

THE ETHICS & RELIGIOUS LIBERTY COMMISSION

OF THE SOUTHERN BAPTIST CONVENTION



Richard Land, D.Phil. (*Oxon.*), President

July 14, 2009

The Honorable Patrick J. Leahy, Chairman
Senate Judiciary Committee
United States Senate
433 Russell Senate Office Building
Washington, DC 20510

The Honorable Jeff Sessions, Ranking Member
Senate Judiciary Committee
United States Senate
335 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Leahy and Ranking Member Sessions:

This week, the Senate Judiciary Committee begins its confirmation hearings for Judge Sonia Sotomayor. We are deeply troubled by many aspects of Judge Sotomayor's record. While we could identify a number of factors that concern us, we describe below those that are the most troubling.

Judge Sotomayor does not appear to share the pro-life values of nearly all Southern Baptists and of most Americans. Recent polling reveals that the majority of Americans are pro-life. Her lack of rulings on major sanctity of life issues makes it more difficult to determine how she would rule on sanctity issues, but her association with the Puerto Rican Legal Defense and Education Fund raises serious questions about her commitment to pro-life values. She served on the Board of this organization, including as Vice President and Chair of the litigation committee. During that time, the Fund filed briefs in at least six prominent court cases in support of abortion rights.

While Judge Sotomayor has ruled favorably on abortion-related cases at times, we note that her rulings on race-related issues reveal a much more ideologically rigid attitude toward race. Her ruling in *Ricci v. DeStefano* is indefensible. We support full racial equality, and therefore support efforts that create equal opportunity for all races. However, we oppose policies that discriminate against some races in order to achieve a predetermined racial outcome. Racial discrimination is wrong in any circumstance.

We are also disturbed by Judge Sotomayor's lack of respect for private property rights. Her ruling in *Didden v. Village of Port Chester* demonstrates a willingness to ignore the Constitution's Fifth Amendment protection of private property. While the *Kelo* case was certainly precedential in her panel's ruling, the Supreme Court stated in their majority opinion that municipalities could not take private property under "the mere pretext of a public purpose, when its actual purpose was to bestow a private benefit." Judge Sotomayor was either unaware of this qualification or chose to ignore it.

Judge Sotomayor has often ruled very responsibly, but the rate at which she has been overruled by the U.S. Supreme Court reveals that she should not be in a position where her decisions cannot be subjected to review. She is out of the mainstream of the American public and too often of the very Court for which she is being considered. We urge you to do all you can to bring out all the facts about Judge Sotomayor during her confirmation hearings, and if these troubling issues remain, to vote against her confirmation.

Sincerely,

Richard D. Land