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January 9, 2006

Members
United States Senate
Committee on the Judiciary
Washington, DC 20515

RE: NAACP URGES THOROUGH REVIEW OF JUDGE SAMUEL ALITO'S TROUBLING RECORD ON CIVIL RIGHTS & CIVIL LIBERTIES DURING JUDICIARY COMMITTEE HEARING

DEAR SENATOR:

As you are aware from earlier correspondence, the NAACP is opposed to the nomination of Judge Samuel Alito to the United States Supreme Court based on our thorough review of his dismal record on upholding civil rights and civil liberties protections. As such, we would urge you, as a member of the Senate Judiciary Committee, to use your position and your Constitutionally-mandated responsibility to thoroughly review Judge Alito's record on civil rights and civil liberties and to try to determine the extent to which Judge Altio is likely to preserve the civil rights of Americans if he is confirmed to our Nation's highest court.

The Supreme Court is, in many cases, the last opportunity for many Americans to assert their rights and ensure the protection of their liberties. Many of the civil rights gains that have been made over the past 50 years are a result of Supreme Court rulings. Thus, the NAACP feels that it is of the utmost importance that any nominee to the Court is clear about his or her intentions to protect the civil rights gains that have been made over the past 5 decades and have always been promised to us by the US Constitution.

Of specific concern to us from Judge Alito's past history is:

- In a 1985 job application for a position with the Reagan Administration, Judge Alito disagreed in writing with the Warren Court's reapportionment decisions now known as "one man, one vote", which are among the Court's most widely accepted decisions on civil rights and equal representation. The "one man, one vote" theory is also one of the basic tenets of Voting Rights that the NAACP has fought for;
- In the 1993 case *Grant v. Shalala* Judge Alito ruled against a class action alleging racial and other bias by an Administrative Law Judge when determining Social Security benefits, arguing that the Court of Appeals lacked the authority to conduct a trial and make independent findings on actions taken by an Administrative Law Judge for the Social Security Agency. In a strongly worded dissent to the Alito ruling, Judge Leon Higginbotham said that the decisions is "...effectively have courts take a back seat to bureaucratic agencies in protecting constitutional liberties. This...is a radical and unwise redefinition of the relationship between federal courts and federal agencies."

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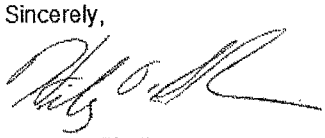
- In the 1997 case *Bray v. Marriot* Hotels, Judge Alito strongly dissented from a Third Circuit ruling and made it clear that he supports impossibly high barriers for victims of discrimination to have their cases heard;
- In a separate 1997 case, *Riley v. Taylor*, Judge Alito held that a prosecutor was not motivated by race in striking all African Americans from the jury of a death-penalty case involving an African American defendant. When the defendant produced statistical evidence showing the prosecution repeatedly African Americans from juries, Judge Alito contended that this was irrelevant and likened it to a study showing that a disproportionate number of recent Presidents have been left-handed
- In a 2004 case, *Doe v. Grody*, Judge Alito dissented from a ruling against police officers who had strip-searched a woman and her 10-year-old daughter while executing a search warrant authorizing the search of her husband and their home.

In short, during the course of the NAACP's investigation into Judge Alito's past we became convinced that he is unfit to sit on the United States Supreme Court because race and gender are still a real problem in the United States; a fact he appears to neither recognize nor appreciate.

Accordingly, as I said earlier, I hope you will ask tough questions, and demand thorough answers, during the hearings that begin today on Judge Alito to try to determine even further the extent to which he is, or is not, committed to upholding and protecting the civil rights and civil liberties of all Americans. On behalf of the NAACP, I would also like to further express our strong opposition to the nomination and our hope that you urge your Senate colleagues to oppose and defeat Judge Samuel Alito's nomination. Please contact me, or my Bureau Counsel, Crispian Kirk, at (202) 463-2940 soon to let me know your position on this matter, and to let me know what I can do to work with you to ensure that President Bush nominates, and the Senate confirms, moderate, not extremist, judicial candidates to the federal bench.

Sincerely,



Hilary O. Shelton
Director