

STATEMENT OF BEVERLY JONES, LAFAYETTE, TENNESSEE

Ms. JONES. Thank you, Chairman Specter and members of the Judiciary Committee. My name is Beverly Jones, and even though Chairman Specter pronounced it LA-fayette, where I am from, it's La-FAY-ette, Tennessee. And I would like to thank the Committee for inviting me to testify in these confirmation proceedings.

If John Roberts is confirmed as Chief Justice, his decisions will impact the lives of Americans for decades to come. I hope that as you deliberate on his nomination, you will not underestimate the importance his role and decisions will have on everyone, including people like me.

If I may, Mr. Chairman, I would like to share with you the importance that the Constitution, the law, and the Supreme Court have had on my life, and for my rights as a person with a disability. I was a plaintiff in *Tennessee v. Lane*, a case that went up to the Supreme Court concerning the rights of people with disabilities to have access to the courts. The Supreme Court took the case to decide whether it could enforce the rights that Congress gave people like me under the Americans with Disabilities Act.

When Congress passed the Americans with Disabilities Act in 1990, it found that individuals with disabilities, and I quote, "have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness" based on inaccurate stereotypes.

On July 26, 1990, when President George H.W. Bush signed the law, he affirmed this finding and declared that, just as we tore down the Berlin Wall to free the people of Eastern Europe, we would tear down the barriers that keep people with disabilities from participating in society. For me the passage of the Americans with Disabilities Act was like opening a door that had been closed for so long.

I lost my ability to walk due to an automobile accident in 1984 and have used a wheelchair since that time. At the time I became disabled, I decided that I would not allow what I wanted in life to be denied because of my physical limitations. At the time of my accident, I was a wife and mother, but had little education and limited job skills. A local judge and attorney encouraged me to look into becoming a court reporter, and from there my ambitions began.

I completed court reporting school the year that the ADA was passed. But to my surprise, when I began my first assignment, I found that I could not get into many of Tennessee's courtrooms and courthouses because they were inaccessible to people who used wheelchairs. I was forced to turn down jobs or face humiliating experiences.

Approximately seven out of ten courthouses in Tennessee were inaccessible when I filed my suit. In some cases, I could not even get in the door. In the years following the passage of the ADA, some courthouses became more accessible, but even in 1998, when my lawsuit was filed, a number of the courthouses I worked in remained inaccessible to me.

Courtrooms were located only on upper floors and reachable only by climbing stairs. I was often forced to ask complete strangers to carry me up the stairs or into rooms, including nonaccessible rest-

rooms. This experience was humiliating and frightening. But as a single mom supporting myself and two kids, I could not afford to quit my job or strictly limit my work to accessible courthouses.

After the passage of the ADA, I worked tirelessly to bring the law to the attention of public officials throughout Tennessee and to encourage them to follow the law's requirements to make public buildings, including courthouses, accessible.

Because the State of Tennessee challenged the constitutionality of the ADA, my case went through the courts for 6 years without any court reaching the substance of my claims. In 2004, my case reached the United States Supreme Court, which voted by a 5-4 margin to uphold my right to enforce the Americans with Disabilities Act's protections.

Many changes have been made in Tennessee as a result of the ruling, and I am now able to do my job with much greater ease and without humiliation or danger. My case is over. But what I have been able to accomplish with the help of Congress is not the end of the issue. For me it would be a hollow victory to see *Tennessee v. Lane* as the end of the road. There are too many others who need the protections of the law and the Constitution.

In fact, Congress's power to enact the ADA will be considered again on November 9, 2005, when the Supreme Court will hear a case called *Goodman v. Georgia*. This case involves a man who is in prison in Georgia and is a paraplegic, just as I am. He requires a wheelchair to move about. This man is confined in a 12-foot-by-3-foot cell for 23 to 24 hours a day because of the inaccessibility of the prison facilities. He has to sleep in his wheelchair because his bed is inaccessible, and he has suffered broken bones because of his attempts to transfer from his wheelchair.

On November 9th, the Court will consider whether Congress has the power to ensure that this man will be permitted to access the same services as every other prisoner in that facility. Just as I do not know Judge Roberts, I do not know Tony Goodman. I do not know if he is a good person or a bad person. But that is not the point. All I know is that just as I should not have had to endure the humiliation, embarrassment, fear, and pain that I did for more than 14 years, he should not either. And if John Roberts is confirmed to Chief Justice, he must know that there are many others like Tony Goodman who need the protection of the law.

If confirmed, the role that Judge Roberts will play in defining the boundaries of the Constitution and the power of Congress to protect citizens just like me is critical. It is my hope that the Senate will carefully review the record of John Roberts to determine if he is committed to the protection of the rights and freedoms of every American.

I am not here today as an expert on John Roberts's record. I am here today to tell my story. But I do know that there are many within the disabled community who believe that John Roberts's record with respect to disability rights raises serious concerns. I understand that John Roberts has advocated that the Americans with Disabilities Act should be narrowly interpreted to protect only the so-called truly disabled. Because my case involved Congress's power to enact the Americans with Disabilities Act, I understand just how important it is to ensure that the judges on our courts re-

spect Congress's authority to provide protections that are so desperately needed. Without the protections that Congress guaranteed in the Americans with Disabilities Act, my life and the lives of millions of others with disabilities would be a lot harder.

