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Senator Patrick Leahy  
Chairman, Senate Judiciary Committee  
United States Senate  
Washington, DC

June 29, 2009

Dear Chairman Leahy:

In 1991, President George H.W. Bush appointed Judge Sotomayor to the US District Court for the Southern District of New York. Senator Al D'Amato (R-NY) led the fight for her initial Senate confirmation, which was approved by unanimous consent. Her later nomination to the US Appeals Court (Second Circuit) was made by President Bill Clinton and also moved along by then Senator Al D'Amato. She received strong bi-partisan support with a vote of 67 -29.

Some in the firearm community have leveled a number of charges against Judge Sotomayor that do not pass the truth test. In the recent case of *Maloney v. Cuomo*, a unanimous Second Circuit panel, which included Judge Sotomayor acknowledged that the landmark ruling in *District of Columbia v. Heller* confers an individual right of citizens to keep and bear arms.

The *Maloney* court also explained, as the *Heller* majority had, that earlier Supreme Court precedents had held that the Second Amendment "is a limitation only upon the power of congress and the national government and not upon that of the state." The panel noted that while *Heller* raises questions about those earlier Supreme Court decisions, the Second Circuit was obligated to follow direct precedent "leaving to the Supreme Court the prerogative of overruling its own decisions." While we are disappointed that the Supreme Court has not yet extended this right to the states, we note that Conservative Judge Frank Easterbrook of the 7th Circuit agreed with Sotomayor's ruling as being consistent with precedent. Judge Sotomayor has established herself as a model jurist in terms of respecting precedent. We suspect that her critics from the leadership of several well-known gun organizations are just as interested in supporting precedent as she is, now that the precedent to be protected is clearly enshrined within the *Heller* decision.

As the President of the American Hunters and Shooters Association, I am eager to see the Supreme Court take up the incorporation issue of the Second Amendment to the states. As a gun owner in Maryland, it is my fervent hope that the Supreme Court will extend the protections guaranteed by the Second Amendment, as defined in the *Heller* decision, to the

citizens of the United States of America who reside outside the District of Columbia, as it has with the First and Fourth Amendments.

Our own views on gun ownership notwithstanding, it is the role of the President, who was elected by a rather impressive majority, to nominate and the Senate's duty to advise and consent. The Senate would be wise to consent to this nomination.

Conservatives should applaud Judge Sotomayor as a model of judicial restraint on the Circuit Court, even if that restraint has frustrated gun rights outcomes in the immediate cases. As moderate progressives, we hope that the nominee views the settled law in *Heller* as ripe for an activist expansion by incorporation to the states in harmonizing the different Circuit Court decisions.

On behalf of the American Hunters and Shooters Association, we extend our strong support for the confirmation of Judge Sotomayor to the US Supreme Court. We fervently hope you and your fellow Judiciary Committee members will see fit to support this nomination.

Most respectfully submitted,

A handwritten signature in black ink, appearing to read "Ray Schoenke". The signature is written in a cursive, flowing style.

Ray Schoenke,

President