Mothers Against Drunk Driving

P. O. Box 541688 • Dallas, Texas 75354-1688 • Telephone (214) 744-MADD • FAX (214) 869-2206/2207
NATIONAL OFFICE

TESTIMONY
OF
ROBERT L. BECK
ON BEHALF OF
MOTHERS AGAINST DRUNK DRIVING
REGARDING
THE NOMINATION OF DAVID H. SOUTER TO THE U.S. SUPREME COURT
U.S. SENATE JUDICIARY COMMITTEE
WASHINGTON, D.C.
SEPTEMBER 18, 1990

MR. CHAIRMAN, MY NAME IS ROBERT L. BECK. I AM AN ATTORNEY AND BUSINESSMAN IN DALLAS, TEXAS. I AM HERE TODAY ON BEHALF OF MOTHERS AGAINST DRUNK DRIVING (MADD) TO TESTIFY IN FAVOR OF THE NOMINATION OF DAVID H. SOUTER TO THE UNITED STATES SUPREME COURT.

IN 1982, I JOINED MOTHERS AGAINST DRUNK DRIVING AFTER MY ONLY SON, MICHAEL, AND HIS FIANCEE, LORI PFANN, WERE KILLED BY A DRUNK DRIVER. I AM THE IMMEDIATE PAST NATIONAL CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER OF MADD AND CONTINUE TO SERVE ON ITS BOARD OF DIRECTORS.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
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AS MANY OF YOU KNOW,DRUNK DRIVING IS THE MOST FREQUENTLY COMMITTED VIOLENT CRIME IN OUR COUNTRY TODAY. DRUNK DRIVERS WILL KILL MORE THAN 22,000 INNOCENT VICTIMS THIS YEAR. THEY KILL MORE THAN 60 PEOPLE EACH DAY, AND WILL KILL SEVERAL PEOPLE WHILE I GIVE THIS TESTIMONY.

THE MISSION OF MADD IS TO STOP THE DEATH AND DESTRUCTION CAUSED BY DRUNK DRIVING AND TO BE THE VOICE OF THE VICTIMS OF THIS CRIME. 1990 MARKS THE 10 YEAR POINT IN THE HISTORY OF MADD. DURING THAT 10 YEAR PERIOD, MADD HAS GROWN TO INCLUDE SOME 3,000,000 MEMBERS AND SUPPORTERS, WITH APPROXIMATELY 400 CHAPTERS ACROSS THE UNITED STATES AND OPERATIONS IN 5 FOREIGN COUNTRIES. TODAY, MADD IS THE LARGEST GRASS ROOTS ORGANIZATION OF ITS KIND IN AMERICA.

THE EDUCATION AND PUBLIC AWARENESS PROGRAMS OF MADD HAVE PLAYED A LEADERSHIP ROLE IN CHANGING PUBLIC ATTITUDES ABOUT DRUNK DRIVING. DRUNK DRIVING IS NO LONGER SEEN AS AN ACCIDENT. IT IS SEEN FOR WHAT IT IS ... A VIOLENT CRIME, COMMITTED BY WILLFULLY DRIVING WHILE IMPAIRED ... IN TOTAL DISREGARD FOR THE RIGHTS OF THE INNOCENT PUBLIC.

THIS CHANGE IN PUBLIC ATTITUDE HAS PERMITTED ENACTMENT OF MUCH TOUGHER LAWS AND STRONGER LAW ENFORCEMENT EFFORTS. THE LAW RAISING THE LEGAL MINIMUM DRINKING AGE TO 21 HAS SAVED THOUSANDS OF YOUNG LIVES. MADD, WITH THE HELP OF FEDERAL INCENTIVE GRANTS AUTHORIZED IN 1988 AS PART OF THE OMNIBUS ANTI-DRUG ABUSE ACT, IS WORKING TO ENACT ADMINISTRATIVE LICENSE REVOCATION STATUTES IN ALL STATES WHICH LACK SUCH LAWS. YOU, MR CHAIRMAN, ALONG WITH SENATOR THURMOND AND OTHERS IN THE SENATE HAVE SPONSORED LEGISLATION TO CLOSE LOOPHOLES IN THE FEDERAL BANKRUPTCY STATUTES WHICH HAVE PERMITTED CONVICTED DWI CRIMINALS TO AVOID THEIR DEBTS TO THEIR

VICTIMS BY DECLARING BANKRUPTCY. YOU HAVE ALSO SPONSORED LEGISLATION TO INCREASE THE PENALTIES FOR DRUNK DRIVING IN CASES INVOLVING YOUNG CHILDREN.

