

## **What the Kavanaugh Nomination Means for People with Disabilities: The Right to Make Your Own Choices**

President Trump has nominated Judge Brett Kavanaugh to replace Justice Anthony Kennedy on the Supreme Court. As a Supreme Court Justice, Judge Kavanaugh would be asked to rule on some of the biggest issues our country faces, including the right to make your own decisions. For people with disabilities, one of the most important questions that can arise over and over is: Who will make this decision about my life? Whether it's choosing where to live, what kind of work to do, whether to have children, or what kind of medical treatment to have, the decisions and preferences of people with disabilities should be respected. Judge Kavanaugh has shown hostility to that idea. If he is confirmed to the Supreme Court, Judge Kavanaugh could vote to deny people with disabilities the basic right to have input into decisions about their own lives.

### **The right to make decisions about one's own body is at stake.**

For a long time, people with disabilities were treated as if they were incapable of making any decisions about their own lives. Families and doctors often sent people with disabilities to live in institutions without asking them if they wanted to live there. And tens of thousands of people with disabilities, particularly people with intellectual, developmental, and mental health disabilities, were sterilized – robbed of the ability to have children – without their consent.

Although we've made a lot of progress, too many people with disabilities still have to fight for the chance to control their own lives. Over a million people in this country are subject to guardianship, in which another person is chosen to make decisions about someone's life. And, as shown by the *Doe* case discussed below, even the most basic questions about who can control someone's body continue to be the subject of legal disputes decided by courts.

### **What did Judge Kavanaugh say about the rights of people with disabilities?**

In a lawsuit called *Doe v. D.C.*, Judge Kavanaugh showed that he doesn't understand the importance of considering the wishes of people with disabilities in deciding whether to make them undergo medical procedures. This case was brought by a group of people with intellectual disabilities (the "plaintiffs") who lived in facilities run by the District of Columbia. Government officials had signed paperwork allowing doctors to perform surgeries on the plaintiffs, without asking the plaintiffs whether they wanted the surgeries. These surgeries even included abortions that the plaintiffs did not want. A trial judge ruled that this violated the plaintiffs' rights.

When the case reached Judge Kavanaugh, he ruled against the plaintiffs. According to Judge Kavanaugh, the plaintiffs were not legally allowed to make their own medical decisions, so it did not make sense to even ask their opinions. Most judges consider the person's wishes in determining whether a medical procedure should be performed on a person who does not have the capacity to make that decision himself or herself. Many states specifically require judges to do this. Judge Kavanaugh's ruling in this case shows that he will not protect the rights of people with disabilities to have a say in their own lives.