



Brantley Starr

President Trump nominated Brantley Starr to serve on the U.S. District Court for the Northern District of Texas on March 8, 2019. Starr is anti-choice.

Career¹

- Bachelor of Arts, Abilene Christian University, 2001
- Juris Doctor, University of Texas School of Law, 2004
- Assistant Attorney General, Office of the Texas Attorney General, 2004-2005
- Clerk, Justice Don Willett, Texas Supreme Court, 2005-2006
- Fellow and Assistant Solicitor General, Office of the Texas Attorney General, 2006-2008
- Associate, King & Spalding, 2008-2011
- Staff Attorney for Justice Eva Guzman, Texas Supreme Court, 2011-2014
- Deputy Attorney General for Legal Counsel, Office of the Texas Attorney General, 2015-2016
- Deputy First Assistant Attorney General, 2016-present

Record on Choice-Related Issues

Court Cases

- Starr defended a Texas law banning the most common method of second-trimester abortion and imposing criminal penalties on doctors who perform the procedure.² In a brief, Starr wrote, “The prohibition of this brutal, gruesome, and inhumane procedure promotes respect for the dignity of the life of the unborn.”³
- Starr defended a state regulation requiring the burial or cremation of fetal remains—an ideologically motivated deviation from standard medical practice.⁴ A brief he joined in the case argues that laws meant “to dignify the life of the unborn” do not impose an undue burden on women seeking abortion care, despite the fact that they place new regulatory burdens on providers.⁵
 - After a federal district court judge temporarily enjoined the regulation, Starr testified in support of legislation to codify that regulation and “moot out” the litigation.⁶ Starr said that the judge in that case had incorrectly applied the *Whole Woman’s Health v. Hellerstedt* standard, thereby enjoining the regulation.

He also insisted that the burial or cremation requirement is not a substantial obstacle to abortion care.⁷

- Starr represented the state of Texas in its attempt to defund Planned Parenthood by terminating its Medicaid agreements.⁸ The agreements allowed Planned Parenthood to provide cancer screenings, contraception, STD testing and treatment, and other healthcare services to “nearly 11,000 low-income women at 30 clinics statewide.”⁹
 - Starr’s argument repeatedly relied on discredited videos that were made by anti-choice groups in an attempt to undermine support for Planned Parenthood.¹⁰ Despite the fact that the videos were known to be heavily edited and that the maker of the videos was indicted for his role in their creation,¹¹ Starr continued to rely on them throughout the case, and referred to them as “evidence that [Planned Parenthood] engage[s] in gross violations of medical and ethical standards.”¹² District Judge Sam Sparks granted a preliminary injunction in the case, noting that the state was not able to produce “even a scintilla of evidence” to back up their termination of Planned Parenthood’s Medicaid agreements.¹³ Unfortunately, the Fifth Circuit has since reversed the preliminary injunction.¹⁴
- Starr joined a brief¹⁵ in a lawsuit against the U.S. Department of Health and Human Services (HHS) over a regulation implementing a nondiscrimination provision in the Affordable Care Act (ACA).¹⁶ The ACA prohibits providers that receive Medicare or Medicaid funding from discriminating based on certain characteristics including sex.¹⁷ The brief argued that HHS exceeded its authority by promulgating a rule that included discrimination based on gender identity and reproductive-health decisions in its definition of sex discrimination.¹⁸

Notable Information

- Texas Attorney General Ken Paxton, a staunch opponent of abortion rights, has been actively campaigning for “more resources and expanded jurisdiction to go after crimes related to abortion” in the State of Texas. Prosecuting “abortion-related crimes” is currently left to local officials. Starr has actively assisted Paxton in his efforts, testifying recently before a committee of the State Senate in favor of giving the Attorney General’s office more power to prosecute abortion providers and women seeking abortion care. In his testimony, Starr expressed dissatisfaction with several district attorneys who agreed not to enforce portions of Texas’ controversial fetal remains law while it was being challenged in court. He told the committee, “Five out of the eight [district attorney’s] offices agreed not to enforce the law that you passed... The DA’s were essentially saying, ‘We believe this is unconstitutional.’”¹⁹

