



May 7, 2010

Senator
Washington, DC

Dear Senator,

Judicial nominations are fraught with concerns over the proper role of a judge. But, as women, mothers, and citizens, we should not have to fear that a judge will play the role of an aggressive defense counsel for sexual sadists.

Judge Robert Chatigny, nominated to the U.S. Court of Appeals for the 2nd Circuit, has a history of doing just that in the trial of a man who confessed to raping and murdering eight young women. His record also shows a judge who repeatedly gave light sentences for sexual crimes such as possession of child pornography, and who overturned Connecticut's law requiring registration of sex offenders (a decision later overturned unanimously by the Supreme Court).

It is a contradiction of massive proportions for President Obama to create a White House Counsel on Women and Girls to promote the well-being of women and girls in America and then elevate Robert Chatigny to the U.S. Court of Appeals, a man with a history of excusing sexual sadism against women and girls.

Robert Chatigny's egregious actions in the case against Michael Ross led to seven state prosecutors filing complaints of violations of judicial ethics against him. They accuse him of exceeding his judicial authority, abandoning neutrality, acting as an advocate to rescue a sadistic murderer from execution, and defying the rulings of higher courts.

Michael Ross was convicted of murdering eight women and girls. While in prison, he described his crimes for a documentary titled, "The Serial Killers." He explains, "Serial killers like to strangle their victims, and that is, I guess, the most common form of killing because there is more of a connection, it's more real, and it's not as quick."

He describes how he tied up 14-year-old Leslie Shelley, put her in the trunk of his car, and “took the other girl, April Bernaise [also 14] out and I raped her, and killed her, and I put her in the front seat.”

Then he pulled Leslie Shelley out of the trunk and brutally killed her.

Regarding his last victim, Wendy Baribeault, 17 years old, he said: “I raped her, and I killed her. It wasn’t pleasant; it wasn’t a nice rape.”

Incredibly, Judge Chatigny said Ross’ “sexual sadism, which was found by every single person who looked at him, is clearly a mitigating factor.” He described Michael Ross as “the least culpable of the people on death row,” and said, “He never should have been convicted. Or if convicted, he never should have been sentenced to death.”

Hours before Ross’ execution, after Ross said he wanted to die to end the anguish of his victims’ families, after Judge Chatigny’s two stays of execution were overturned, after the U.S. Supreme Court had upheld the death sentence, Chatigny summoned the attorneys for a teleconference hearing in another effort to interfere with the execution of the jury’s verdict.

A transcript reveals that he pressured Ross’ lawyer to seek another competency hearing (Ross had already been found competent by a state court) and further appeals — even though Ross did not want either. When the attorney insisted on following his client’s wishes, Chatigny threatened him, stating, “You better be prepared to deal with me. ... I’ll have your law license.”

As it turned out, Chatigny had represented Ross before becoming a judge. He failed to disclose this obvious conflict of interest – even when asked by the State’s attorney. He told the Senate Judiciary Committee that the only death penalty case that he had worked on in 25 years, involving a horrific serial murderer of women and girls, had “slipped his mind.”

Previously, in a speech, Judge Chatigny advocated for relying on “empathy” in judicial decision-making. In Ross’ case, Chatigny cited his experience of touring Ross’ prison to understand “what its effect would be on the individual inmate” — another clear violation of judicial neutrality.

But his “empathy” standard only applies to defendants. Where is Chatigny’s “empathy” for victims? As advocates for women, we ask you to please reflect on Ross’ young victims, how they suffered, and the families who still grieve for them:

Dzung Ngoc Tu, 25.

Tammy Williams, 17.

Paula Perrera, 16.

Debra Smith Taylor, 23.

Robin Stavinsky, 19.

April Brunais, 14.

Leslie Shelley, 14.

Wendy Baribeault, 17.

Chatigny’s numerous violations of judicial ethics were exposed at his nomination hearing as he was grilled by Republican senators. Only one Democrat senator chose to attend his hearing.

Attached is an article from the *Hartford Courant* describing Judge Chatigny’s chilling actions. Respectfully, the White House staff and Department of Justice should have been well aware of Judge Chatigny’s history of misogyny. Is this a case of not adequately vetting this judicial nominee, or does the Obama Administration – and any senator that votes for his nomination – agree with Judge Chatigny’s injudicious actions to defend a serial rapist and murderer of women and girls? Should judges “empathize” with child pornographers, child molesters, rapists, and murderers, but not their female victims?

Robert Chatigny is a clear example of why judges should not base their judicial decision-making on empathy, but on the Constitution and law. It is the best way to ensure justice for all.

Robert Chatigny’s actions should earn him an impeachment, not a promotion. We ask you to oppose his nomination to the U.S. Court of Appeals for the 2nd Circuit and strike him off the list for any other position that puts women’s safety or well-being under his purview. CWA will score against this vote on the Senate floor and will publish it in our scorecard for the 111th Congress.

