

**STATEMENT OF REGINALD M. TURNER, JR., PRESIDENT,  
NATIONAL BAR ASSOCIATION, DETROIT, MICHIGAN**

Mr. TURNER. Thank you very much, Mr. Chairman. To Chairman Specter and to all the members of the Committee, the National Bar Association appreciates this opportunity to address you on behalf of the network of over 20,000 lawyers of color who are members of the National Bar Association and on behalf of our 80 affiliates across the Nation and around the world.

Here with me today is the Chair of the National Bar Association's Judicial Selection Committee, Assistant Dean Alfreda Robinson from the George Washington University School of Law, who has worked tirelessly to prepare us for this moment. We are also joined by Theodore Shaw, the Director-Counsel of the NAACP Legal Defense and Educational Fund, whose efforts have contributed to the advancement of civil rights and civil liberties for well over a decade.

The significance of the confirmation of the Chief Justice of the United States cannot be overstated. We ask this Committee to ensure that any nominee is extraordinarily qualified before giving this esteemed position.

The National Bar Association has established a fair process and fair criteria for evaluating judicial nominees. We take a position on a nomination only after a complete and exhaustive review of the nominee's record. We have reviewed Judge Roberts's entire record, including his professional and educational background, and the available records of his years as a government lawyer. The record is, unfortunately, complex and troubling. It is also incomplete. Judge Roberts has impressive educational credentials and a distinguished employment history, but these credentials alone are not sufficient to qualify a lawyer or judge to be Chief Justice of the United States.

Sadly, this Nation was founded on principles and laws that denied many rights and privileges, including the right to vote and of citizenship to African-Americans and women. Throughout our history, however, the Supreme Court has helped to advance our Nation toward the ideal of equal justice under law, and the effect of that work on African-Americans is perhaps unduplicated with respect to any other people in the United States.

Many of the cases in which the Supreme Court has advanced equal justice under law have been decided by razor-thin margins, most typically five-to-four. Accordingly, the stakes in this appointment could not be higher.

As Senator Edward Kennedy stated earlier during this hearing, the devastation of Hurricane Katrina has exposed America's continued racial inequities and economic disparities. In this country, race and treatment of racial issues by the judiciary profoundly affect every aspect of American life and play critical roles in the formulation of American social, economic, and political agendas.

Accordingly, the National Bar Association must determine whether a Federal judicial nominee will interpret the Constitution and laws to effectuate racial equality and eliminate oppression.

Despite the claims of neutrality and equality, our legal system is not yet as colorblind as it should be. In *Grutter v. Bollinger*, which upheld the use of affirmative action, Supreme Court Justice Sandra

Day O'Connor acknowledged that. She said, and I quote, "in a society like our own, race unfortunately still matters."

Therefore, a judicial nominee's record should demonstrate support for constitutional principles, statutes, and legal documents that serve to extend the blessings of liberty to all Americans, including people of color.

Unfortunately, the available record on Judge Roberts precludes us from supporting his nomination. We take the position on the following grounds.

The record is incomplete, as many important documents have been withheld from this Committee and from the public. There are numerous available documents demonstrating that the nominee does not support civil rights, civil liberties, and equal justice under law. He has argued for the use of inordinately restrictive standing analysis to limit access for groups seeking to promote civil rights and civil liberties. He has argued for reducing the authority of Federal courts even to hear cases relating to civil rights and civil liberties, and he has argued for restriction of the Federal court's ability to remedy those violations.

In conclusion, on the basis of our thorough review of the available record on Judge Roberts and for the reasons cited above, the National Bar Association cannot support this confirmation.

Earlier, there was a reference to memoranda. It is really important to note that those memoranda reflecting Judge Roberts's views, which have not been repudiated during the course of these hearings, must be considered by this Committee as reflecting his current views. We thank you.

Chairman SPECTER. Thank you very much.

[The prepared statement of Mr. Turner appears as a submission for the record.]

Chairman SPECTER. A vote has been called and we are in the latter stages of it. There are a great many questions which we could benefit from on dialogue. As I have said earlier, we have invited 30 witnesses. We had many, many requests and we accommodated as many as we could, but it realistically precludes very much by way of questioning.

We have a Utah judge here. Senator Hatch, do you have a comment or two?

Senator HATCH. I do, as a matter of fact I just want to thank you all for appearing, but I just want to chat a little bit about my good friend and Utah judge here.

Judge Lindberg, given your unique and impressive personal, academic, and legal background, I think you are in a strong position to offer an opinion on Judge Roberts. Not only did you serve there at that law firm, but you have one of the strongest backgrounds of any woman lawyer in this country, as a woman with a Puerto Rican mother and a Cuban father who fled Cuba as a young child and then went on to a distinguished academic career, earning two Master's degrees and then a Ph.D. and then who went on to the Brigham Young University School of Law and got a law degree there with honors, and then knowing something of the Supreme Court from the inside from your time that you spent as a law clerk to Sandra Day O'Connor, and then working at the highest levels of the legal profession, including your work, as mentioned, as a col-