

EXECUTIVE SUMMARY OF JUDGE SONIA SOTOMAYOR'S IDEOLOGY

The Ethics & Religious Liberty Commission

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Sanctity of Human Life

While Sotomayor has come down on the right side on some of her peripheral cases dealing with pro-life issues, she has never dealt with a pro-life case directly. Thus her personal record is much weightier than her judicial record in determining where she stands on the issue. The assurances from those close to her and her many years working with the Puerto Rican Legal and Education Fund suggests that she is very pro-choice. This combined with the fact President Obama, who supports unfettered abortion, appointed her makes a strong case against Sotomayor's pro-life potential. The core question is whether she thinks abortion is a Constitutional right. It is likely that Sotomayor would not favor a case that would overturn *Roe v. Wade*.

Church-State Separation / Free Exercise of Religion

Sotomayor's record suggests that she understands that it is vitally important for the government to not interfere. Her ruling in *Hankins* reveals a respect for the right of religious groups to govern themselves without federal interference. Her *Flamer* decision reveals that she can take an accommodationist position on church/state relations. These cases suggest that Sotomayor understands the church/state principles in the First Amendment. However, we should be cautioned by the fact that so much of Sotomayor's other rulings are reasoned based upon her personal feelings rather than what the Constitution actually says. How she would rule on more complicated "establishment" cases is unclear. The *Okwedy v. Molinari* decision should deeply concern religious free speech advocates.

The Assault on Traditional Marriage and the Homosexual Agenda

It is very unsettling that there are no rulings or materials that give an indication as to how Sotomayor would rule on these important social issues. In addition to directly breaking God's law, allowing same sex marriage would open the door to polygamy and other additions to the definition of marriage. If we tolerate this redefinition of marriage, what grounds would we have for not tolerating polygamy? Legalized same sex marriage would be the most destructive force in crushing the traditional family unit which is foundational to society. Statistics show that children who grow up in a traditional family unit (one man and one woman marriages) grow up to be more productive citizens and more positive participants in society. Watering down marriage by including all sorts of combinations devalues this most basic structure that God created.

Eminent Domain

The state of protection for constitutional property rights post *Kelo* is so bad that we cannot take anything for granted. Sotomayor has ruled in two impactful property rights cases and has come out on opposite sides. While she deserves some credit for the *Krimstock* opinion, her *Didden* ruling combined with the *Brody* case still suggests a troubling pattern. How Sotomayor would rule in a takings case involving church property is uncertain.

Second Amendment Rights

Sotomayor does not believe the 2nd amendment is a fundamental right. This is alarming simply because of the direct evidence in opposition to that view. The effects of taking away our right to bear arms could be devastating. If the government is the only institution allowed to legally possess guns, this will create a citizenry

that is powerless to protect itself from crime, oppose tyranny, and create an even greater dependence on the government. This is a direct limitation of our individual rights. If Sotomayor does not acknowledge a right as fundamental as the right to bear arms then what other rights might she deem invalid?

Civil Rights Issues

In *Ricci*, all Sotomayor and her colleagues did was say we are going to take the District Court's word here. Also unnerving is Sotomayor's failure to recuse herself from the case to begin with. While Sotomayor was a board member for a Puerto Rican legal advocacy organization in the 1980's that organization brought suit against the New York City Police Department ("NYPD") challenging NYPD police promotions exams as discriminatory. She then sat as a judge and heard the *Ricci* case on the exact same issue. She should have recused herself from this case. It is impossible to say that there will never be a case where a judge may have a conflict, however, when the cases are this closely related, the code of judicial conduct suggests you recuse yourself.

- ABA Code of Judicial Conduct:
 - CANON 2: A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.
 - CANON 3: A judge shall perform the duties of judicial office impartially and diligently.

These cases combined with her numerous comments in speeches and law review articles (the wise Latina woman comments) show a clear pattern of her preferences in identity politics.

Judicial Activism

Sotomayor is on the record stating that Circuit Court judges make policy. She does not distinguish between sources of law and fails to see the proper distinction and roles of the legislative and judicial branches of government in creating and interpreting the law.

Creation Care and the Environment

Sotomayor's limited environmental cases are all over the board and we have no clear way of telling how she will vote on any particular cases that come before her. Her decision in *Riverkeeper* reveals a willingness to allow environmental arguments to trump standard economic considerations. Had this decision not been overturned by the Supreme Court, businesses could be laboring under EPA requirements to implement the most effective environmental regimes despite their potential devastating effects on the viability of the company, even for little environmental gain.

Transnationalism

Placing Sotomayor on the court would be a major coup for the transnationalist movement. While Justice Ginsburg already represents the transnationalist view on the court, if President Obama could add a second Justice to the court with transnationalist views it would strike a blow against Constitutional sovereignty. Hillary Clinton, Rahm Emanuel, Harold Koh, Cass Sunstein, and many other high ranking Obama administration officials favor application of United Nations protocols and international law over the Constitution. Sotomayor believes that use of foreign law can be "very important and a source of good ideas".

Conclusion

Sonia Sotomayor's record reveals that she is perfectly willing to lift the blindfold of justice to achieve her desired result. She is a judge with a terribly flawed view of the judicial system at best or a judge who simply doesn't care what the law says at worst. She has constantly shown her lack of deference to the Constitution. She is the type of justice who instead of applying the law neutrally will redefine the law to conform to her policy preferences. The bottom line is that Sonia Sotomayor is an unpredictable wildcard. Across the issues her record is either far too thin or hidden behind non-published orders and per curiam opinions. Simply put, placing Sonia Sotomayor on the highest court in the land jeopardizes our nation's commitment to equal treatment under the law.