

Obama names Sonia Sotomayor to US Supreme Court

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President Barack Obama announced Monday morning his nomination of Appeals Court Judge Sonia Sotomayor to fill the vacancy on the US Supreme Court created by the resignation of sitting Justice David Souter. He urged the Senate to hold confirmation hearings and vote on the nomination in July so that Sotomayor could be sworn in before the Supreme Court opens its fall session in October.

The Sotomayor nomination is being hailed by liberals and damned by the ultra-right in equal measure, but it confirms Obama's predilection for the predictable, conservative choice. It demonstrates the essence of Democratic Party liberalism, personified by Obama himself: the defense of corporate America and the capitalist state, slightly flavored with identity politics.

Sotomayor is the first Hispanic and only the fourth woman to be nominated to the highest US court, and this fact produced typical gushing from the likes of the *Nation* magazine, which declared, "Obama Pick Sonia Sotomayor Reflects America." This gesture towards minorities and women does not, however, alter in the slightest the fundamentally reactionary role of the Supreme Court as an institution and the conservative, pro-business orientation of the Obama administration.

Despite the predictable fulmination among the anti-abortion fanatics and anti-gay bigots, there is not the slightest hint of radicalism in the choice of Sotomayor. She has the longest record of judicial service of any Supreme Court nominee in the last 50 years.

If her birth and life circumstances growing up were humble, her subsequent resume is thoroughly establishment: Princeton, Yale Law School, editor of the *Yale Law Journal*, six years as a Manhattan assistant district attorney prosecuting criminal cases, eight years as a corporate lawyer specializing in

international commerce (Fiat was a major client). Included in her portfolio was the defense of corporations in product liability cases.

Republican President George H.W. Bush named Sotomayor to a vacancy on the Federal District Court for Southern Manhattan in 1992, at the urging of the conservative Democratic senator from New York, Daniel Patrick Moynihan. President Bill Clinton named her to a vacancy on the Second US Circuit Court of Appeal in 1997, and she was confirmed 67-29 by a Republican-controlled Senate in 1998 after some delaying tactics.

The Republican chairman of the Senate Judiciary Committee, Orrin Hatch of Utah, voted for Sotomayor in 1998. Now the ranking minority member of the committee, Hatch is expected to vote for her again. In all, nearly half the Senate Republicans approved her nomination in 1998, making it difficult for them to argue that her subsequent 11 years on the appeals court have now rendered her unqualified.

Nothing in Sotomayor's legal record suggests that she will be anything more than a more or less interchangeable replacement for outgoing Justice Souter, who was also a nominee of George H.W. Bush. In a 2006 case, she embraced the "war on terror" paradigm of the Bush administration, upholding warrantless searches of ferry passengers crossing Lake Champlain—certainly one of the more unlikely targets of international terrorism.

Sotomayor attended Catholic schools but it is not clear whether she is a practicing Catholic. If so, she would be the sixth Catholic justice out of nine on the Court, joining the four members of the so-called conservative wing—Scalia, Roberts, Alito, Thomas—and Kennedy, also a conservative but considered the Court's "swing vote".

The Roman Catholic Church has been at the forefront of the right-wing campaign to overturn the 1972 *Roe v. Wade* decision legalizing abortion. Catholic bishops have threatened to excommunicate Catholic politicians who support abortion rights, although they have not yet made such threats against sitting judges who decline to elevate Church doctrine into legal mandate.

Republican politicians vying for favor with the fundamentalist groups denounced Sotomayor. Former presidential candidate Mitt Romney called the nomination “troubling,” while former presidential candidate Mike Huckabee outdid him rhetorically, declaring, “Sotomayor comes from the far left and will likely leave us with something akin to the ‘Extreme Court’ that could mark a major shift.”

In an analysis written on the eve of the nomination, the *New York Times* noted that all four of the candidates on Obama’s short-list, including Sotomayor, “have not been the outspoken leaders of the legal left that advocates crave.”

The *Times* interviewed Bernard W. Nussbaum, the White House counsel for Bill Clinton who shepherded the nomination of Justice Ruth Bader Ginsburg. Referring to the concerns of the civil liberties and civil rights groups, Nussbaum said, “He’s not going to go in that direction.”

He added, in a remark that captures the cynicism of both the Clinton and Obama administrations, “I don’t think that he’s worried about the left. I think he’s doing the same thing we did.”

Sotomayor’s most prominent ruling is also one of her shortest—a one-paragraph decision rejecting the appeal of a group of white firemen in New Haven, Connecticut who passed a test for promotion but lost the opportunity when the city government cancelled the promotions entirely because no black and only one Hispanic firemen had passed the test.

A three-judge panel of the Second Circuit ruled against the firemen, and their action was only narrowly upheld by the full Second Circuit, on a vote of 7 to 6. The Supreme Court heard arguments on the appeal of the New Haven case earlier this year and is widely expected to issue a ruling overturning Sotomayor’s decision before it adjourns in June.



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