For all of these reasons, I urge the Senate to pay close attention to whether John Roberts has proven that he would ensure that the rights that people with disabilities fought so hard to secure are not stripped away.

Members of the Senate, I hope that you will give John Roberts's record very careful scrutiny before voting on his nomination. I hope that the rights of millions of Americans with disabilities are important enough to merit that type of careful consideration.

Thank you.

[The prepared statement of Ms. Jones appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Ms. Jones, for your very poignant story.

As I had said earlier, we have many, many witnesses today. We still have 12 more witnesses to hear. And while there are many questions which would be very fruitful, when we divided up the witnesses, 15 for the Democrats and 15 for the Republicans, we wanted to bring on as many people as we could to hear your stories and see your faces and take your pulse and see the quality of your testimony and passion, both for and against. But I am not going to ask any questions. I am just going to make one observation.

As to your case, Ms. Jones, I had a chance to talk to your lawyer, and there is very strong sentiment in this Congress on both sides of the aisle to protect Americans with disabilities. Senator Dole, who is not with us any longer, has been a real leader, but people on this dais now were very instrumental in that legislation. And we are not going to let the Supreme Court get away with congruence and proportionality. Your lawyer is nodding in the affirmative. I think that point was made fairly emphatically so that congressional will reflecting the people and having very important social programs will be carried out.

Senator Leahy, do you have questions?

Senator LEAHY. I don't have a question, but just to say this, Mr. Chairman. One, I applaud what you said, but when I voted for the Americans with Disabilities Act, I voted for the Act that I expected would be enforced. I voted for an Act that would open those doors. I voted for the Act so that Beverly Jones could go to work and others could, and one of my dearest friends who spends his life in a wheelchair, that he can go anywhere he wants. And if you knew him, you would know he wants to go where he wants.

We will keep on working to make sure it is enforced.

Chairman SPECTER. Thank you, Senator.

Senator LEAHY. That wasn't an empty gesture to vote for it. We want an Act that is actually going to work, and Republicans and Democrats alike joined hands on that one.

Chairman SPECTER. Thank you, Senator Leahy.

Senator Hatch, questions?

Senator HATCH. Yes. Ms. Jones, I managed the bill on the floor for our side, and was one of the prime authors, so we are on your side on this.

Ms. JONES. Thank you.

Senator HATCH. The Supreme Court is one thing, we are another, and we will surely try to make sure that your rights are protected.

I just have one question for you, Ms. Greenberger, and that is, has your organization ever endorsed a Republican nominee for the Supreme Court?

Ms. GREENBERGER. Well, our organization actually rarely takes positions. In fact, the very first time we ever—

Senator HATCH. Have you ever been in favor of a Republican nominee—maybe I should put it that way—for the Supreme Court?

Ms. GREENBERGER. We have rarely taken a position period, and I do not think that is probably—I do not think we have.

Senator HATCH. I do not either.

Ms. GREENBERGER. On the other hand, there are a number of Republican nominees for the Supreme Court that we have not opposed, and of course, many women's organizations that are a part in the coalition, were very strong supporters of Sandra Day O'Connor's nomination. At that period in our history we had not ever taken a position with respect to a judicial nomination and did not up until the late '80's.

I think what we learned over time as an organization that is so involved with the courts, is that when we work on legislation like Title IX or we try to represent clients like Mr. Jackson, if the judges are hostile and do not have the kind of open mind that we are looking for, whatever their political persuasion may be, then there really is not the sense of justice at the end of the day, and those legal rights do not really matter.

Senator HATCH. I think whether they are Republicans or Democrats, they ought to have an open mind on women's issues. I do not think there is any question about that.

Ms. GREENBERGER. Absolutely.

Senator HATCH. Your organization is closely affiliated with the Alliance for Justice and the National Organization for Women as well?

Ms. GREENBERGER. Well, we are a member of the Alliance. The National Organization for Women is an organization that we have worked with on a range of different issues, like many, many different types of organizations of all different sorts over the many years that we have worked, whether it is involving child care or involving some of the issues where, Senator Hatch, you have been a strong supporter, like child care.

Senator HATCH. I think it does some good. Let me ask you this. What I am trying to get to is do you know of any Republican, let us just say from Chief Justice Rehnquist, when he was nominated for Chief Justice, on through till today, who your organization, Alliance for Justice or NOW has ever supported or has ever found to be worthy of being on the Supreme Court?

Ms. GREENBERGER. Well, I cannot speak for those two organizations, but I know that there are a number of Republican judges over time who have been some of the strongest supporters for civil rights and women's rights. There has been a very proud tradition, a bipartisan tradition of justice and equity over the Nation's history that has not been limited by party. And that is certainly what I would hope that we would be able to see in the future.