- The district attorneys Starr referenced in his testimony pushed back hard on his accusations – several sent letters to the committee calling it a “false narrative.” One said Starr’s testimony was, “ill-advised, unfounded, and simply reflect[ed] the calculated narrative constructed by the Attorney General’s office to support that Office’s agenda to expand its criminal jurisdiction.” Others noted that there is no so-called “abortion-related crime” for district attorneys to prosecute. The Attorney General’s office was not able to provide any “examples of abortion-related crime that district attorneys had elected not to pursue.”²⁰
- Starr testified in support of legislation intended to protect state-funded adoption agencies that discriminate against LGBTQ couples.²¹ The bill also offered protections for state-funded agencies wishing to deny young people access to abortion care and contraception. Starr said in his testimony that the Attorney General’s office was neutral on the bill, but that he felt it was necessary because, “With more government regulation, judges can view compelling interest as anything... so there’s a greater need for the Legislature to clarify in which areas it believes religious rights of conscience should be protected, so the courts don’t have to wade into that issue.”
- Starr is an active member of the conservative, anti-choice Federalist Society.²² The Federalist Society is led by Leonard Leo, the anti-choice activist who is heavily involved in selecting Trump’s Supreme Court and lower court nominees. Leo has been outspoken in his anti-choice views, calling abortion “an act of force” and “a threat to human life,”²³ and serves as co-chairman of Students for Life,²⁴ a group whose mission is to “abolish abortion.”²⁵
 - Starr went so far as to list his “speeches, debates, and panel discussions,” in affiliation with the Austin Federalist Society as pro bono work in his Senate Judiciary Committee questionnaire.²⁶
- Starr has donated thousands of dollars to anti-choice Sen. Ted Cruz (R-TX) who, in turn, was “happy to recommend Brantley...to the president.”²⁷

Record on Other Key Issues

- At the 2015 Texas Tribune Festival, Starr joined others in “defend[ing] the notion that gay couples should not be granted the right to marry.”²⁸
- Starr represented the State of Texas in two immigration cases, one defending a Texas statute that targets sanctuary cities by stripping autonomy from local authorities²⁹ and another challenging the Deferred Action for Childhood Arrivals (DACA) program.³⁰

April 5, 2019

¹ Questionnaire for Judicial Nominees: Brantley David Starr, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

² Defendants* Response to Plaintiff's Motion for a Temporary Restraining Order*, *Whole Woman's Health et al. v. Paxton*, (W.D. Tex. 2017) (1:17-cv-00690-LY)

³ *Ibid* at 5.

⁴ Response to Plaintiff's Motion for a Temporary Restraining Order, *Whole Woman's Health v. Hellerstedt*, (W.D. Tex. 2016) (No. 1:16-cv-01300-SS)

⁵ *Ibid*

⁶ Kelsey Jukam, *Texans Say Fetal Burial Doesn't Go Far Enough*, COURTHOUSE NEWS SERVICE (March 10, 2017), <https://www.courthousenews.com/texans-say-fetal-burial-bill-doesnt-go-far-enough/>

⁷ *Ibid*.

⁸ Defendant's Response in Opposition to Plaintiff's Motion for Preliminary Injunction, *Planned Parenthood of Greater Texas Family Planning and Preventative Health Services, Inc., et al. v. Smith, et al.*, W.D. Tex 2017) (No. 1:15-cv-01058-SS)

⁹ *Court Rules Texas Can Bar Planned Parenthood from Medicaid*, ASSOCIATED PRESS (Jan. 17, 2019), <https://www.nbcdfw.com/news/local/Court-Rules-Texas-Can-Bar-Planned-Parenthood-From-Medicaid-504521521.html>

¹⁰ Jackie Calmes, *Planned Parenthood Videos Were Altered, Analysis Finds*, New York Times (Aug. 27, 2015), <https://www.nytimes.com/2015/08/28/us/abortion-planned-parenthood-videos.html>

¹¹ Sarah Ferris, *Creator of Planned Parenthood videos indicted in Texas*, The Hill (Jan. 25, 2016), <https://thehill.com/policy/healthcare/266958-creator-of-planned-parenthood-videos-indicted-in-texas>

¹² *Ibid* at 1.

