

Judicial Appointments

NOMINATION MEMO

Priscilla Owen

Nominated: May 9, 2001
Position: U.S. Court of Appeals for the Fifth Circuit (Texas, Louisiana, Mississippi)

- Court Stats: 17 full-time positions, 4 vacancies, 3 nominees (1 confirmed, 1 defeated in Judiciary Committee)
- Urgency: This vacancy is a **judicial emergency**, open since January 23, 1997

Current Job: Justice, Texas Supreme Court (elected 1994, re-elected w/out opposition 2000)
Background: Private practice in Houston (1978-94)
ABA Rating: **Unanimously well-qualified**
Support: Texas Senators Phil Gramm (R) and Kay Bailey Hutchison (R) support Owen

Executive Summary

An effective hiring process starts with an accurate job description. President Bush is using the right judicial job description in making nominations, that judges must interpret the law but not make it. Many Senators and their far-left supporters, however, use a very different job description. They want activist judges who will deliver results favoring liberal political interests. As a result, they look only at the tally of winners and losers from a judge's decisions.

The National Abortion Federation has led the attack on Justice Owen's nomination. Their ideology demands that judges' decisions favor abortion. Justice Owen, however, takes a balanced, restrained approach that applies the law no matter what the results. The NAF's aggressively ideological campaign involves many egregious distortions of Justice Owen's record in these cases.

After reviewing the proper judicial job description, noting how the judicial selection process should incorporate it, and examining the ideological nature of the far-left's campaign against Justice Owen, this *Nomination Memo* addresses the top 10 of the NAF's distortions. It shows that abortion "rights" were not part of any of these cases and that the NAF misstates Justice Owen's voting record; distorts the criticism of a judicial colleague; twice deliberately misquotes Justice Owen's opinions to present a view opposite of what she had written; and calls "an unwillingness to protect abortion clinics" a decision that was praised by Planned Parenthood as a "slam dunk."

Attacks such as this are part of an overall campaign to limit President Bush's judicial nominations. The 34 percent confirmation rate for his appeals court nominees pales next to the 92 percent rate enjoyed by the previous three presidents in their first two years. So far, the Senate has confirmed just 59 Bush judges, compared to 128 in the first two years of the Clinton administration.

America is at a crossroads. The battle over judicial appointments is a battle over whether the people will retain the power to govern themselves, run the country, and define the culture.

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