AS THE AMERICAN PUBLIC HAS LEARNED FROM MADD OVER THE PAST 10 YEARS, SO TOO HAS MADD LEARNED. WE HAVE LEARNED THAT TOUGHER LAWS AND MORE ENFORCEMENT ARE USELESS WITHOUT A STRONG, INDEPENDENT AND FEARLESS JUDICIARY TO INSURE THAT THESE LAWS ARE CARRIED OUT. MADD UNDERSTANDS THAT THE COURTS NEED TO KEEP IN BALANCE THE RIGHTS OF OUR CITIZENS AS A SOCIETY AND AS INDIVIDUALS. MADD FACES A SIMILAR CHALLENGE. WE SEEK FULL ENFORCEMENT OF THE LAW TO PROTECT ALL CITIZENS FROM THE CRIMINAL DRUNK DRIVER. THIS IS A RIGHT OF SOCIETY AS A WHOLE. YET, MADD IS ALSO AN ADVOCATE FOR THE INDIVIDUAL RIGHTS OF VICTIMS.

IN NO PLACE HAS THE IMPORTANCE OF THE JUDICIARY BEEN MORE CLEARLY PRESENTED THAN IN THE UNITED STATES SUPREME COURT, AND IN PARTICULAR, THE MOST RECENT TERM OF THAT COURT. IT SAW THE COURT WRESTLE WITH THE BALANCING OF RIGHTS IN THE SOBRIETY CHECKPOINT CASE, MICHIGAN V. SITZ, 110 US 2481 (1990) AND THE USE OF VIDEO CAMERAS, TO EXAMINE THE CONDITION OF AN ALLEGED DRUNK DRIVER IN PENNSYLVANIA V. MUNIZ, USSC NO. 89-213 (1990). WE THEREFORE SEE THE SELECTION OF JUSTICES FOR THE U.S. SUPREME COURT AS EXTREMELY VITAL TO THE INTERESTS OF MADD ... AND TO OUR NATION.

AS WE VIEW THE SELECTION PROCESS, WE TOOK A 2-PRONGED APPROACH TOWARD MAKING AN EVALUATION OF CANDIDATES. THE FIRST TEST LOOKS TO THE HISTORICAL CLARITY AND CONSISTENCY OF THE THOUGHT PROCESS FOLLOWED BY A CANDIDATE IN HIS OR HER JUDICIAL DECISIONS. THE SECOND TEST LOOKS AT THE RESULTS REACHED IN THE JUDICIAL DECISIONS AND WHETHER THEY ARE SUPPORTIVE OF THE MISSION AND GOALS OF MADD. IN THIS CASE, THE ANALYSIS FOCUSED UPON JUDGE SOUTER AND HIS JUDICIAL CONDUCT AS IT PERTAINS TO THE U.S. CONSTITUTION.

THE QUESTIONS WE CONSIDERED AS TO HIS CLARITY AND CONSISTENCY WERE:

FIRST: DID HE EVIDENCE AN OPEN MIND TOWARD DRUNK DRIVING AND RELATED CASES?

SECOND: DID HE DEMONSTRATE MENTAL ACUITY AND A SUPERIOR GRASP OF THE CONSTITUTION AND ITS HISTORY?

THIRD: WAS THERE A QUALITY OF EXCELLENCE IN HIS LEGAL ANALYSIS?

FOURTH: DID HE DEMONSTRATE JUDICIAL INDEPENDENCE; AND

FIFTH: WAS THERE A CONSISTENT APPLICATION OF ALL THE FOREGOING FACTORS?

WE REVIEWED MORE THAN 200 OF JUDGE SOUTER'S DECISIONS USING THE ABOVE CRITERIA. WE OBSERVED CONSISTENT APPLICATION OF ALL 5 CRITERIA DURING HIS CAREER.