¹³ Order Granting Motion for Preliminary Injunction, *Planned Parenthood of Greater Texas Family Planning and Preventative Health Services, Inc., et al. v. Smith, et al.*, W.D. Tex 2017) (No. 1:15-cv-01058-SS)

¹⁴ Meagan Flynn, *Court rules against Planned Parenthood in Texas 'sting videos' case, bringing it a step closer to getting defunded*, WASHINGTON POST (Jan. 18, 2019), https://www.washingtonpost.com/nation/2019/01/18/court-rules-against-planned-parenthood-texas-sting-videos-case-bringing-it-step-closer-getting-defunded/?utm_term=.cff7510d0b3c

¹⁵ Brief in Support of State Plaintiff's Motion for Partial Summary Judgment or, in the Alternative, a Preliminary Injunction, *Franciscan Alliance v. Burwell*, (N.D.Tex. 2016) (Case 7:16-cv-00108-O).

¹⁶ Section 1557 of the Affordable Care Act (2010).

¹⁷ Timothy Jost, "ACA Pregnancy Termination, Gender Identity Protections Blocked; Wellness Program Incentives Survive," Health Affairs Blog (Jan. 2, 2017), available at <http://healthaffairs.org/blog/2017/01/02/aca-pregnancy-termination-gender-identity-protections-blocked-wellness-program-incentives-survive/> (last visited Mar. 19, 2019).

¹⁸ Brief in Support of State Plaintiff's Motion for Partial Summary Judgment or, in the Alternative, a Preliminary Injunction, *Franciscan Alliance v. Burwell*, (N.D.Tex. 2016) (Case 7:16-cv-00108-O).

¹⁹ Emma Platoff, *Texas Attorney General Ken Paxton is seeking more power this session to prosecute voter fraud and abortion-related crimes*, THE TEXAS TRIBUNE (Feb. 4, 2019), <https://www.texastribune.org/2019/02/04/Texas-ken-paxton-prosecute-abortion-voter-fraud/>

²⁰ *Ibid*.

²¹ John Wright, *Committee Weighs 'License to Discriminate' Adoption Bill*, TEXAS OBSERVER (April 16, 2015), <https://www.texasobserver.org/license-to-discriminate-adoption-bill/>

²² Brantley Starr, THE FEDERALIST SOCIETY, <https://fedsoc.org/contributors/brantley-starr> (last visited April 5, 2019); Questionnaire for Judicial Nominees: Brantley David Starr, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY

²³ Jeffrey Toobin, *The Conservative Pipeline to the Supreme Court*, THE NEW YORKER (April 17, 2017), <https://www.newyorker.com/magazine/2017/04/17/the-conservative-pipeline-to-the-supreme-court>

²⁴ *Board of Directors*, STUDENTS FOR LIFE, <http://studentsforlife.org/supporters/board-of-directors-1> (last visited July 5, 2018)

²⁵ *Mission Statement*, STUDENTS FOR LIFE, <http://studentsforlife.org/about/mission-statement/> (last visited July 5, 2018)

²⁶ *Questionnaire for Judicial Nominees: Brantley David Starr*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY at 35

²⁷ *Donor Lookup: Brantley Starr*, OPEN SECRETS, <https://www.opensecrets.org/search?q=brantley+starr&type=donors> (last visited April 5, 2019)

²⁸ Jeffrey Bradshaw, *Keep your opinions off my rights*, THE UNIVERSITY STAR (Oct. 17, 2015), <https://star.txstate.edu/2015/10/keep-your-opinions-off-my-rights/>

²⁹ *City of El Cenizo, et al. v. Texas*, 264 F. Supp. 3d 744, 755 (W.D. Tex. Aug. 30, 2017).

³⁰ *Texas v. United States*, 328 F. Supp. 3d 662 (S.D. Tex. Aug. 31, 2018).