

January , 2006

The Honorable Arlen Specter
Chairman
United States Senate Judiciary Committee
711 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Patrick Leahy
Ranking Member
United States Senate Judiciary Committee
433 Russell Senate Office Building
Washington, D.C. 20510

Dear Senators Specter and Leahy:

We write as religious leaders who believe in a moral obligation to apply a vigorous standard to those who aspire to be public servants and interpreters of our laws that affect all of God's children. Our sacred texts and our conscience compel us to apply that standard to the nomination of Judge Samuel Alito to replace Justice Sandra Day O'Connor on the U.S. Supreme Court. After examination of Judge Alito's record and with a deep and abiding concern for justice in the lives of individuals and our nation, we cannot in good faith support his nomination. We urge you to vote against the confirmation of Samuel Alito to the U.S. Supreme Court.

During her long tenure on the Supreme Court, Justice Sandra Day O'Connor has provided a critical vote -- often the decisive fifth vote -- in numerous cases to protect Americans' rights and liberties. Samuel Alito's record on the Third Circuit, however, is to the far right of Justice O'Connor's on a number of important issues. O'Connor's replacement must be committed to upholding the principles, laws and remedies that have allowed this nation to move closer to the ideals of equal justice for all. Unfortunately, it is increasingly evident that Samuel Alito has spent much of his career trying to undermine those protections, with little regard to the impact of his ideology on people's lives and opportunities.

In a chilling display of disregard for ordinary Americans' freedoms, Alito held that Congress did not have the authority to allow state employees to sue for damages under one section of the Family and Medical Leave Act. By contrast, the Supreme Court upheld the FMLA against a similar challenge. To underscore the enormous risks with this nominee, retiring Justice O'Connor joined the majority opinion written by Chief Justice Rehnquist.

Alito's disregard for fundamental freedoms is demonstrated again in a lone dissent that would have upheld the strip search of a mother and her ten-year old daughter, even though the warrant authorizing a search did not name either of them. Further, Judge Alito would have upheld a provision of Pennsylvania's restrictive anti-abortion law requiring a

woman in certain circumstances to notify her husband before obtaining an abortion. His colleagues on the Third Circuit and the Supreme Court majority, including Justice O'Connor, disagreed and overturned this provision.

Against our country's history of egregious racial discrimination, Judge Alito's record is unconscionable. He cast the deciding vote and wrote the opinion in a 2-1 ruling rejecting claims by an African American defendant who had been convicted of felony murder by an all white jury from which black jurors had been impermissibly struck because of their race. The full Third Circuit reversed this ruling and the majority specifically criticized Alito for his judicial reasoning. In another dissent showing his far right extremism, Alito argued for imposing an evidentiary burden on victims of employment discrimination that, according to the majority, would have "eviscerated" legal protections under Title VII of the Civil Rights Act.

As religious leaders, we have a special respect and concern for the religious liberty that allows us to worship freely and without government coercion. We know that separation of church and state, embodied in the First Amendment to our Constitution, safeguards that liberty. And we are deeply concerned that Judge Alito has opposed federal court rulings that upheld the important principle of government neutrality toward religion. Judge Alito disagreed with a ruling striking down a public school board policy allowing high school seniors to vote on whether to include student-led prayer at their school-sponsored graduation ceremonies. In a subsequent case, the U.S. Supreme Court, with Justice O'Connor in the majority, struck down nine similar policies, recognizing that this practice violates the constitutional rights and liberties of religious minorities.

Our sacred texts and traditions, as well as our understanding of our nation's core democratic and constitutional principles, demand that we advocate for human dignity for all people. The Creator has brought us too far as a nation for us to go back to the dark days of discrimination and curtailed freedoms. We do not find in Judge Alito's record evidence that he would uphold the constitutional and legal principles that have advanced the cause of justice in America. In fact, we find just the opposite.

We respectfully urge you to consider carefully the record of Judge Samuel Alito and hope that you will join us in opposing his confirmation to the Supreme Court of the United States.

To add your name, please follow this link:

<http://www.savethecourt.org/ReligiousLeaders>

or email Lcurry@pfaw.org with your name, address, email and religious affiliation.