



## Toby Crouse

President Trump nominated Toby Crouse to serve on the U.S. District Court for the District of Kansas on May 7, 2020. Crouse is extremely hostile to reproductive freedom.

### Career<sup>1</sup>

- Bachelor of Arts, Kansas State University, 1997
- Juris Doctorate, University of Kansas School of Law, 2000
- Clerk, Judge Monti L. Belot, U.S. District Court for the District of Kansas, 2000-2002
- Clerk, Judge Mary Beck Briscoe, U.S. Court of Appeals for the Tenth Circuit, 2002-2003
- Associate, Shook, Hardy & Bacon, LLP, 2003-2007
- Special Counsel, Foulston Siefkin, 2008-2010
- Partner, Foulston Siefkin, 2010-2018
- Owner, Crouse LLC, 2018-present
- Solicitor General, Office of the Kansas Attorney General, 2018-present

### Record on Reproductive Freedom

- As Kansas Solicitor General, Crouse joined an amicus brief in support of Alabama's anti-reproductive freedom abortion ban that would prohibit a standard medical procedure for abortion care, dilation and evacuation (D&E). This abortion ban would put essential care out of reach for many people and its enforcement would result in women in Alabama being "altogether unable to access a safe abortion at or after 15 weeks of pregnancy."<sup>2</sup> Despite the fact that medical experts recognize the procedure as the standard of care for abortion care in the second trimester, the brief that Crouse signed onto stated that the procedure "should have no place in a civilized society" and that "it is difficult to imagine any standard of ordinary decency that permits such a manner of terminating a human life."<sup>3</sup>
- As Kansas Solicitor General, Crouse joined an amicus brief in support of an anti-reproductive freedom Indiana law that placed substantial obstacles in the way of young people seeking abortion care. The brief said that burdensome requirements on young people could "permissibly discourage abortion as a means to promote the well-being of both the woman and her unborn child."<sup>4</sup> It also propagated false myths about abortion care, saying that it is a procedure "fraught with consequences" such as "severe depression and loss of esteem," and that abortion care is "inherently

different from other medical procedures, because no other procedure involves the purposeful termination of a potential human life.”<sup>5</sup>

- Crouse represented Kansas in asking the Supreme Court to review a case about the Secretary of the Kansas Department of Health and Environment’s decision to end Medicaid provider agreements with Planned Parenthood of Kansas and Mid-Missouri based on heavily doctored and now discredited videos that were a part of a calculated, politically driven campaign to dismantle Planned Parenthood and undermine abortion rights, among other reasons.<sup>6</sup> The action was eventually overturned by the courts and Kansas restored funding to the Planned Parenthood providers.
- As Solicitor General of Kansas, Crouse joined an amicus brief in *Trump v. Pennsylvania* that urged the Supreme Court to uphold the Trump administration’s rules that allow virtually any employer to deem itself exempt from the birth control benefit under the Affordable Care Act. The brief the Crouse joined argued that requiring health insurance plans to cover contraception makes employers “complicit in the use of abortifacients that take human life.”<sup>7</sup> In July 2020, the Supreme Court upheld the Trump administration’s rules, putting coverage of contraception at risk for hundreds of thousands of people.<sup>8</sup>
- Crouse has been a member of the Federalist Society, a conservative group that is extremely hostile to reproductive freedom, since 2019.<sup>9</sup> The Federalist Society is led by Leonard Leo, the anti-reproductive freedom activist who is heavily involved in selecting Trump’s Supreme Court and lower court nominees. Leo has been outspoken in his hostility to reproductive freedom, calling abortion “an act of force” and “a threat to human life,”<sup>10</sup> and serves as co-chairman of Students for Life,<sup>11</sup> a group whose mission is to “abolish abortion.”<sup>12</sup>

