commitment, and hoped that being in the office would allow Judge Royal to see for himself that I was completely dedicated to my clerkship. Luckily, my son's day care reopened, primarily to serve the children of hospital workers. Although I was concerned about my son Jeffrey's health and the health of my unborn child if Jeffrey was exposed to COVID-19, I felt I had no other option.

Despite my efforts, I was not able to save my job. On June 23, 2020, I met with Judge Royal to discuss my upcoming maternity leave. During our meeting, I asked for eight to twelve weeks of unpaid leave and told the judge that I would come back as early as needed. He agreed that I could take twelve weeks of unpaid leave. He also told me that he had hired an additional two-year law clerk to begin in September 2020. At the time, I understood this clerk would be a third term clerk, and that I would work alongside him after I returned from maternity leave. I later learned that this clerk was actually hired to replace me—Judge Royal started to search for a replacement clerk *the day after* I told him about the statements that his career clerk made about my pregnancy. He interviewed and hired the (male) replacement clerk within the same week.

During that same meeting, immediately after we discussed my maternity leave, the judge informed me that he was rescinding the extended two-year clerkship offer that he had made to me in November 2019. This meant my clerkship would end in September 2021, instead of September 2023. He pointed to the quality of my work, and told me that I was not keeping up with the workload. But when I asked him for specifics—for any reoccurring issues, or ways that I could improve—he could not provide a single example. All of my writing went through his career clerk; she edited every order before he read it. I do not believe that Judge Royal ever reviewed my work product for himself, as he could not point to any specific issue with my writing. He seemed to be merely repeating the false complaints of his career clerk—and she wanted me gone.

On August 18, 2020, ten days before my daughter Eileen was born, Judge Royal terminated me. He called me into his office, and told me that I could take twelve weeks of paid maternity leave—but afterwards, I would not be welcomed back to his chambers. He also instructed me to clear out my office for the male clerk replacing me. The Clerk of Court was present at this meeting, and offered me a cart so that I could take my personal items to my car. At first, I was in shock. Although chambers had become a hostile environment, I truly believed that everything would go back to normal upon my return from leave. But after my termination sank in, I was devastated, and I lost my self-confidence.

I firmly believe that if I had not gotten pregnant, I would still have my job. And if I were any other federal employee—if I worked for Congress, if I worked for an executive agency—I would have the right to sue under federal civil rights laws. But because I worked in the federal judiciary, I had no right to fight back.

III. Flawed Employment Dispute Resolution Process

My despair over losing my job ten days before giving birth was made worse because I had no recourse to challenge my wrongful termination. Judicial employees do not have the same anti-discrimination rights and remedies afforded to private sector and government employees, and whistleblowers are not protected from retaliation. Although the judiciary has professed that its internal employment dispute resolution procedures are sufficient, they are not. Employees who face discrimination in the judiciary do not stand a chance against the deeply engrained, systemic barriers that prohibit judicial employees from obtaining justice. The legal profession venerates judges, especially those with life-tenure, as powerful, untouchable authorities. They belong to an elite club whose members know each other, understand each other, and protect each other. Although our

judiciary was created to protect the rights of all people, when it comes to protecting its own employees, it functions only to protect itself.

Two weeks after I gave birth to my daughter, I consulted with the human resources specialist for chambers and the Clerk of Court regarding the circumstances surrounding my termination and my ability to get my clerkship back. I was told that I had no recourse because chambers employees serve at the will of the Court. Days later, though, the Middle District of Georgia partially adopted the model Employee Dispute Resolution (“EDR”) Plan, which allowed claims to be filed by chambers staff and interns. However, I quickly learned that this process would not provide the impartial forum I needed to remedy the unfair treatment I had endured.

