

TESTIMONY

of

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President,
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on

the Nomination of Sonia M. Sotomayor
to be an Associate Justice of the Supreme Court of the
United States

before the
Senate Committee on the Judiciary

16 July 2009

Good morning, Mr. Chairman, Ranking Member Sessions, and distinguished Members of the Committee on the Judiciary. As National President of the Fraternal Order of Police I am the elected spokesperson of more than 327,000 rank-and-file police officers—the largest law enforcement labor organization in the United States.

I am very pleased to have this opportunity to testify in support of the nomination of Judge Sonia M. Sotomayor to the Supreme Court of the United States.

Before I begin I would like to thank you, Mr. Chairman, for the invitation to appear this morning. The FOP is grateful for your steadfast leadership and for your strong support of the law enforcement community.

Speaking as a law enforcement officer, I think it says a lot about the character of a young person, who won a scholarship to Princeton University, graduated *summa cum laude*, and then graduated from Yale Law School to accept as her first job in the legal field that of poorly paid prosecutor in the District of Manhattan—especially at a time when crime in our urban centers was increasing at an alarming rate. Yet this is exactly what Judge Sotomayor did.

She spent five years with that office, prosecuted many criminal cases, including a triple homicide. In this time, she put a lot of bad guys behind bars and forged an excellent working relationship with the men and women working the beat in Manhattan. She earned their respect and a reputation as being tough, which in our profession is a compliment.

After several years in private practice, Judge Sotomayor was nominated to the U.S. District Court for the Southern District of New York by President George H.W. Bush in 1992. In 1998, she was named to the U.S. Court of Appeals for the Second Circuit, one of the most demanding circuits in the country, by President William J. Clinton. As an appellate judge, she has participated in over 3,000 panel decisions and authored roughly 400 opinions, handling difficult issues of constitutional law, complex procedural matters, and lawsuits involving complicated business organizations.

Some of Judge Sotomayor's critics have pounced on a few of these decisions as well as some comments made during speaking engagements and have engaged in some pretty wild speculation as to what kind of Supreme Court Justice she will make.

As a law enforcement officer, I prefer to rely on evidence and fact, not speculation, to reach my conclusions.

One such area of speculation is on her feelings toward our right to bear arms as guaranteed by the Second Amendment to the Constitution. Let there be no mistake here—I take a back seat to no one in my reverence for the Second Amendment—in fact, if I thought for an instant that Judge Sotomayor's presence on the Court posed a threat to the Second Amendment, I would not be sitting here supporting her today.

The facts, as some have already pointed out, reflect a brilliant and thoughtful jurist respectful of the law and committed to its appropriate enforcement.

Over the course of Judge Sotomayor's career, she has analyzed each case on its merits. In fact, the *Washington Post* recently ran an article which noted that she went into "uncommon detail" when reviewing and ruling on the cases which came before the appellate court. To me, that's evidence of a strong commitment to duty and to the law—two characteristics we should all expect from a judge.

Let me cite a few cases with which I am familiar because they deal with issues that every beat cop in the United States has dealt with in the real world. In *United States v. Falso*, an offender indicted on 242 counts relating to child pornography sought to have the evidence against him thrown out because the search warrant sworn out against him lacked probable cause. Judge Sotomayor's ruling held that the error was "committed by the district court in issuing the warrant, not by the officers who executed it." The conviction was upheld.

Similarly, in *United States v. Santa* she ruled that law enforcement officers executing a search of a suspect based on an arrest warrant they believe to be active and valid should not result in the suppression of evidence even if the warrant had, in fact, expired.

In *United States v. Howard*, she overturned the district court's decision to suppress evidence of drug trafficking by finding warrantless automobile searches to be constitutional.

And in *United States v. Clarke*, she held that law enforcement officers did not violate the Fourth Amendment by asking to see the VIN plate under the hood of a vehicle after discovering that the VIN plate on the dashboard was missing.

All of these rulings show that Judge Sotomayor got at least as much of her legal education from her five years as a prosecutor as she did at Yale Law School. These five years, in my view, reflect the same kind of commitment to the law that I see in the officers I represent.

Law enforcement officers have to make difficult decisions every day, many of which involve enforcing the law and safeguarding the rights of a suspected offender.

Judge Sotomayor clearly demonstrates she understands the fine line that officers must walk and, in her rulings, reflect a working knowledge—not a theoretical knowledge—of the everyday realities of law enforcement work. After reviewing her record, I can say that Judge Sotomayor is a jurist in whom any beat cop could have confidence.

It is for this reason that the Executive Board of the National FOP unanimously voted to support her nomination to the Supreme Court.

I believe that the President has made a fine choice in Sonia M. Sotomayor for the Supreme Court of the United States.

I also want to emphasize that, in addition to the FOP, all major law enforcement organizations have announced their support for her nomination.

She is clearly well-qualified and also possesses the requisite knowledge, experience, and legal

acumen to serve on our nation's highest court and I hope the Committee will send her nomination to the Senate floor as expeditiously as possible.

Thank you again, Mr. Chairman, for the invitation to appear today, and to all the Members of the Committee for their kind attention. I would be pleased to answer any questions you may have.