### **Record on Other Key Issues**

- As Kansas Solicitor General, Crouse defended a restrictive Kansas law that required people to show proof-of-citizenship documents when they register to vote.<sup>13</sup> Enforcement of the law was blocked by the U.S. Court of Appeals for the Tenth Circuit for violating the National Voter Registration Act and the U.S. Constitution.<sup>14</sup>
- Crouse joined an amicus brief urging the Supreme Court to find that a California law banning state-funded travel to eleven states violates the U.S. Constitution. The brief argues that state laws prohibiting transgender people from using bathrooms aligned with their gender identity, allowing foster care agencies to refuse placements to LGBTQ families, and allowing counselors to refuse LGBTQ clients all concern “debated areas of policy where we might expect a variety of solutions.”<sup>15</sup>

- As Kansas Solicitor General, Crouse joined an amicus brief that sought to undermine Washington state antidiscrimination protections by allowing businesses to discriminate against customers on the basis of their sexual orientation.<sup>16</sup>

July 22, 2020

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<sup>1</sup> *Questionnaire for Judicial Nominees: Toby Crouse*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY.

<sup>2</sup> Brief in Opposition at 5, *Harris v. W. Ala. Women’s Ctr.* (2019) (No. 18-837), [https://www.supremecourt.gov/DocketPDF/18/18-837/90602/20190304174248886\\_No%2018%20837%20Harris%20v%20West%20Alabama%20Womens%20Center%20Brief%20in%20Opposition.pdf](https://www.supremecourt.gov/DocketPDF/18/18-837/90602/20190304174248886_No%2018%20837%20Harris%20v%20West%20Alabama%20Womens%20Center%20Brief%20in%20Opposition.pdf) (last visited July 22, 2020).

<sup>3</sup> Brief for Louisiana, et al. as Amici Curiae Supporting Petitioners at 8, *Marshall v. W. Ala. Women’s Ctr.*, 2018 WL 780469 (2018) (No. 17-15208).

<sup>4</sup> *Questionnaire for Judicial Nominees: Toby Crouse*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY.

<sup>5</sup> *Id.*

<sup>6</sup> *Andersen v. Planned Parenthood of Kan. and Mid-Mo.*, 139 S.Ct. 638 (Mem) (U.S. 2018), petition for cert. filed, (Mar. 21, 2018) (No. 17-1340).

<sup>7</sup> *Questionnaire for Judicial Nominees: Toby Crouse*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY.

<sup>8</sup> *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 2020 WL 3808424 (U.S. 2020).

<sup>9</sup> *Questionnaire for Judicial Nominees: Toby Crouse*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY.

<sup>10</sup> Jeffrey Toobin, *The Conservative Pipeline to the Supreme Court*, *The New Yorker* (Apr. 10, 2017), <https://www.newyorker.com/magazine/2017/04/17/the-conservative-pipeline-to-the-supreme-court> (last visited Apr. 30, 2020).

<sup>11</sup> *Board of Directors, Students for Life*, <https://studentsforlife.org/about/boardofdirectors/> (last visited July 25, 2019).

<sup>12</sup> *Mission Statement, Students for Life*, <http://studentsforlife.org/about/mission-statement/> (last visited July 25, 2019).

<sup>13</sup> *Fish v. Schwab*, 957 F.3d 1105 (10<sup>th</sup> Cir. 2020).

<sup>14</sup> *Id.*

<sup>15</sup> Brief for West Virginia, et al. as Amici Curiae Supporting Petitioners at 20, *Texas v. California* (2020) (No. 153, Orig.), [https://www.supremecourt.gov/DocketPDF/22/220153/141523/20200413155624438\\_153%20Orig%20Bipartisan%20Brief.pdf](https://www.supremecourt.gov/DocketPDF/22/220153/141523/20200413155624438_153%20Orig%20Bipartisan%20Brief.pdf) (last visited July 22, 2020).

<sup>16</sup> *Questionnaire for Judicial Nominees: Toby Crouse*, UNITED STATES SENATE COMMITTEE ON THE JUDICIARY.