



The Senate Judiciary Committee reported to the full Senate President Obama's nomination of John "Jack" McConnell, Jr. to serve as a United States District Judge for the District of Rhode Island. McConnell was first nominated on March 10, 2010 and had a committee hearing on May 13, 2010. McConnell did not receive a vote from the full Senate after being reported by the committee. The nomination was returned to the President, but President Obama resubmitted the nomination on September 13, 2010. Once again, the full Senate did not vote on McConnell's nomination after the nomination was reported by the committee. On January 5, 2011, McConnell was nominated by President Obama for the third time.

McConnell's nomination has sparked attention. Among the criticisms surrounding McConnell's nomination are reports that, since 1993, he and his wife have contributed almost \$700,000 to Democratic committees, causes, and campaigns.¹ While other Obama judicial nominees have made campaign contributions, *Politico* claims in its article on the issue that these contributions "dwarf contributions made by other Obama court appointees, leading Republicans to question whether big-time donors could create a conflict of interest in a neutral federal judiciary."²

Although McConnell's monetary contributions to Democrats raise questions about his ability to be unbiased and neutral as a judge, even more troubling are McConnell's connections to organizations such as Planned Parenthood and the Southern Poverty Law Center. McConnell disclosed in his questionnaire to the Senate Judiciary Committee that he was the director of Planned Parenthood of Rhode Island from 1997-2001.³ Even though the press has not focused on McConnell's connection with Planned Parenthood, this connection should be explored to determine what it indicates about his objectivity in abortion-related cases, and, more generally, whether McConnell subscribes to the type of judicially activist jurisprudence represented by cases like *Roe v. Wade* and *Planned Parenthood v. Casey*.

McConnell has been a member of the Southern Poverty Law Center (SPLC) since 1989.⁴ The connection McConnell maintains with the SPLC is especially troubling. In its

¹ Manu Raju & Scott Wang, *Judicial Nominee's Donations Draw Ire*, *Politico* (June 23, 2010, 4:59 AM), <http://www.politico.com/news/stories/0610/38864.html>.

² *Id.*

³ United States Senate Committee on the Judiciary Questionnaire for Judicial Nominee John J. McConnell Jr. at 5 (May 5, 2011), available at <http://judiciary.senate.gov/nominations/112thCongressJudicialNominations/upload/JohnMcConnell-PublicQuesitonnaireUpdate.pdf>

⁴ *Id.* at 7.

most recent research on “hate groups” in the United States, SPLC reported that, for the first time, the number of “hate groups” exceeded 1,000.⁵ But SPLC’s definition of a “hate group” is rather broad, seems based in part on ideological disagreement with SPLC’s agenda, and thus the list compiled by SPLC included “Anti-gay” organizations alongside Neo-Nazi movements.⁶ So-called hate groups on the list include: Family Research Council (D.C.) (“anti-gay”⁷), Family Research Institute (CO) (“anti-gay”⁸), the American Family Association (MS) (“anti-gay”⁹), and the Federation for American Immigration Reform (D.C.) (“anti-immigration”¹⁰). The views advocated by SPLC combined with McConnell’s membership in the SPLC raise serious concerns about whether McConnell will be inclined to consider constitutionally protected political discourse to be unprotected “hate speech.”

Alongside “hate groups”, SPLC lists “Patriot” movements. While the SPLC technically lists “hate groups” and “patriot movements” as separate entities, the SPLC does not seem to clearly distinguish between the two and often discusses the two groups simultaneously in such a manner as to blur the distinction they claim to make. For instance, in a report entitled “This Year in Hate and Extremism, 2010,” the SPLC states,

Hate groups topped 1,000 for the first time since the Southern Poverty Law Center began counting such groups in the 1980s. Anti-immigrant vigilante groups, despite having some of the political wind taken out of their sails by the adoption of hard-line anti-immigration laws around the country, continued to rise slowly. But by far the most dramatic growth came in the antigovernment “Patriot” movement — conspiracy-minded organizations that see the federal government as their primary enemy — which gained more than 300 new groups, a jump of over 60%.

Taken together, these three strands of the radical right — the hatemongers, the nativists and the antigovernment zealots — increased from 1,753 groups in 2009 to 2,145 in 2010, a 22% rise. That followed a 2008-2009 increase of 40%.¹¹

⁵ Mark Potok, *This Year in Hate and Extremism, 2010*, Intelligence Report Issue No. 141 (Spring 2011), available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2011/spring/the-year-in-hate-extremism-2010>

⁶ Press Release, Southern Law Poverty Center, *U.S. Hate Groups Top 1,000* (February 23, 2011), available at <http://www.splcenter.org/get-informed/news/us-hate-groups-top-1000>.

⁷ *Active Anti-Gay Groups*, Southern Law Poverty Center (2011), http://www.splcenter.org/get-informed/intelligence-files/ideology/anti-gay/active_hate_groups

⁸ *Id.*

⁹ *Id.*

¹⁰ *Active Anti-Immigrant Groups*, Southern Law Poverty Center (2011), http://www.splcenter.org/get-informed/intelligence-files/ideology/anti-immigrant/active_hate_groups

¹¹ Potok, *supra* note 5.

These so called “patriot” groups include the Berks County Tea Party, the Constitution Party, the America First Party, and the Constitution Society.¹² In addition, SPLC named 35 individuals at the heart of the “Patriot” movement, as well as a list of “enablers” of this “radical right.”¹³ The enabler list includes Georgia Congressman Paul Broun and Minnesota Congresswoman Michele Bachmann.¹⁴

While it only lists one “tea party” movement as a “patriot” group¹⁵, SPLC strongly implies that the tea party is just as dangerous and is working toward the same purpose. In an editorial published by the SPLC entitled *Unsweet Tea: Exploring the Ideas of the Antigovernment Movement*, Mark Potok, Director of SPLC’s Intelligence report states,

[M]any in the Tea Party movement have adopted Patriot theories about the Federal Reserve, concentration camps, the "New World Order" and more. Patriot leaders regularly address Tea Party crowds. Even as the Tea Parties appear to win more respect in the political world — many were claiming credit for the Kentucky primary victory of Rand Paul as this issue went to press — it seems increasingly possible that they will begin to look more and more like Patriots.

And that should worry us all.¹⁶

Based on these concerns, the Senate should carefully examine this nomination before proceeding further.

¹² Southern Law Poverty Center, *Active ‘Patriot’ Groups in the United States in 2010*. Intelligence Report Issue No. 141 (Spring 2011), available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2011/spring/active-patriot-groups-in-the-us>.

¹³ Southern Law Poverty Center, *Meet the Patriots*. Intelligence Report Issue No. 138 (Summer 2010), available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2010/summer/meet-the-patriots>

¹⁴ Southern Law Poverty Center, *The Enablers*. Intelligence Report Issue No. 138 (Summer 2010), available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2010/summer/meet-the-patriots/the-enablers>.

¹⁵ *Active Patriot Groups*, *supra* note 12

¹⁶ Mark Potok, *Unsweet Tea: Exploring the Ideas of the Antigovernment Movement*, Report Issue No. 138 (Summer 2010), available at <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2010/summer/unsweet-tea>.