



The Honorable Patrick J. Leahy
Chairman
U.S. Senate Committee on the Judiciary
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The Honorable Jeff Sessions
Ranking Member
U.S. Senate Committee on the Judiciary
152 Dirksen Senate Office Building
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July 8, 2009

Dear Chairman Leahy and Ranking Member Sessions:

I am writing today because of Americans United for Life's deep concern about the nomination of Judge Sonia Sotomayor to the United States Supreme Court. Based on our research, we believe that Judge Sotomayor's judicial philosophy is far outside of the mainstream, and that her confirmation will dramatically shift the dynamics of the Court. Contrary to conventional wisdom, Judge Sotomayor's nomination to replace Justice David Souter is not a philosophical 1-for-1 switch; instead, we believe that on the controversial issues of the day, like abortion, she will be worse than Souter.

We at Americans United for Life, like most Americans, believe that a nominee's judicial philosophy goes to the heart of his or her qualifications to serve on the United States Supreme Court. Based on Judge Sotomayor's judicial philosophy and involvement with the radical pro-abortion organization, the Puerto Rican Legal Defense and Education Fund ("PRLDEF"), we believe that a Justice Sotomayor would undermine any efforts by our elected representatives to pass even the most widely accepted regulations on abortion.



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During the twelve years that Judge Sotomayor served as a governing board member of the PRLDEF, the organization filed six amicus briefs in five abortion-related cases before the Supreme Court. In Planned Parenthood v. Casey (1992), the Fund urged the Court to apply strict scrutiny and strike down Pennsylvania’s informed consent requirements and reflection period. The Fund declared that it “oppose[d] any efforts to . . . in any way restrict the rights recognized in Roe v. Wade,” compared abortion to the First Amendment right to free speech, and argued that any “burden” on the right to abortion was unconstitutional. Justice Souter, however, voted in Casey to uphold Pennsylvania’s informed consent law and 24-hour reflection period.

In Ohio v. Akron Center for Reproductive Health (1990) and Casey (1992), the Fund asked the Court to strike down parental involvement statutes, arguing in Akron that “adolescent women’s right to choose [should] not [be] infringed by [parental] notification statutes,” and insisted that minors should be “protected against parental involvement that might prevent or obstruct the exercise of their right to choose.” Justice Souter, however, has twice voted to uphold state parental-involvement laws. (Casey (1992) and Lambert v. Wicklund (1997)).

In Williams v. Zbaraz (1980) and Rust v. Sullivan (1991), the Fund argued strongly in favor of American taxpayer-funded abortion. In Zbaraz, the Fund unsuccessfully argued that abortions must be publicly funded and that failure to do so was “discriminat[ory]” and a violation of equal protection guarantees. Furthermore, the Fund unsuccessfully argued in Rust that since abortion is a “fundamental right,” restrictions on taxpayer funding through Title X that prohibited its use to refer for abortions should be invalidated. Finally, the Fund argued in Webster v. Reproductive Health Services (1989) that the Court should apply strict scrutiny and strike down limitations on the use of state resources to provide abortions. Justice Souter, however, voted with the Supreme Court in Rust to uphold prohibitions on the use of taxpayer dollars for abortion counseling and referrals.

In Webster v. Reproductive Health Services (1989), the Fund argued that record keeping and reporting requirements relating to abortion were solely designed to “harass” abortion patients and providers. Also, in Casey (1992), the Fund unsuccessfully urged the Court to apply strict scrutiny and strike down Pennsylvania’s record keeping and reporting re-



quirements. Justice Souter, however, voted in Casey to uphold a portion of Pennsylvania law that required “record keeping and reporting” on abortions performed in the state, viewing such requirements as “reasonably directed to the preservation of maternal health.”

Despite his support for Roe vs. Wade, Justice Souter voted repeatedly to uphold laws such as limits on taxpayer funding for abortion, informed consent, and parental notification – which polls show are supported by at least 70 percent of the American public – whereas the PRLDEF consistently argued that such common sense regulations were unconstitutional.

Just recently, Judge Sotomayor stated in an interview with U.S. Sen. Jim DeMint (R-S.C.) that she had never thought about whether an unborn child has constitutional rights. This lack of reflection in a time when Americans are more pro-life than ever before can only lead us to believe she is not only completely out of touch with American values, but would threaten the legal protections for unborn children at any stage in pregnancy, including late-term, nearly viable babies.

We have attached our “top ten” questions for your use during the hearing. Please consider asking Judge Sotomayor these questions, which may also be found on AskSotomayor.com. Americans and their elected representatives deserve to learn more about Judge Sotomayor’s judicial philosophy before she is given a lifetime appointment to our nation’s highest court.

Sincerely,

Dr. Charmaine Yoest
President & CEO, Americans United for Life

CC:

The Honorable Harry Reid, Majority Leader
The Honorable Mitch McConnell, Minority Leader
Members of the Senate Committee on the Judiciary

Attachment