

I will be recommending to the Congressional Hispanic Caucus that it oppose this nomination. Thank you very much.

[The prepared statement of Representative Gonzalez appears as a submission for the record.]

Chairman SPECTER. Thank you, Representative Gonzalez.

We now turn to another Member of the House of Representatives. Representative Debbie Wasserman Schultz serves the 20th Congressional District of Florida. Her resume notes—and since it is on her resume, I will read it—she is the first Jewish Congresswoman ever elected from Florida to the House. She serves on the Financial Services Committee and the Committee on the Judiciary.

Thank you for joining us, Congresswoman Wasserman Schultz, and you have 8 minutes.

STATEMENT OF HON. DEBBIE WASSERMAN SCHULTZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Representative WASSERMAN SCHULTZ. Thank you very much. Good afternoon, Mr. Chairman, Senators. I am honored to speak to you as you consider the nomination of an individual to a lifetime position on the Supreme Court. And I come before you today in several capacities.

First, I am here as a Member of Congress, proudly representing the people of South Florida.

Second, I am here as a member of a generation that benefited from long-fought Supreme Court battles, resulting in equal rights for all Americans, which is a fundamental principle of our democracy.

Third, I am here in my most rewarding role: as the mother of three young children who will come of age in an America guided by many of the decisions that this Court will make.

I cannot imagine my children's future in an America without privacy rights and the civil rights and liberties that all Americans enjoy today.

These are the reasons that I am here today, to express the concerns about the rights and freedoms that, based on his record, I believe would be threatened by Judge Alito's elevation to the Supreme Court. And, therefore, I urge you to reject his nomination.

By now we are all very familiar with Judge Alito's writings and views on reproductive rights, each one indicating a different nuance of his opinion on a woman's right to choose. But really here is the bottom line: You are considering a nominee who wrote a memo urging the courts to restrict a woman's right to make her own reproductive choices. Judge Alito ruled, actually ruled in support of spousal notification. In essence, he is comfortable putting a woman's constitutional right to make decisions about her body in the hands of her spouse as soon as she signs her marriage license.

This blatant disregard for individual rights is why our Founding Fathers designed a meaningful system of checks and balances. And once any branch of Government surrenders itself to the others, that authority is difficult to regain.

Now, I come from a State where Executive power and Government intrusion on privacy rights has been repeatedly abused. Florida's Governor pushed the State legislature to grant him authority

to overturn a judicial decision in the Terry Schiavo case, and Congress inserted itself into that family's private tragedy.

Ultimately, the case could have reached the Supreme Court. Now, let's think about this for a minute. Can America risk Justice Alito, a Supreme Court Justice Alito, casting the deciding vote to drag us through another tragic saga similar to the Terry Schiavo case? I don't think America can endure another Terry Schiavo case.

In another disturbing privacy matter, Judge Alito's lack of judgment, I believe, was appalling. In this case, a police officer strip-searched a 10-year-old girl and her mother. They were not named in the search warrant; they were simply on the premises.

According to the Boston Globe, the 10-year-old girl's lawyer later reported Judge Alito as saying, "Why do you keep bringing up the fact that this case involves the strip-search of a 10-year-old child?"

Why? Because this was not a simple case of whether or not the officers exceeded their investigative authority. It escalated to an unconscionable level.

Judge Alito was the only member of a three-judge panel who found the strip-search of the 10-year-old acceptable under his interpretation of the law.

Now, I am horrified that someone could strip-search my children because of selective interpretation of a warrant.

And as you consider this nomination, I ask you to reflect: Would you be comfortable if your own child was the subject of a strip-search? Based on his record, would you be comfortable if your little girl was the plaintiff with Judge Alito as the deciding vote?

The standard must be higher when cases involve the most vulnerable members of our society—our children. When enforcement authorities lapse, our courts must not.

Now, despite his questionable affiliations with discriminatory organizations such as the Concerned Alumni of Princeton, there is no question, as has been acknowledged by many others, that Judge Alito had impressive education credentials and he had led a distinguished career. But credentials alone do not qualify an individual for elevation to the Supreme Court.

Senators, as you contemplate the profound influence Justice O'Connor's successor will have on the lives, liberties, and legal protections of Americans for decades to come, I ask you to consider that Judge Alito is a nominee who will replace one of only two women Justices. This really reflects a missed opportunity to retain or even expand, as my colleague referred to, the existing diversity of the Court.

Now, I distinctly remember the feeling that I had in 1981, Mr. Chairman, when I was 14 years old and I first heard that a woman would serve on the Supreme Court. It proved to me what my parents had told me my whole life: that in America, little girls really can grow up and be anything that they want to be. That is an amazing thing about this country, and it is one that we really need to carefully think about, especially with the selection and elevation of a Supreme Court nominee. The message that we send to little girls in America really needs to be a strong one when it comes to nominations like this one.

The Supreme Court, Senators, is the final arbiter in our Nation, and today you stand as the guardians to its membership. From

Marbury v. Madison to *Brown v. Board of Education*, the fingerprints of the U.S. Senate have subtly steered the highest Court in this Nation time and again. And long after we have completed our public service here, the decisions made by the Supreme Court will continue to impact all Americans, and history will really judge your decision.

And I just want to close by just asking you to think about the role of the legislative branch. I have served as a legislator in the State legislature or in the Congress for the last 13 years, and I think we should zealously guard our legislative authority. We are, after all, the only directly elected branch of Government. And I think we need to carefully think about how this nominee thinks about our role in the governmental process. I think many of his views have demonstrated that given his belief in a unitary Executive or, at the very least, the strength of the Executive, we should carefully think about how we believe our role as legislators would be compromised if he was elevated to the Supreme Court.

Thank you very much for this opportunity.

[The prepared statement of Representative Wasserman Schultz appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Congresswoman Wasserman Schultz.

Our next witness is Mr. Jack White, associate in the San Francisco law firm of Kirkland and Ellis, graduated magna cum laude from Pepperdine Law School, editor in chief of the Law Review there; bachelor's degree from the United States Military Academy at West Point, served as an active duty officer in the Army, and continues to serve as a captain in the Reserve. He is, according to his resume, a dedicated member of the ACLU and NAACP. He was one of Judge Alito's law clerks in the 2003–04 term.

Thank you for coming from San Francisco, Mr. White, and the floor is yours, but only for 5 minutes.

STATEMENT OF JACK WHITE, ASSOCIATE, KIRKLAND AND ELLIS, LLP, SAN FRANCISCO, CALIFORNIA

Mr. WHITE. Thank you, Mr. Chairman, Senator Kennedy. I appreciate the opportunity to testify here today.

In order to provide some context for my comments, I would like to share some personal information about myself. I am the son of African-American parents born in the segregated South. Their respect for the recognition of civil liberties that enabled them to succeed and raise principled children inculcated the same respect in me. This respect is what led me to become a member of the NAACP and the ACLU. The same respect for our freedoms as Americans encouraged me to serve our country after graduating from West Point on active duty in the United States Army.

Now, as I clerked for Judge Alito, I saw a deep sense of duty, diligence, humanity, and respect for his role as a Federal appellate judge. Judge Alito required searching analysis of the factual and procedural background of every case. He required thorough evaluation of the applicable law in every case. He uniformly applied the relevant law to the specific facts of every case. Judge Alito recognized that every case was the most important case to the parties and attorneys with something at stake. There was no wavering