Sincerely,

A handwritten signature in purple ink that reads "Wendy Wright". The signature is fluid and cursive, with a large loop at the end of the last name.

Wendy Wright
President

Robert Blecker
February 6, 2005

Michael Ross was a monster prepared to die, and the good people of Connecticut were about to kill him. Ross had murdered eight young women, including two teenagers, raping all but one. The prosecutors who sought his death felt certain; the jurors who unanimously sentenced him to die felt certain he deserved it. The courts, including the U.S. Supreme Court, concurred that this mass-murdering rapist could constitutionally receive society's ultimate sanction.

But 11 hours before this sadistic serial killer would finally get his due, one man, federal District Court Judge Robert N. Chatigny, disagreed. And as he three times reminded those he summoned to the now famous Jan. 28 teleconference, Chatigny was the chief.

The transcript alone lays bare the judge's unconscionable arrogance and activism, cloaked as analysis and humility. "I bring a fresh eye," Chatigny assured his captive audience. "He [Ross] never should have been convicted." Let that sink in.

"Or if convicted," the Chief continued, "he never should have been sentenced to death because his sexual sadism ... is clearly a mitigating factor."

Let's be clear. A sexual sadist, the "Diagnostic and Statistical Manual of Mental Disorders" tells us, has recurrent intense fantasies in which the psychological or physical suffering (including humiliation) of nonconsenting victims is sexually arousing.

If the sadist is distressed by these fantasies, even if he doesn't act upon them, he is officially labeled a sexual sadist and deserves help. If he acts upon them and rapes, he is a sexually sadistic rapist and deserves to be punished severely. If he rapes, tortures and kills, he deserves to die. He may be sick; but he is definitely evil. I am as certain of this as I am that my hand has five fingers; most of us are morally certain he deserves to die.

But we are not the chief. "I suggest to you that Michael Ross may be the least culpable - the least - of the people on death row," Chatigny insisted. "So when he says, 'I feel that I'm the victim of a miscarriage of justice' ... I can well understand where he's coming from."

Ross says he is ready to die. His lawyer says he is ready to die. The courts say we are ready to kill him. No matter. The Chief knows better. "He is effectively boxed in now," Chatigny empathized. "Even if he changed his mind, he would be hard-pressed to admit it. He doesn't want to go back to [death row] and be the subject of ridicule [as] somebody who had backed out at the end."

What compassion toward the man who made the women he raped lie on their stomachs before he strangled them. How unjust it would be if that man who put eight women in coffins should himself feel "boxed in." But why should the other killers on Connecticut's death row - whose own odds of being executed leap exponentially once Ross leads the way - condemn rather than cheer him for refusing to die at the hands of the state? And why should we care?

Armed with a psychological theory by which Ross can't feel as he says he feels, the chief subverts the will of the people, saying that "death row syndrome" has colored Ross' views, obscured his real will.

The worst of the worst - those condemned in Connecticut - can watch their own TVs, exercise (twice a day if they want), shower daily, read books, keep their lights on all night, get visits, communicate with one another. And of course they can buy and enjoy life's little extras - potato chips, candy and honey buns. I don't want to reside on death row either, but then I didn't commit aggravated murder.

And what if the Chief is mistaken? What if Michael Ross had in fact made a "knowing, intelligent and voluntary" decision to die? "If this man is in fact making ... a decision that we are obliged to respect, then God love him." God love him? God damn him. If there is hell, may he burn in it.

Ross' attorney T.R. Paulding, a death-penalty opponent, had the temerity to believe that an attorney should serve his client's ends. But not the Chief: "[I]f I were his lawyer, I'd be in his face," Chatigny scolded. "What you are doing is terribly, terribly wrong. No matter how well motivated you are."

But guilt-tripping was not enough. The judge now bullied and browbeat the helpless lawyer: "And you better be prepared to deal with me," he warned. "I'll have your law license."

Under threat of professional death, T.R. Paulding caved. And the people watched helplessly as Chatigny, abolitionist hero, single-handedly ground the gears of justice to a halt - on the pretext that death row may corrode the will of the condemned to live.

Remember. Remember Dzung Ngoc Tu, 25; Tammy Williams, 17; Paula Perrera, 16. Debra Smith Taylor, 23. Remember Robin Stavinsky, 19, April Brunais and Leslie Shelley, 14, and Wendy Baribeault, 17. Imagine the lives they never led; remember how they died. We cannot fully feel the suffering of these victims unless we fully loathe the motives of their killer. As Adam Smith pointed out, "Mercy to the guilty is cruelty to the innocent."

Unquestionably, the world would be a better place without Michael Ross in it. Then, too, the federal bench would probably be a better place without Judge Chatigny on it.

Robert Blecker teaches criminal law and constitutional history at New York Law School.

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