

SOCIETY FOR  
**THE RULE OF LAW**  
INSTITUTE

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*Monday, June 23, 2025*

**The Honorable Chuck Grassley**

Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

**The Honorable Dick Durbin**

Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Chairman Grassley, Ranking Member Durbin, and Members of the Judiciary Committee:

The Society for the Rule of Law Institute is dedicated to defending the Constitution, the rule of law, and American democracy from a traditionally conservative legal perspective. I'm honored to serve as its executive director. I also had the privilege of serving as chief nominations counsel to this committee. Today, I write to express the Institute's opposition to the nomination of Emil Joseph Bove, III to the United States Court of Appeals for the Third Circuit.

The Society for the Rule of Law Institute has never opposed a judicial nominee, and we do not do so lightly. President Donald Trump has a strong record on judicial appointments to date, in our view. His past appointees generally exhibit judicial excellence and a commitment to the rule of law. Many of them have proven their mettle in contentious litigation involving the president or his policies. The Bove nomination represents a stark and apparently intentional break from this successful model and should raise concerns across the ideological spectrum. All members of the committee, but especially our fellow conservatives, should pause before advancing such a troubling nomination.

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The Senate confirmation process exists to provide “an excellent check upon a spirit of favoritism in the President ... to prevent the appointment of unfit characters.”<sup>1</sup> The conservative legal movement exists, in important part, to support the nomination and confirmation of principled jurisprudential conservatives. If the committee were to advance this nomination, it would fail its Constitutional obligation; if Republican members of the committee were to agree, they would cut the heart out of principled legal conservatism.

Any nomination of a sitting executive branch official implicates the Senate’s oversight powers, as well as its advice and consent power. This week’s judicial confirmation hearing provides an opportunity to examine how this administration has managed the Justice Department and its special obligation to uphold the rule of law. We are alarmed and deeply disturbed that in just six months in office, this administration has badly corrupted and degraded the Department. Through rhetoric, personnel, policy, pardons, and prosecutorial decisions, this administration has frequently sent the message that it views its highest obligation as satisfying presidential whims, punishing the president’s perceived enemies, and rewarding the president’s supporters and friends. This undermines the rule of law, equal protection, and public confidence.

Mr. Bove, widely identified in the media as the president’s “DOJ enforcer,” has figured prominently in the betrayal of the Department’s historic and indispensable mission. His corrupt mishandling of the prosecution of New York City Mayor Eric Adams, in which he appeared to leverage federal criminal power to advance the president’s policy agenda, would alone disqualify him from service on the federal bench. Regrettably, it seems to be part of a larger pattern. Mr. Bove’s tenure at Justice has cost the Department—and the American people—the service of numerous experienced prosecutors, agents, and investigators, who were either fired by Mr. Bove or resigned rather than betray their ethical obligations.

In short, Mr. Bove’s service in the Trump administration has demonstrated his willingness to undermine the integrity and capabilities of federal law enforcement to satisfy any impulse of the president. Such a willingness is incompatible with truly faithful service in the executive branch; it is unthinkable in a federal judge. As Alexander Hamilton wrote in the Federalist 78, “The complete independence of the courts of justice is peculiarly essential in a limited Constitution ... Without this, all the reservations of particular rights or privileges would amount to nothing.” All federal officials, but especially judges, must place the Constitution, the law, and ethics before other agendas.

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<sup>1</sup> Hamilton, Federalist 76.

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The committee cannot fail to observe the climate in which the president made this nomination. From the outset of this administration, the president, senior administration officials, and their allies have waged an escalating campaign against the authority and independence of the courts, defaming judges as “crooked,” “radical,” “insurrectionists,” and worse, calling for impeachment for decisions they dislike, toying with disobeying court orders, and musing about suspending the writ of habeas corpus. Some of the president’s allies, in particular, have savaged Trump judicial appointees who have not proved loyal, and argued the president should abandon traditional legal conservatives in favor of MAGA “warriors” who could be counted upon to advance the president’s agenda or defend his interests from the bench.

It is in this environment that the president announced the nomination of Mr. Bove. He did so, in starkly inappropriate terms, informing his supporters on his social media platform that Bove “will end the Weaponization of Justice, restore the Rule of Law, and do anything else that is necessary to MAKE AMERICA GREAT AGAIN. Emil Bove will never let you down!”<sup>2</sup> In Mr. Bove, the president believes he has found his MAGA warrior.

This nomination threatens to portend a broader turn toward the appointment of result-oriented loyalists to the judiciary. The day after he announced the Bove nomination, the president again expressed outrage that a court would rule against his overreach and turned his back on principled legal conservatives. He wrote that he regretted following the advice of traditional legal conservatives on “numerous Judicial Nominations.”<sup>3</sup> Some commentators who have long been hostile to the independent judiciary expressed glee that Mr. Bove would be the model of a Trump 2.0 judge.

While all Members of the Committee have a substantial basis upon which to reject this nomination, conservatives who agree with us that the president’s previous judicial nominees have generally been of high quality have additional reasons for opposition. The conservative legal movement has worked for decades to defend and promote conservative legal theories and to confirm judges with a demonstrable commitment to that jurisprudence. The conservative legal movement and its allies in the Senate have in the past strongly resisted Republican presidents who would promote nominees who had not demonstrated such a commitment. They should also oppose the nomination of Mr. Bove on these grounds.

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<sup>2</sup> <https://truthsocial.com/@realDonaldTrump/posts/114587010981213926>

<sup>3</sup> <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>

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Accepting this nomination would betray the decades-long project of the conservative legal movement, the work of numerous senators, and successive Republican presidents. Confirming Mr. Bove would invite more nominations of presidential loyalists in place of committed conservative lawyers. It would return us to the days before the dawn of the conservative legal movement, when Republican presidents made judicial nominations on the basis of personal familiarity, patronage, or politics, with disastrous results for American jurisprudence.

Our Constitutional system demands judges who respect the separation of powers, act with impartiality, and heed legal—not political—principles. Mere credentials, even excellent ones, cannot establish the capacity to perform that role. We believe that a demonstrated adherence to the doctrines of originalism and textualism best predicts whether a nominee can meet those demands. We are confident, however, that Mr. Bove's record at the Justice Department, including manipulating prosecutions for political or policy ends, is deeply incompatible with a lifetime appointment to federal judicial service.

For these grave reasons, the Senate must reject Mr. Bove's nomination.

Sincerely,



**Gregg Nunziata**

Executive Director

Society for the Rule of Law Institute