The EDR Plan provides three avenues for reporting allegations of wrongful conduct by a judge: Informal Advice, Assisted Resolution, and a Formal Complaint. First, an employee may contact one of the court’s designated EDR Coordinators, the Circuit Court’s Director of Workplace Relations, or the National Office of Judicial Integrity for informal advice regarding his or her rights and protections and the available options for addressing the misconduct. Second, an employee may submit a “Request for Assisted Resolution” to one of the court’s EDR Coordinators. When the allegations concern the conduct of a judge, the Chief Judge of the appropriate district or circuit court is responsible for coordinating the Assisted Resolution. The Assisted Resolution process may include: discussing the matter with the judge; conducting a preliminary investigation; engaging in voluntary mediation between the judge and the employee; and/or resolving the matter by agreement. The Chief Judge responsible for assessing the allegations has enormous discretion to deny the Request for Assisted Resolution at any time if he or she concludes it is frivolous or it does not allege violations of the rights or protections in the EDR Plan. Lastly, within 180 days of the alleged wrongful conduct, an employee may file a Formal Complaint with one of the court’s EDR Coordinators. The

Formal Complaint is not filed against the judge but against the district or circuit court, which is the Complainant's employing office. In some cases, including my own, the judge who oversaw the Assisted Resolution process now becomes the respondent to the Complaint and replies on behalf of the court. The Chief Circuit Judge selects a fellow district or circuit court judge to act as the Presiding Judicial Officer, who oversees the complaint proceeding. Again, the Presiding Judicial Officer has enormous discretion to direct the proceeding, which *may* include investigation and discovery, settlement discussions, the filing of written submissions by the parties, and/or a hearing, but only to the extent deemed necessary by the Presiding Judicial Officer.

There is no appearance of impartiality to this process. In each of the available avenues for dispute resolution under the EDR Plan, complaints against sitting judges are adjudicated by the judges' peers, leaving the fox guarding the henhouse. The inherent bias of this process is most evident in cases like my own, where a judge serves as the neutral arbiter or mediator in the Assisted Resolution process and then turns around and defends the alleged conduct in response to a Formal Complaint. The judges overseeing the EDR process are then given enormous discretion to direct the proceedings in ways that intentionally favor their colleagues. As I discovered through my own personal experience, meaningful investigation and fair procedure, including the opportunity for discovery and cross examination, are not guaranteed.

After I gave birth to my daughter, I searched for someone to help me navigate the EDR process. I reached out to my former law professors, law school classmates, and local advocacy groups, but no one could help me. Judges wield an immense amount of power and influence, especially in a small town, and I quickly realized that engaging in this process would make me a pariah within the legal community. Judicial employees invoking the EDR Plan dispute resolution procedures have a right to be represented by an attorney at their own expense, but I could not even find counsel willing to represent

me. The local labor and employment attorneys I consulted laughed at my request for representation and said that challenging a sitting federal judge would damage their careers. As a result, I was forced to navigate the initial stages of the EDR process alone.

A. Assisted Resolution

I decided to move forward with the resolution process, and on December 3, 2020, I submitted a Request for Assisted Resolution to one of the Middle District of Georgia's EDR Coordinators, seeking reinstatement to a comparable position and a positive letter of recommendation. Judge Clay D. Land, a fellow judge of the Middle District of Georgia, was responsible for coordinating the Assisted Resolution process. My interactions with Judge Land during my clerkship were very limited, but Judge Royal and Judge Land had served together on the bench for nearly twenty years. In fact, they assumed their place on the bench on the very same day.

The Assisted Resolution process consisted of Judge Land interviewing me, Judge Royal, Judge Royal's career clerk, and the Clerk of Court. There was no written discovery and no opportunity to submit evidence. Judge Land's final report, which was less than two pages, concluded that I genuinely believed I was treated unfairly, while Judge Royal and his career clerk believed that they did not engage in wrongful conduct. The report stated that my claims could not be resolved to my satisfaction and a resolution could not be reached.

I then had thirty days to decide whether to submit a formal complaint. I was afraid that filing a complaint would ruin my career, but I did not want to regret not standing up for myself, and I feared that the damage to my career was already done. I suspected that Judge Royal had already given me a bad reference amongst his colleagues in the courthouse, effectively "black-balling" me from obtaining other employment in the Middle District of Georgia. The Clerk of Court suggested as much when I consulted with

him regarding my options for getting my clerkship back. He told me that he doubted anyone else in the courthouse would be willing to hire me again.

