

1131



January 10, 2006

The Honorable Patrick J. Leahy, Ranking Democratic Member
United States Senate Committee on the Judiciary
433 Russell Senate Office Building
Washington, D.C. 20510

RE Nomination of Samuel J. Alito to the
United States Supreme Court

Dear Senator Leahy:

We are writing to you because as a member of the Senate Judiciary Committee you will be voting on a nomination that could affect the lives of people with disabilities for several years to come.

The Independent Living Resource Center San Francisco (ILRCSF) is a non-profit organization whose core values include choice, consumer leadership, and full access to and inclusion in the community. We serve people with all types of disabilities by providing direct services and educating the community. As members of the National Council on Independent Living (NCIL) we also broadly advocate for people with disabilities throughout our nation. We oppose Judge Alito's nomination to the Supreme Court primarily because of his past narrow interpretations of Congress' authority to pass civil rights laws.

Although Judge Alito has a mixed record on disability issues we believe that his past decisions and opinions regarding the powers that authorize Congress to pass civil rights laws to enforce the Fourteenth Amendment's guarantee of equal protection, due process of law, etc. provides a strong basis for our concerns regarding the future of disability legislation such as:

- The Americans with Disabilities Act (ADA)
- Section 504 of the Rehabilitation Act
- The Fair Housing Amendments Act
- The Family and Medical Leave Act (FMLA)
- The Individuals with Disabilities Education Act (IDEA)

Independent Living Resource Center San Francisco

649 Mission Street, 3rd Floor • San Francisco, CA 94105-4128 • (415) 543-6222 • (415) 543-6318 Fax • (415) 543-6698 TTY only
www.ilrcsf.org

There are several examples of rulings that cause us concern. In the interest of time we are choosing to only cite a couple of examples in this letter:

Chittister v. Department of Community and Economic Development – In this case Judge Alito ruled that Congress lacked the power to pass the Family and Medical Leave Act (FMLA). In a similar case the Supreme Court, including Justice O'Connor, upheld Congress' power to enact this provision. This narrow view could result in the Americans with Disabilities Act being at risk.

Lapid Laurel, L.L.C. v. Zoning Board of Adjustment of Scotch Plains – In this case Judge Alito joined a decision that excused local zoning boards from engaging in an interactive process to determine reasonable accommodations required to provide equal access to people with disabilities in the rental process. This decision weakened the protections of the Fair Housing Amendments Act and showed Judge Alito's concern with protecting state and local governments from litigation over protecting people with disabilities from discrimination.

We urge you to oppose Judge Alito's nomination to the Supreme Court. The history of disability rights legislation has been one of bipartisan support for the last three decades. If Judge Alito becomes an Associate Justice of the Supreme Court it could put at risk legislation whose purpose is to level the playing field and allow people with disabilities to live full and productive lives. This is an opportunity for Senators on both sides of the aisle to prevent the freedoms and benefits of living in America from being taken away from people with disabilities and others who have fought for their rights as Americans.

Sincerely,



Herb Levine
Executive Director