

# Leahy: Sotomayor Confirmation Hearing To Begin July 13

WASHINGTON (Tuesday, June 9, 2009) - Senate Judiciary Committee Chairman Patrick Leahy (D-Vt.) Tuesday announced that hearings to consider the nomination of Judge Sonia Sotomayor to be an Associate Justice of the U.S. Supreme Court will begin on July 13.

In a statement on the Senate floor, Leahy said, "This is a schedule that tracks the process the Senate followed by bipartisan agreement in considering President Bush's nomination of John Roberts to the Supreme Court in 2005. That agreement was reached before the Committee received the answers to the bipartisan questionnaire, and before the Committee had received any of the 75,000 pages of documents from his years working in Republican administrations. If 48 days were sufficient to prepare for that hearing, in accordance with our agreement and the initial schedule, it is certainly adequate time to prepare for the confirmation hearing for Judge Sotomayor."

Chief Justice John Roberts was confirmed 72 days after he was designated to be an Associate Justice of the Supreme Court. Under a similar timeline, Sotomayor's nomination should be confirmed by August 6, before the Senate recesses for August.

On May 26, President Obama announced his designation of Sotomayor to succeed retiring Justice David Souter. On June 4, Sotomayor returned the completed bipartisan Committee questionnaire.

Sotomayor served as an assistant district attorney in New York City and in private practice before being confirmed to the federal district court in 1992. In 1998, she was confirmed to the Second Circuit Court of Appeals. Her public record has been subject to analysis since her name emerged as one of the leading contenders to replace Justice Souter. Despite her strong public record, Sotomayor has been the subject of character attacks from conservative commentators and others.

"There is no reason to unduly delay consideration of this well-qualified nominee," Leahy said. "Indeed, given the attacks on her character, there are compelling reasons to proceed even ahead of this schedule. She deserves the earliest opportunity to respond to those attacks."

Leahy continued, "In selecting this date I am trying to be fair to all concerned. I want to be fair to the nominee and allow her the earliest possible opportunity to respond to the attacks made about her character. It is not fair for her critics to be calling her racist without allowing her the opportunity to respond. I do not want to see this historic nomination of Sonia Sotomayor treated unfairly or less fairly than the Senate treated the nomination of John Roberts."

In 2005, Senate Republicans threatened to hold confirmation hearings on Roberts' nomination just six weeks after he was designated to fill retiring Justice Sandra Day

O'Connor's seat on the Supreme Court. The hearing was instead scheduled to be held one week later, after Senate Democrats agreed to waive the right to hold over for one week a Committee vote on the nomination, to submit written questions for the record within 24 hours of the conclusion of the hearing, and to allow a Committee vote just 6 days after the conclusion of the hearings. Leahy has scheduled the Sotomayor hearings to begin seven weeks after her designation, but has not received similar assurances from Senate Republicans.

Further details about the hearing, including information about how the public and members of the press will be able to attend the proceedings, will be released in the coming weeks.

Leahy's full statement, as prepared, follows.

[Confirmation Hearings: A Timeline That Is Fair To Senators, And Fair To The Nominee](#)

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**Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
Regarding The Nomination Of Judge Sonia Sotomayor  
To Be An Associate Justice On The U.S. Supreme Court  
June 9, 2009**

*As Prepared*

Today, I am announcing that the Senate Judiciary Committee will hold the confirmation hearing on the nomination of Judge Sonia Sotomayor to be an Associate Justice on the United States Supreme Court on July 13.

I have talked and met with Senator Sessions, the Committee's Ranking Member, several times to discuss the scheduling of this hearing. I will continue to consult with Senator Sessions to ensure that we hold a fair hearing. We were able to work cooperatively to send a bipartisan questionnaire to Judge Sotomayor within one day of her designation by President Obama. Last week the Committee received her response to that questionnaire. We also received other background information from the administration, as well as the official presidential nomination.

This is a reasonable schedule that is in line with past experience and that will allow several more weeks for Committee members to prepare for the hearing. There is no reason to unduly delay consideration of this well-qualified nominee. Indeed, given the attacks on her character, there are compelling reasons to proceed even ahead of this schedule. She deserves the earliest opportunity to respond to those attacks.