The legal community in Macon, Georgia is incredibly close knit, and I knew that word of my termination would spread beyond the courthouse if it had not already. Shortly before Judge Land issued his report denying my requested relief in the Assisted Resolution process, I had interviewed for a position in the civil division of the Air Force Materiel Command. Out of over forty applicants, I was one of five selected for an interview, and I believed my chances of getting the position were high. However, my hopes were dashed when I arrived at the interview and learned that one of my interviewers knew Judge Royal personally. Unsurprisingly, on January 27, 2021, I was notified that I did not get the position. The EDR Plan purports to prohibit retaliation against an employee based on the employee's exercise of rights under the plan, but judicial employees have no right to sue if they are retaliated against for reporting misconduct in the judiciary. I felt helpless, and the EDR process was my only hope.

B. Formal Complaint

On February 11, 2021, six months after giving birth to my daughter, I filed a twenty-three page formal complaint (the "Complaint") against the Middle District of Georgia, alleging unlawful harassment, retaliation, and discrimination, resulting in a demotion and termination of my employment based on my pregnancy. I wrote the Complaint myself, because I was still unable to find counsel willing to represent me. Fortunately, after filing the Complaint, I was referred to a lawyer who agreed to represent me pro bono.

Judge Randal Hall, the Chief Judge of the Southern District of Georgia, was eventually appointed to act on behalf of the Eleventh Circuit Judicial Council in adjudicating my complaint. Like Judge Land, Judge Hall has a professional history with

Judge Royal. Judge Hall and Judge Royal are peers with nearly identical backgrounds. Both are from Augusta, Georgia. Both graduated from the University of Georgia School of Law. And since 2008, they both have served as federal district court judges in Georgia. These judges are colleagues, and they have no incentive to police each other, especially when it comes to managing their clerks and running their chambers. Judges think they are above the law, because they are. It was clear to me I did not stand a chance in this forum either.

Judge Land, who previously served as the “independent” investigator in the Assisted Resolution process, represented the Middle District of Georgia in the EDR proceeding and filed a one-page response to my Complaint, categorically denying the allegations. Judge Hall then interviewed me, Judge Royal, Judge Royal’s career clerk, the courtroom deputy, and the Clerk of Court over a two-day period.

Despite repeated requests for my interview to be via Zoom, Judge Hall required all parties to be interviewed in-person in Dublin, Georgia, even after my counsel objected by pointing to Judge Hall’s own order allowing sentencing and other court proceedings to be held via Zoom. (And this was in February 2021, before the COVID vaccine was widely available.) My counsel was unable to travel from Florida to Dublin, so I attended the interview by myself, with my counsel only able to listen via phone.

The interview itself felt like a deposition. I was seated alone in the courtroom at one counsel table, and Judge Hall was seated at the other counsel table with two of his female law clerks. The testimony transcripts reveal how biased the process was. While I was subjected to a cross examination, Judge Hall interviewed the other witnesses as if he was counsel for the Middle District, guiding their testimony. For example, after Judge Royal stated that the law clerk who started in September “replaced” me, Judge Hall interrupted Judge Royal to question whether Judge Royal meant to say “succeed” instead

of “replace.” Meanwhile, when Judge Hall asked me about the law clerk who started in September, he phrased the questions in an argumentative way. He asked, “[the clerk who started in September] was the third clerk hired; right? He was not replacing you; correct? Wasn't he hired to actually follow [a part time clerk] in [a] third position that the Eleventh Circuit had approved?” In addition to asking leading and softball “questions” to Judge Royal, Judge Hall allowed Judge Royal to give a monologue through most of the 53-page interview, much of which was irrelevant.

After the interviews, I was denied the opportunity to conduct any discovery, cross-examine any witnesses, or participate in a hearing. I had no access to my Middle District e-mail or the documents saved on my work computer. Without cross examination, I had no opportunity to address substantially damaging and untrue statements made against me in the interviews. I was not allowed to submit interrogatories or ask follow-up questions. The EDR plan gave the Presiding Judicial Officer, Judge Hall, extraordinary discretion to “provide for such discovery to the parties as is necessary and appropriate.”