WHILE REFERENCE TO ONE CASE OUT OF HUNDREDS HAS ITS LIMITATIONS, WE BELIEVE THAT STATE OF NEW HAMPSHIRE V. KOPPEL, 127 NH 286 (1985) IS ILLUSTRATIVE. IT WAS A SOBRIETY CHECKPOINTS CASE DEALING WITH FOURTH AMENDMENT RIGHTS ... SEARCH AND SEIZURE.

JUDGE SOUTER DEMONSTRATED HIS INDEPENDENCE IN THIS CASE AS THE SOLE DISSENTER. HE CHALLENGED THE MAJORITY, WHICH HELD THAT SOBRIETY CHECKPOINTS WERE UNCONSTITUTIONAL, BECAUSE OF THEIR DEPARTURE FROM HISTORICAL LEGAL PRECEDENT...STATE AND FEDERAL. JUDGE SOUTER'S DISSENT IN THIS CASE ALSO DEMONSTRATED AN APPRECIATION FOR THE DISTINCTION BETWEEN PROTECTION OF BASIC CONSTITUTIONAL RIGHTS AND THE DEVELOPING LAW REGARDING THE BALANCING AMONG RIGHTS.

WHILE MANY WHO HAVE BEEN INVOLVED IN SOBRIETY CHECKPOINT CASES HAVE BECOME ENSNARED IN THE EMOTIONAL ISSUES WHICH SURROUND THIS

AREA, JUDGE SOUTER DID NOT. HE SPENT HIS TIME TESTING THE RELEVANT ISSUES TIED TO BALANCING, ON ONE HAND, THE RIGHTS OF INNOCENT CITIZENS TO BE PROTECTED FROM VIOLENT CRIME, AND ON THE OTHER HAND, THE RIGHTS OF CITIZENS TO BE PROTECTED FROM UNREASONABLE SEARCH AND SEIZURE. HIS CONCLUSION NATURALLY FLOWED FROM HIS JUDICIAL REASONING AND, ON BALANCE, HE CONCLUDED THAT CHECKPOINTS WERE CONSTITUTIONALLY ACCEPTABLE.

THE FINAL LESSON LEARNED FROM KOPPEL IS THAT 5 YEARS LATER, THE U.S. SUPREME COURT IN SITZ V. MICHIGAN, 110 U.S. 2481 (1990), HELD, USING VIRTUALLY THE SAME JUDICIAL REASONING AND LOGIC AS JUDGE SOUTER IN THE KOPPEL CASE, THAT SOBRIETY CHECKPOINTS WERE PERMISSIBLE UNDER THE 4TH AMENDMENT AND WERE THEREFORE CONSTITUTIONAL.

MR. CHAIRMAN, MADD HAS NOT ATTEMPTED TO PREDICT HOW JUDGE DAVID SOUTER WILL ACT IN THE FUTURE. WE HAVE EVALUATED HOW HE HAS ACTED IN THE PAST. WE HAVE LOOKED FOR INSIGHT. WE HAVE LOOKED FOR SENSITIVITY TO THE RIGHTS OF THE VICTIMS OF DRUNK DRIVING AND THE RIGHTS OF SOCIETY TO BE PROTECTED FROM DRUNK DRIVERS. WE LIKE WHAT WE HAVE SEEN. MADD IS PROUD OF ITS ROLE IN CHANGING SOCIETY'S VIEW REGARDING DRUNK DRIVING, THE DRUNK DRIVER AND THEIR VICTIMS. WE HAVE LOOKED AT THE RECORD OF JUDGE SOUTER TO FIND IF, ON BALANCE, HIS VIEW OF CONSTITUTIONAL RIGHTS FLOWS IN THE DIRECTION OF UNDERSTANDING THE TRUE MAGNITUDE OF THE CRIME OF DRUNK DRIVING. WE HAVE CONCLUDED THAT JUDGE SOUTER AND MADD SHARE A BASIC COMMON VIEW OF THIS PARTICULAR CRIME AND ITS CONSEQUENCES. HE HAS DEMONSTRATED AN ABILITY TO BALANCE THE HISTORICAL VALUES INHERENT IN THE CONSTITUTION AND BILL OF RIGHTS WITH THE FACT THAT THOSE DOCUMENTS MUST BE RELEVANT TO CURRENT SOCIETY.

WE THEREFORE RESPECTFULLY RECOMMEND YOUR FAVORABLE CONSIDERATION OF DAVID SOUTER AS AN ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT. THANK YOU.