This is a responsible schedule that serves the many interests involved: the American people's stake in a process that is fair and thorough but not needlessly prolonged; the Senate, which needs sufficient time to prepare for confirmation hearings, and which has a full legislative plate of additional pressing business in the weeks and months ahead that is

of great importance to our constituents and to the Nation; the Third Branch of government, which depends on the other branches of government to fill Court vacancies in our independent judiciary; the President, who has nominated Judge Sotomayor; and the nominee herself, who, as a judge, will not be able to defend herself from these attacks until hearings are convened. The Justice who takes Justice Souter's place for the Court session that convenes Oct. 5 also will need as much time as possible before then to hire clerks, set up an office and take part with the rest of the Court in the preparatory work that precedes the formal start of the session.

This is a schedule that tracks the process the Senate followed by bipartisan agreement in considering President Bush's nomination of John Roberts to the Supreme Court in 2005. At that time, I served as the Ranking Minority Member of the Judiciary Committee. I met with our Republican Chairman, and we worked out a schedule that provided for his hearing 48 days after he was named by President Bush. That agreement was reached before the Committee received the answers to the bipartisan questionnaire, and before the Committee had received any of the 75,000 pages of documents from his years working in Republican administrations. And of course, that nomination was to replace Justice O'Connor, who was recognized to be the pivotal vote on the Supreme Court. If 48 days were sufficient to prepare for that hearing, in accordance with our agreement and the initial schedule, it is certainly adequate time to prepare for the confirmation hearing for Judge Sotomayor.

My initial proposal to Senator Sessions was that we begin the hearing on July 7, following the Senate's return from the July 4 recess. I have deferred the start date to July 13 in an effort to accommodate our Republican members. With bipartisan cooperation, we should still be able to complete Judiciary Committee consideration of the nomination during the last week in July, and allow the Senate to consider the nomination during the first week in August, before the Senate recesses on August 7.

In selecting this date I am trying to be fair to all concerned. I want to be fair to the nominee and allow her the earliest possible opportunity to respond to the attacks made about her character. It is not fair for her critics to be calling her racist without allowing her the opportunity to respond.

I also want to conclude the process without unnecessary delay so that she might participate fully in the deliberations of the Supreme Court selecting cases and preparing for its new term. In his May 1 letter to President Obama, Justice Souter announced his resignation effective "when the Supreme Court rises for the summer recess this year," which will happen later this month. Thereafter, the Supreme Court prepares for the next term. To participate fully in the upcoming deliberations, it would be helpful for his successor to be confirmed and able to take part in the selection of cases as well in preparing for their argument.

I am merely following the timeline we followed with the Roberts nomination. The timeline for the Alito nomination provides no reason to delay the hearing for Judge Sotomayor. It presented a very different situation in many ways. For one thing, that nomination was made with no consultation by President Bush. By contrast, President Obama devoted several weeks to consultation with both Republicans and Democrats

before making his selection. The Alito nomination was President Bush's third nomination to succeed Justice O'Connor. It followed four months of intense effort by the Judiciary Committee, beginning with Justice O'Connor's announcement on July 1. And finally, the Christmas holidays helped account for the timing of those hearings. I do not believe Bastille Day requires us to delay the confirmation hearings for the first Hispanic nominated to the Supreme Court for an additional six weeks.

Some may recall that Justice O'Connor's resignation in 2005 was contingent on the "nomination and confirmation of [her] successor." She continued to serve on the Supreme Court when its new term began in October 2005, and until Justice Alito was confirmed at the end of January 2006. In addition, proceedings to fill that vacancy involved a more extended process, not only because Justice O'Connor represented a pivotal vote on the Supreme Court on so many issues, but because President Bush first nominated John Roberts and then withdrew that nomination, then nominated Harriet Miers and withdrew her nomination when Republicans and conservatives revolted, and finally nominated Samuel Alito. The nomination of Judge Alito was the third Supreme Court nomination that the Senate was asked to consider, and followed the withdrawal of the Miers nomination by only three days.

Given that sequence of events, and the then upcoming Christmas holiday, that hearing on the late October nomination of Samuel Alito was appropriately scheduled by the Republican Chairman to begin after the New Year. In addition, Judge Alito did not return his questionnaire until November 30. His hearing was held 40 days after his questionnaire was returned, which includes the Christmas and the holiday period. That is substantially equivalent to the 39 days between the time receipt of Judge Sotomayor's questionnaire response and her hearing.

Of course, in the case of the current nomination, Judge Sotomayor had been reported to be a leading candidate for the vacancy as soon as it arose on May 1, and her record was being studied from at least that time forward. The right wing groups attacking her were doing so long before she was named by the President on May 26, and those attacks have intensified since her designation.

I do not want to see this historic nomination of Sonia Sotomayor treated unfairly or less fairly than the Senate treated the nomination of John Roberts. In 2005, when President Bush made his first nomination to the Supreme Court, Senator McConnell, then the Majority Whip, asserted that the Senate should consider and confirm the nominations within 60 to 70 days. We worked hard to achieve that.