On May 26, 2021, Judge Hall submitted a proposed decision that found I had no claim against the Middle District, to which I objected. After denying me the opportunity to address any of the inaccurate statements made during the interviews, Judge Hall overruled all of my objections, noting that they were “rife with speculation.” Unsurprisingly, Judge Hall’s final written decision, issued on June 25, 2021, overruled or ignored my objections and found that I had failed to establish a claim against the Middle District. Judge Hall also reported to Chief Judge Pryor his finding that Judge Royal committed no “cognizable misconduct under Rule 4 of the Judicial Conduct and Disability Rules.”

C. Judicial Misconduct Complaint

Frustrated with the obvious failings of the EDR process, on July 16, 2021, I submitted a judicial misconduct complaint regarding Judge Royal's treatment of me in chambers and Judge Hall's handling of the EDR proceeding to the Eleventh Circuit Court of Appeals. The judicial misconduct complaint process is a separate complaint process from the Middle District of Georgia's EDR Plan. Under the Judicial Conduct and Disability Act of 1980 and the Rules for Judicial-Conduct and Judicial-Disability Proceedings, anyone can file a complaint alleging a federal judge has committed "conduct prejudicial to the effective and expeditious administration of the business of the courts." I initially believed that the EDR process was a more appropriate avenue to confidentially resolve my complaint against Judge Royal. However, after Judge Hall issued his final decision, I realized that I needed to pursue all available options. On July 21, 2021, I received a letter acknowledging receipt of my judicial misconduct complaint. I have not received a further update in the over six months since.

D. Eleventh Circuit Appeal

The EDR Plan provides a thirty-day deadline to file an appeal with the Eleventh Circuit of a Presiding Judicial Officer's final decision on a Formal Complaint. On July 23, 2021, the day of the deadline to appeal Judge Hall's decision, the EDR Coordinator informed me for the first time that I could not submit my appeal via an e-mail, the method I used to file all the previous pleadings. When my counsel e-mailed the EDR Coordinator only a couple of hours later, she received an "out of the office" message and all of her phone calls went unanswered. I then called the Eleventh Circuit Director of Workplace Relations, who insisted that the appeal must be physically received by the Eleventh Circuit Court of Appeals, not mailed, e-mailed, or electronically filed, before the thirtieth day. This was in July 2021, during the height of the COVID-19 pandemic. Even if I overnighted the appeal, I was not sure it would arrive on time. I e-mailed and called the

Judicial Integrity Officer multiple times throughout the day to seek advice on how I could submit my appeal on time, but I received no response. Determined to keep fighting and with my newborn and toddler in tow, I drove to Atlanta (a three-hour drive due to Friday-afternoon traffic) and filed the appeal myself on the same day with minutes to spare. I finally received a call back from the Judicial Integrity Officer at exactly 5 p.m., the deadline for submitting my appeal.

After the pleadings in the appeal had closed, Judge Royal wrote an ex parte letter to the Circuit Executive, describing my EDR claim as false character attacks. Although any communication between a party and the presiding body without the opposing party is highly improper in an ongoing suit, Judge Royal felt entitled to this personal communication. The Judicial Council leniently construed the letter as a sur-reply, sent me a copy, placed it in the record, and gave me an opportunity to respond. Nearly eight months later, my appeal is still pending before the Eleventh Circuit. I believe I am the first person, or one of the first people, to ever appeal an EDR complaint to the Eleventh Circuit. The system is deeply flawed, biased and unfair. And I want to do everything in my power to make it better for the next person who uses this process.

My case confirms that the federal judiciary's EDR process is severely flawed. I was denied basic procedural protection and the independent evaluation that anyone employed by virtually any other employer would have received. Any "normal" litigant would have had the opportunity to conduct discovery, cross-examine witnesses, and resolve factual disputes through a full and fair hearing before an impartial arbiter. I did not.

The EDR process continues to leave the judiciary in charge of policing its own personnel disputes, allowing judges' conscious or unconscious biases to affect their

discretion over both the process itself and their ultimate decisions. Judges are kings in the castle of their chambers, and they have no incentive to police how their friends and colleagues manage clerks or run their respective chambers. Judge Royal said in his interview that he laughed at the suggestion in my Complaint that he should have talked to Human Resources because “it would never cross [his] mind to talk to [Human Resources] about a problem with a law clerk.”

