



MEMORANDUM

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Judicial Nominees

The ACLJ stands firmly behind the appointment of judges who will interpret the law, rather than legislate policy. It's one of the most important responsibilities given to the President under our Constitution. To paraphrase James Madison, the courts exist to exercise not the will of men, but the judgment of the law.

The ACLJ is deeply concerned about nominees for federal judgeships. Appointing judges who will interpret the law, rather than legislate policy, is certainly one of the most important responsibilities given to the President under our Constitution. Many of the ills that plague our society have resulted from judicial rulings that reflect the personal political agenda of liberal judges instead of honest, careful interpretations of the Constitution.

The United States Senate is responsible to provide "advice and consent" for every person that the President nominates to be a judge. U.S. Const. art. II, § 2, cl. 2. The appointment of federal judges impacts the direction of the nation's legal system for generations to come. It will affect every area of our lives, from morality to legal questions. The struggle is over who will serve as judges in the federal courts of our land. Unfortunately, it seems as if a person's political views are more important than his or her character; and social views more essential than how they view the Constitution of the United States. We are in a time of crisis in the judicial branch of our republic.

The ACLJ stands firmly behind appointing judges who will interpret the law rather than legislate policy. To paraphrase James Madison, the courts exist to exercise not the will of men, but the judgment of the law. Judicial nominees must know the difference.

While the U.S. Constitution does not give character qualifications for those who serve as judges, honesty was held in such high regard by our founders that they never could conceive of anyone becoming a judge who was not above reproach in every area of his or her life. But there is one phrase in the Constitution that points to the character of the appointed judges. It is found in Article III, § 1, discussing the tenure of a judge. Judges on both the Supreme Court and all lower federal courts are appointed “during good behavior.” U.S. Const. art III, § 1. Justice Joseph Story, who served on the U.S. Supreme Court from 1811 to 1845, said, “This tenure of office seems indispensable to a due degree of independence and firmness on their part, in the discharge of the duties of their office; and to a due security to the people for their fidelity and impartiality, in administering private rights, and preserving the public liberties.” JOSEPH STORY, A FAMILIAR EXPOSITION OF THE CONSTITUTION OF THE UNITED STATES 228 (Regnery Gateway 1986) (1858). It is obvious that the founders expected that if a judge at any level were to forgo “good behavior” then he or she would no longer be qualified to serve as a judge.

At the ACLJ, we remain committed to ensuring that the U.S. Constitution is followed during the judicial nomination and confirmation process. Under the Constitution, the Senate is to provide advice and consent. The ACLJ continues to work with leadership on Capitol Hill to ensure that all nominees are treated fairly in this process. We remain committed to supporting judicial nominees who intend to interpret the law within the bounds of the Constitution’s text, not legislate from the bench.

American citizens have an important role in this process as well. It is crucial that those who value life and justice express their opinions to their Senators that they want men and women of high integrity who will faithfully interpret the Constitution instead of legislating from the bench to be confirmed to serve on the courts of our land. Please use your influence with your friends, associates and church members and encourage them to call the United States Senators that represent your state and politely ask them to vote to confirm judicial nominees who will apply the Constitution as it was written and oppose judicial activists.

Your United States Senator’s office can be reached through the Senate switchboard - the number is 202-224-3121. You can also find the direct phone number to your Senator’s office by going to the Senate’s website at <http://www.senate.gov>.