The nomination of Judge Sotomayor should more easily be considered within that timeframe. Judge Sotomayor has been nominated to succeed Justice Souter, a like-minded, independent and fair Justice, not bound by ideology, but one who decided each case on its merits and in accordance with the rule of law. We have the added benefit of her career being one that includes her service on the judiciary for the past 17 years. Her judicial decisions are matters of the public record. Indeed, when my staff assembled her written opinions and offered them to the Republican staff, they declined, because they already had them and were reviewing them. We have the benefit of her judicial record being public and well known to us. We have the benefit of her record having been a

subject of review for the last month, since at least May 1, when she was mentioned as a leading candidate to succeed Justice Souter. We have the benefit of having considered and confirmed her twice before, first when nominated to be a judge by a Republican President and then when elevated to the circuit court by a Democratic President. We have the benefit of not having to search through presidential libraries for work papers of the nominee. By contrast, the 75,000 pages of work papers for John Roberts required extensive time and effort to retrieve them from presidential libraries and to overcome claims of privilege. In fact, they were still being received just days before the hearing.

To delay Judge Sotomayor's hearing until September would double the amount of time that Republicans and Democrats agreed was adequate to prepare for Judge Roberts' hearing. That would not be fair or appropriate. That would not be equal treatment.

Unlike the late July nomination of John Roberts, this nomination of Judge Sotomayor by President Obama was announced in May. Unlike the resignation of Justice O'Connor that was not announced until July, the retirement of Justice Souter was made official on May 1. Given that the vacancy arose two months earlier, and the nomination was made after bipartisan consultation two months earlier, by following the Roberts roadmap, we should be able to complete the process two months earlier. We should be able to complete the entire process by the scheduled recess date of August 7.

Of course, while the Roberts nomination was pending, Chief Justice Rehnquist passed away and President Bush decided to withdraw the initial nomination to be an Associate Justice, and proceeded to nominate John Roberts to succeed the Chief Justice, instead. We did not insist that the process start over; rather, we continued to move forward. It was the aftermath of Hurricane Katrina, with its destruction and toll in damage and human life, that pushed the start of the hearings back one week, by bipartisan agreement.

We were still able to complete Senate consideration and the Senate confirmed John Roberts to be the Chief Justice of the United States 72 days after he was initially designated to be an Associate Justice. We did this despite the fact that his initial nomination was withdrawn and he was renominated to serve as the Chief Justice of the United States. We did this despite the terrible aftermath of Hurricane Katrina that required a week's delay in beginning the Roberts confirmation hearing. Seventy-two days after Judge Sotomayor was designated to the Supreme Court will be August 6.

Her historic nomination should be treated as fairly as the nomination of John Roberts was treated by the Senate. Given the outrageous attacks on Judge Sotomayor's character, I do not think it fair to delay her hearing. I cringed when I was that during the courtesy visit Judge Sotomayor paid to Senator McConnell, reporters shouted questions about conservatives calling her a racist. She had to sit there silently and could not respond. She deserves that opportunity as soon as possible.

The hearing is also the opportunity for all Senators on the Judiciary Committee, both Republicans and Democrats, to ask questions, raise concerns and evaluate the nomination. As Senator Sessions' Saturday radio speech ably demonstrates, Republican Senators are already prepared to ask their questions. Last week, we were considering

another judicial nomination at the meeting of the Judiciary Committee when Senator Kyl suggested that he may oppose all of President Obama's nominees given what he views as the criteria President Obama is considering in selecting them. Republicans have questioned whether her recognition that she brings her life experience with her, as all judges do, is somehow disqualifying. Our Republican colleagues say that they intend to ask her about her judicial philosophy. It does not take four months to prepare to ask these questions. They have already raised them. They will surely be prepared to ask them more than a month from now. Her hearing on July 13 will, in effect, afford 10 weeks for them to have prepared.

I hope that the Republican Senators who are members of the Judiciary Committee will cooperate. This is a schedule that I think is both fair and adequate - fair to the nominee and adequate for us to prepare for the hearing and Senate consideration. There is no reason to indulge in needless and unreasonable delay. This is an historic nomination. It should unite the American people and the Senate. Hers is a distinctly American story. Whether you are from the South Bronx, the South Side of Chicago or South Burlington, the American Dream inspires all of us, and her life story IS the American Dream. And so is the journey of the President who nominated her.