Leaving judges in charge of investigating their own colleagues also deters employees from even coming forward with their allegations. There already exists a significant power disparity between clerks and the judges, who are charged with overseeing the EDR proceeding. Article III judges are appointed for life, while law clerks serve at the will of the court and rely on their experiences in chambers and their relationships with their judges to buoy their legal careers. Federal judges hold enormous power to shape and influence the careers of their former clerks, especially in a small town, where former clerks will go on to practice before the judge and his or her colleagues on the bench. Challenging a sitting federal judge and ruining one’s career is simply not worth the risk to most young lawyers, especially when the only available resolution processes are not impartial.

IV. Policy Recommendations and Conclusion

I am heartened by Congress’s desire to reform the broken EDR system and I close my testimony today by briefly highlighting several key legislative reforms needed to truly protect law clerks and other federal judiciary employees against discrimination.

Do Away With Self-Regulation. My experience with the judiciary’s misconduct procedures was defined by a pervasive sense of partiality and an inability to tell my story to a fair audience. To have Judge Royal’s own peers act as judge and jury, and to have my case adjudicated in the small, insular, Georgia judicial community, made it

impossible for me to be heard by an unbiased and impartial audience. Independent oversight is essential. I am glad that the Judiciary Accountability Act empowers a Special Counsel to investigate complaints of judicial misconduct, and it is imperative that Congress's legislation include mechanisms designed to ensure that both the Special Counsel and the Commission remain independent. Federal judges are powerful people, and bodies designated to investigate them must be given the powers necessary to do so.

Guarantee Title VII Rights. I am similarly heartened that a key feature of the Judiciary Accountability Act is to extend to judiciary employees the same anti-discrimination protections that have been available to private sector and government employees for years. No defensible reason exists for why such protections should be denied to employees of the federal judiciary. Extending anti-discrimination guarantees to federal judiciary employees would also correct an even more basic injustice. By treating the federal judiciary like all other employers, Congress would send a powerful message: the judiciary is not above the very laws it purports to uphold.

Enhance Procedural Protections. Congress's proposal must also incorporate guarantees to ensure basic procedural fairness in any EDR investigations. In my own experience, I was thwarted at every turn because the current EDR Plan does not guarantee victims basic procedural fairness. Congress's proposal must correct this deficiency so victims of misconduct can put forward evidence essential to their claims and the Special Counsel can fairly vet the veracity of victims' complaints.

Safeguard Against Stigma. While Congress's current proposal requires safeguards against retaliation, those protections must be rigorously enforced. The ivory tower of the federal judiciary is an excruciatingly small world, and I felt the threat of stigma looming around every corner as I navigated the EDR process. Lawyers laughed when I asked them to help me challenge a federal judge, and law school classmates told

me I should just keep quiet rather than risk my legal career by speaking up. Congress must ensure its legislation shores up any cracks through which stigma might seep.

Promote Transparent Reporting With Protections For Victims. Finally, I observe that Congress's current proposal would create an Office of Judicial Integrity that would anonymize reporting of misconduct complaints and demographic statistics within the judiciary. But such reporting will only be effective if it is done in a rigorous, fairly administered manner. In my case, the complaint I lodged under the Code of Conduct for U.S. Judges six months ago against Judges Royal and Hall has still to this day not been resolved or made public in accordance with standard procedure. I hope that reporting structures enacted by the Office of Judicial Integrity will not be as toothless. Congress must require that any such reporting protect the anonymity and dignity of victims.

I urge Congress to give serious consideration to each of these reforms, as I firmly believe them to be essential to any meaningful attempt to enact proper oversight over judicial misconduct and prevent future injustice. The desire to ensure that future law clerks do not suffer under a broken system is the reason I have chosen to testify today. I know that I might be risking my reputation and my future legal career by appearing before this Committee and speaking out against the fundamental lack of accountability for federal judges. While I want to tell my story, my motivation is rooted in something much bigger. I feel that I must speak from this place of personal experience and advocate for meaningful change so that future lawyers can clerk for brilliant judges, have children, raise families, and pursue their professional dreams without fear of discrimination or humiliation. I aim to work with Congress to help make that dream a reality for all of the bright and talented law clerks and federal judiciary employees working today and in future generations.