Some are simply spoiling for a fight. There have been too many unfair attacks, people unfairly calling her racist and bigoted. I know Sonia Sotomayor, and nothing could be further from the truth. These are some of the same people who vilify Justice Souter and Justice O'Connor. Americans deserve better. There are others who have questioned her character and temperament. She deserves a fair hearing, not trial by partisan attack and assaults upon her character. Let us proceed to give her that fair hearing without unnecessary delay.

I am also disappointed that some have taken to suggesting that after 17 years as a Federal judge, including 11 as a member of the United States Court of Appeals for the Second Circuit, she does not understand "the judge's role." I know her to be a restrained and thoughtful judge. She has reportedly agreed with judges appointed by Republican presidents 95 percent of the time. Let us respect her achievements, her experience and her understanding. Let no one demean this extraordinary woman or her understanding of the constitutional duties she has faithfully performed for the last 17 years. I urge all Senators to join with me to fulfill our constitutional duties with respect.

When I met with Judge Sotomayor last week I asked her about her approach to the law. She answered that of course one's life experience shapes who you are, but "ultimately and completely"- and she used those words - as a judge you follow the law. There is not one law for one race or another, there is not one law for one color or another, there is not one law for rich and a different one for poor. There is only one law. She said ultimately and completely a judge has to follow the law no matter what their upbringing has been. That is the kind of fair and impartial judging that the American people expect. That is respect for the rule of law. That is the kind of judge she has been.

The purpose of the hearing is to allow Senators to ask questions and raise their concerns. It is also the time the American people can see the nominee, consider her temperament

and evaluate her character, too. I am disappointed that some Republican Senators have declared that they will vote no on this historic nomination and have made that announcement before giving the nominee a fair chance to be heard at her hearing. It is incumbent on us to allow the nominee an opportunity to be considered fairly and allow her to respond to false criticism of her record and her character. Those who are critical and have doubts should support the promptest possible hearing. That is where questions can be asked and answered. That is why we hold hearings.

Judge Sotomayor is extraordinarily well equipped to serve on the Nation's highest court. To borrow the phrase that the First Lady used last week, not only do I believe that Judge Sotomayor is prepared to serve all Americans on the Supreme Court, I believe that the country is "more than ready" to see this accomplished Hispanic woman do just that. This historic nomination is an occasion for the Senate and the Nation to come together. This process also is another step toward the American people regaining confidence in their judiciary. Our independent judiciary is considered the envy of the world. Though less visible than the other two Branches, the judiciary is a vital part of the infrastructure that knits our Nation together under the rule of law. This nomination keeps faith with the words engraved in Vermont marble over the entrance of the Supreme Court: "Equal Justice Under Law."

Her experience as a trial court judge will be important. Only Justice Souter of those currently on the Supreme Court previously served as a trial court judge. She has the added benefit of having been in law enforcement as a tough prosecutor who received her early training in the office of the longtime and storied New York District Attorney, Robert Morgenthau.

I appreciate that she has shown restraint as a judge. We do not need another Supreme Court Justice intent on second-guessing Congress, undercutting laws passed to benefit Americans and protect their liberties, and making light of judicial precedent.

President Obama handled the selection process with the care that the American people expect and deserve, and met with Senators from both sides of the aisle. Senator Sessions suggested to the President that it was important to nominate someone with a judicial record. Judge Sotomayor has more judicial experience than any nominee in recent history.

I wanted someone outside the judicial monastery, and whose experiences were not limited to those in the rarified air of the Federal appellate courts. Her background as someone who was largely raised by a working mother in the South Bronx, who has never forgotten where she came from, means a great deal to me. Judge Sotomayor has a first-rate legal mind and impeccable credentials. I think she combines the best of what Senator Sessions and I recommended that the President look for in his nominee.

The Supreme Court's decisions have a fundamental impact on Americans' everyday lives. One need look no further than the Lilly Ledbetter and Diana Levine cases to understand how just one vote can determine the Court's decision and impact the lives and freedoms of countless Americans.

I believe Judge Sotomayor will continue to do what she has always done as a judge - applying the law to the case before her. I do not believe she will act in the mold of conservative activists who second-guess Congress and undercut laws meant to protect Americans from discrimination in their jobs and in voting, to protect the access of Americans to health care and education, and to protect their privacy from an overreaching government.

I believe Judge Sotomayor understands that the courthouse doors must be as open to ordinary Americans as they are to government and big corporations.

President Obama is to be commended for having consulted with Senators from both sides of the aisle. Now the Senate's duty comes to the fore. I hope that all Senators now will work with me to move forward to consider this nomination in a fair and timely manner.

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